



Maryland Register

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Volume 42 • Issue 1 • Pages 1—132

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Judiciary
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Evaluation
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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before December 22, 2014, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of December 22, 2014.

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

Information About the Maryland Register and COMAR

MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

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

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

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CLOSING DATES AND ISSUE DATES through JULY 24, 2015

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

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

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

** Note closing date changes

The regular closing date for Proposals and Emergencies is Monday.

COMAR Online

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

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

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

Availability of Monthly List of Maryland Documents

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

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

REGULATIONS CODIFICATION SYSTEM

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

09.12.01.01D(2)(c)(iii)

Title	Subtitle	Chapter	Regulation	Subsection	Paragraph	Subparagraph
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A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

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

Table of Pending Proposals

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

03 COMPTROLLER OF THE TREASURY

03.02.01.20 • 41:24 Md. R. 1429 (12-1-14)
03.06.01.44 • 40:26 Md. R. 2167 (12-27-13)
 41:25 Md. R. 1488 (12-12-14)

07.02.13.01,.02,.04 • 42:1 Md. R. 21 (1-9-15)
07.02.29.02—.08,.10 • 42:1 Md. R. 22 (1-9-15)
07.03.03.16 • 41:25 Md. R. 1491 (12-12-14)
07.03.17.30,.32,.39 • 41:26 Md. R. 1582 (12-26-14)

05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

05.03.02.20 • 41:26 Md. R. 1573 (12-26-14)
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05.18.01.10 • 41:26 Md. R. 1573 (12-26-14)

07 DEPARTMENT OF HUMAN RESOURCES

07.01.06.02—.06 • 41:25 Md. R. 1489 (12-12-14)
07.02.04.08 • 41:26 Md. R. 1581 (12-26-14)
07.02.11.03—.05 • 42:1 Md. R. 20 (1-9-15)
07.02.11.12 • 41:25 Md. R. 1490 (12-12-14)

08 DEPARTMENT OF NATURAL RESOURCES

08.01.02.02,.04—.06 • 41:24 Md. R. 1429 (12-1-14)
08.02.01.05 • 41:25 Md. R. 1491 (12-12-14)
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09.09.02.01 • 41:25 Md. R. 1500 (12-12-14)
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09.28.04.01—.11 • 41:14 Md. R. 813 (7-11-14)

10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitles 01—08 (1st volume)

10.01.08.04 • 41:25 Md. R. 1504 (12-12-14)
10.01.17.01,.02 • 42:1 Md. R. 27 (1-9-15)

10.01.18.01—.08 • 41:22 Md. R. 1322 (10-31-14)
 10.07.01.33 • 41:25 Md. R. 1505 (12-12-14)

Subtitle 09 (2nd volume)

10.09.05.01,.04,.07 • 42:1 Md. R. 29 (1-9-15) (ibr)
 10.09.08.01—.14 • 42:1 Md. R. 30 (1-9-15)
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 10.32.02.02—.16 • 41:25 Md. R. 1508 (12-12-14)
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11 DEPARTMENT OF TRANSPORTATION

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 11.03.01.13 • 40:26 Md. R. 2195 (12-27-13)

12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

12.01.01.04—.12 • 41:7 Md. R. 426 (4-4-14)
 12.04.01.07,.17 • 41:11 Md. R. 621 (5-30-14)
 12.04.05.02 • 41:19 Md. R. 1091 (9-19-14)
 12.10.01.09 • 41:8 Md. R. 484 (4-18-14)
 12.11.06.01—.08 • 42:1 Md. R. 68 (1-9-15)
 12.11.09.01—.05 • 41:25 Md. R. 1520 (12-12-14)
 12.15.01.15,.19 • 41:12 Md. R. 693 (6-13-14)
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13A.03.04.01,.03 • 41:26 Md. R. 1589 (12-26-14)
 13A.03.05.01,.03—.05 • 41:23 Md. R. 1399 (11-14-14)
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 13A.12.03.02,.08 • 41:22 Md. R. 1329 (10-31-14)
 13A.14.06.02—.15 • 42:1 Md. R. 70 (1-9-15)
 13A.14.08.01—.07 • 41:26 Md. R. 1590 (12-26-14)
 13A.14.09.02—.10 • 41:26 Md. R. 1591 (12-26-14)
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 13B.08.01.01—.10 • 42:1 Md. R. 91 (1-9-15)

14 INDEPENDENT AGENCIES

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 14.31.10.01—.08 • 41:25 Md. R. 1523 (12-12-14)
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33 STATE BOARD OF ELECTIONS

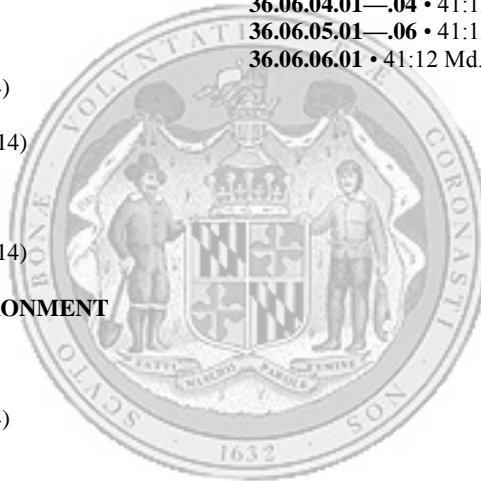
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The Division of State Documents

DEPOSITORIES FOR DOCUMENTS INCORPORATED BY REFERENCE

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

Annapolis

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

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

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

Baltimore

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

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

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

Charlotte Hall

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

College Park

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

Frostburg

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

Hagerstown

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

Largo

Prince George's Community College Library
301 Largo Road (20774)
Contact: Priscilla Thompson
301-322-0468
FAX 301-808-8847

Princess Anne

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

Rockville

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

Salisbury

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

Towson

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

Washington, D.C.

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

The Judiciary

COURT OF APPEALS OF MARYLAND DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of the Court dated December 15, 2014, **CHARLES JEFFREY BROIDA**, 5401 Twin Knolls Road, Suite 7, Columbia, Maryland 21045, has been disbarred by consent, effective immediately from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-772(d)).

* * * * *

This is to certify that by an Order of the Court dated December 16, 2014, **JOSEPH FRANCIS MCBRIDE**, 1717 Elton Road, Suite 205, Silver Spring, Maryland 20903, has been disbarred by consent, effective immediately from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-772(d)).

* * * * *

This is to certify that by an Order of the dated December 17, 2014, **ESTHUS CHRISTOPHER AMOS**, 9520 Berger Lane, Columbia, Maryland 21046, 306 E. Meehan Avenue, Philadelphia, Pennsylvania 19119, has been indefinitely suspended, effective immediately from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-773(d)).

* * * * *

This is to certify that by an Order of this Court dated December 17, 2014 the resignation of **WILLIAM FRANCIS O'BRIEN**, P.O. Box 202, Yarmouth Port, Massachusetts 02675, has been accepted and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-775(e)).

* * * * *

This is to certify that by an Opinion and Order of the Court dated December 18, 2014, **RONALD CLAUDE BRIGERMAN, JR.**, 2806 Persimmon Place, Cambridge, Maryland 21613, P.O. Box 442, Cambridge, Maryland 21613, has been indefinitely suspended, effective immediately, from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760(e)).

* * * * *

This is to certify that by an Order of the dated December 18, 2014, **THOMAS WILLIAM PLIMPTON**, 1 Cumberland Avenue, P.O. Box 2947, Platssburgh, New York 12901, has been disbarred by consent, effective immediately, from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-772(d)).

* * * * *

This is to certify that by an Opinion and Order of the Court dated November 19, 2014, **SANDRA LYNN RENO**, 114 W. Water Street, Centreville, Maryland 21617, has been suspended for six (6) months, effective December 19, 2014, from the further practice of law in the State, and her name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760(e)).

* * * * *

This is to certify that by an Order of the Court dated December 20, 2014, **MITCHELL ALAN GREENBERG**, 6 East Biddle Street, Baltimore, Maryland 21202, has been replaced upon the register of attorneys in the Court of Appeals as of December 20, 2014. Notice of this action is certified in accordance with Maryland Rule 16-781(l).

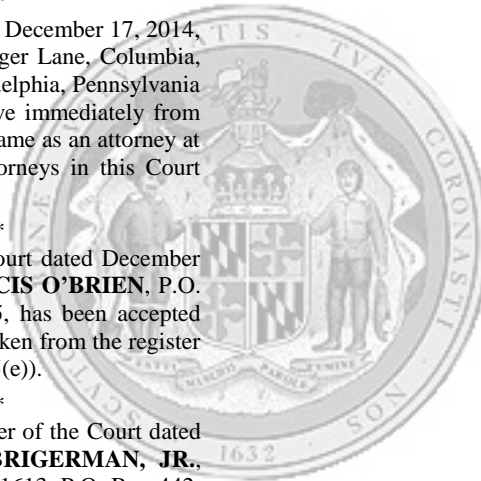
* * * * *

This is to certify that by an Opinion and Order of the dated December 22, 2014, **JOHN M. GREEN**, 6905 Muncaster Mill Road, Derwood, Maryland 20855, has been indefinitely suspended, effective immediately from the further practice of law in the State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-760(e)).

* * * * *

This is to certify that by an Order of the dated December 22, 2014, **WILLIAM HARRY KARGER**, 10411 Motor City Drive, Suite 750, Bethesda, Maryland 20817, has been reprimanded by consent.

[15-01-37]



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.

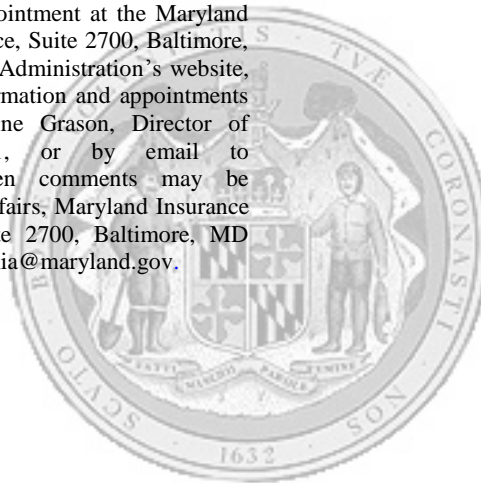
TITLE 31 MARYLAND INSURANCE ADMINISTRATION

Notice of Availability of Evaluation Report

Pursuant to State Government Article, §10-135(b)(1), Annotated Code of Maryland, Regulatory Review and Evaluation Act, and Executive Order 01.01.2003.20, the Maryland Insurance Commissioner hereby gives notice that the Evaluation Reports regarding **COMAR 31.15.01, 31.15.02, 31.15.04— 31.15.12, and 31.15.14** are available for public inspection and comment for a period of 60 days following the date of this notice.

These reports may be reviewed by appointment at the Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or on the Maryland Insurance Administration's website, <http://www.mdinsurance.state.md.us>. Information and appointments may be obtained by contacting Catherine Grason, Director of Regulatory Affairs, at 410-468-2201, or by email to catherine.grason@maryland.gov. Written comments may be submitted to the Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or by email to insuranceregreview.mia@maryland.gov.

[15-01-17]



Emergency Action on Regulations

Symbol Key

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

Emergency Regulations

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

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 10 RACING COMMISSION

09.10.03 Prohibited Acts

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

Notice of Emergency Action

[14-333-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .02 under **COMAR 09.10.03 Prohibited Acts**.

Emergency status began: January 1, 2015.

Emergency status expires: May 31, 2015.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 41:23 Md. R. 1383—1384 (November 14, 2014), referenced as [14-333-P].

J. MICHAEL HOPKINS
Executive Director

Subtitle 16 BOARD OF BARBERS

09.16.01 General Regulations

Authority: Business Occupations and Professions Article, §4-206, Annotated Code of Maryland

Notice of Emergency Action

[15-014-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .08 under **COMAR 09.16.01 General Regulations**.

Emergency status began: December 18, 2014.

Emergency status expires: May 30, 2015.

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Estimate of Economic Impact

I. Summary of Economic Impact.

This regulation pertains exclusively to individuals who seek to become licensed Senior Barbers or Barbers. The temporary proposed fee will increase the cost of examinations for candidates as follows:

Master Barber from \$50 to \$100;

Barber from \$80 to \$100; and

Retakes of practical from \$50 to \$70.

Revenue
(R+/R-)

Expenditure

(E+/E-)

Magnitude

II. Types of Economic Impact.

A. On issuing agency:

NONE

B. On other State agencies:

NONE

C. On local governments:

NONE

Benefit (+)
Cost (-)

Magnitude

D. On regulated industries or trade groups:

(1) Master barber temporary testing fee increase (-) \$50 per applicant

(2) Barber temporary testing fee increase (-) \$20 per applicant

(3) Practical testing retake barber (-) \$20 per applicant

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

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

A. The testing fee is a pass through payment to Prometric Testing Center, the examination vendor.

D(1). Temporary increase from \$50 to \$100.

D(2). Temporary increase from \$80 to \$100.

D(3). Temporary increase from \$50 to \$70.

Economic Impact on Small Businesses

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

.08 Fees.**A. Examination Fees.**

(1) The following examination fees shall be paid at the time a person files an application to take an examination:

(a) Master barber — [~~\$50~~] *\$100*;

(b) Barber — [~~\$80~~] *\$100*.

(2) An examination fee of \$50 shall be paid at the time a person files an application to retake [a] *the theory* portion of an examination *and \$70 to retake the practical portion of the examination.*

B. — I. (text unchanged)

LAWRENCE AVARA
Chairman
Board of Barbers

Subtitle 22 BOARD OF COSMETOLOGISTS

09.22.01 General Regulations

Authority: Business Occupations and Professions Article, §5-205(b),
Annotated Code of Maryland

Notice of Emergency Action

[15-022-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .13 under **COMAR 09.22.01 General Regulations**.

Emergency status began: December 19, 2014.

Emergency status expires: May 30, 2015.

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Estimate of Economic Impact

I. Summary of Economic Impact. The temporary proposed fee will increase the cost of examinations for candidates as follows:

All cosmetology categories initial examination from \$50-\$80 to \$100 each. All cosmetology categories for retake examination from \$50-\$80 to \$100 for full exam; \$70 practical only; and \$50 theory only.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Sr. cosmetologist temporary testing fee increase	(-)	\$50 per applicant
(2) Cosmetologist temporary testing fee increase	(-)	\$20 per applicant

(3) Esthetician temporary
fee increase (-) \$20 per applicant

(4) Nail technician
temporary fee increase (-) \$20 per applicant

(5) Retake practical
temporary fee increase (-) \$20 per applicant

E. On other industries or
trade groups: NONE

F. Direct and indirect effects
on public: NONE

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

D(1). Temporary increase from \$50 to \$100

D(2). Temporary increase from \$80 to \$100

D(3). Temporary increase from \$80 to \$100

D(4). Temporary increase from \$80 to \$100

D(5). Retake practical portion of exam for all categories, temporary increase from \$50 to \$70, retake of full examination costs are the same as taking the examination for the first time.

Economic Impact on Small Businesses

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

.13 Fees.**A. Examination Fees.**

(1) The following examination fees shall be paid at the time a person files an application to take an examination:

(a) Senior cosmetologist — [~~\$50~~] *\$100*;

(b) Cosmetologist — [~~\$80~~] *\$100*;

(c) Esthetician — [~~\$80~~] *\$100*;

(d) Nail technician — [~~\$80~~] *\$100*.

(2) The following examination fees shall be paid at the time a person files an application to retake a portion of an examination:

(a) Senior cosmetologist — [~~\$50~~] *\$100*;

(b) Cosmetologist, nail technician, or esthetician:

(i) Full exam — [~~\$80~~] *\$100*;

(ii) Practical only — [~~\$50~~] *\$70*;

(iii) Theory only — \$50[.].

B. — I. (text unchanged)

CLAIREE BRITT-COCKRUM
Chair
Board of Cosmetologists

Title 13A STATE BOARD OF EDUCATION

Subtitle 14 CHILD AND FAMILY DAY CARE

13A.14.06 Child Care Subsidy Program

Authority: Family Law Article, §§5-550, 5-551, and 5-573, Annotated Code of Maryland

Agency Note: Federal Regulatory Reference—45 CFR 98, 99

Notice of Emergency Action

[15-013-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .09 under **COMAR 13A.14.06 Child Care Subsidy Program**.

Emergency status began: January 1, 2015.

Emergency status expires: April 1, 2015.

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Estimate of Economic Impact

I. Summary of Economic Impact. This action would increase child care subsidy rates for formal child care providers and informal child care providers by 2.5%. This is expected to result in an increase in State costs of an estimated \$1,994,267 during the 12 months following implementation.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
(1) Increase formal child care subsidy provider rate	(E+)	\$1,883,056
(2) Increase informal child care subsidy provider rate	(E+)	\$111,211
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
(1) Increase formal child care subsidy provider rate	(+)	\$1,883,056
(2) Increase informal child care subsidy provider rate	(+)	\$111,211
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A(1). Cost Impact of Increasing Child Care Subsidy Rates for Formal Child Care Providers: State has higher costs because subsidy rates will increase and copays will remain the same.

- Projected number of children receiving formal care, SFY 2015: 16,813

- Average cost per child: \$4,489

- Total annual cost: \$75,473,557

- Estimated average cost per child after 2.5% increase: \$4,602

- Estimated total annual cost: \$77,356,613

- Total estimated cost increase: \$1,883,056

A(2). Cost Impact of Increasing Child Care Subsidy Rates for Informal Child Care Providers: State has higher costs because subsidy rates will increase and copays will remain the same.

- Projected number of children receiving informal care, SFY 2015: 2,293

- Average cost per child: \$1,879

- Total annual cost: \$4,308,547

- Estimated average cost per child after 2.5% increase: \$1,927.5

- Estimated total annual cost: \$4,417,465

- Total estimated cost increase: \$111,211

D(1). Same as for A(1) above.

D(2). Same as for A(2) above

Economic Impact on Small Businesses

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

Intended Beneficiaries

The proposed 2.5% subsidy payment rate increase will benefit both child care businesses (providers) offering child care subsidy services and households (families) eligible to receive those services. The benefits will result from: (1) increasing child care subsidy formal provider rates to 41st percentile of January 2007 market rates to support parental choice by maintaining state child care subsidy rates at competitive levels, as specified above; and (2) helping to support informal child care as an economically viable occupation.

Intended Beneficiaries: Households

Increasing both child care subsidy formal and informal provider payment rates will reduce the overall amount of out-of-pocket costs to families who would otherwise be responsible to pay additional fees to cover the difference between the actual cost of care and the state subsidy. Increasing child care subsidy provider payment rates will also improve eligible families' access to child care by offering them a wider choice among potential providers.

Intended Beneficiaries: Businesses

The proposed regulation will benefit Maryland's regulated child care industry, which is composed almost entirely of small businesses. The regulation will increase provider revenue by increasing the reimbursement rate for any Child Care Subsidy Program children currently in care, it may make it more economically feasible for them to take in Child Care Subsidy Program children, and it may decrease the risk associated with co-payment collections.

Other Direct or Indirect Impacts: Adverse

Since the proposed regulation does not require any action to be taken by child care providers, it will not involve any compliance-related costs or additional expenses for those providers. No adverse effects, direct or indirect, are anticipated.

Other Direct or Indirect Impacts: Positive

The regulation's economic benefit to the child care industry is noted above. Providers may use some portion of this benefit to improve or expand their child care operations (for example, increase staff wages, hire more staff, purchase additional equipment, expand the child care facility, etc.). To the extent that this occurs, the regulation will have some indirect positive effect. There is no data available to allow quantification of this effect.

Long-Term Impacts

No long-term effects on Maryland small businesses are anticipated which may differ from, compound, mitigate, or offset the initial effects described above.

Estimates of Economic Impact

(1) Cost of providing goods and services:

The proposals will raise the State cost of child care subsidy services by \$1,886,994 for formal providers and \$107,714 for informal providers in SFY 2015 beginning on January 1, 2015. The proposals should have no other effect on the cost of providing goods and services.

(2) Effect on the work force:

As noted above, the proposals may have some indirect positive effect on child care industry employment and/or compensation.

(3) Capital investment, taxation, competition, and economic development:

As noted above, there may be some indirect effect on capital investment by some child care businesses wishing to expand their operations. There may also be some effect (unquantifiable) on the tax position of those child care businesses that realize an actual increase in revenues as a result of the provider rate increase.

(4) Consumer choice:

As noted above, consumer choice is expected to be affected positively by maintaining or improving accessibility to child care subsidy services.

.09 Payments for Child Care Services.

A. (text unchanged)

B. Rate of Payment and Cost Guidelines — Family Child Care Home.

(1)—(2) (text unchanged)

(3) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following regional weekly rates:

(a) Rate for a child 24 months old or older:

- (i) Region U—[\$91.35] \$93.63;
- (ii) Region V—[\$81.08] \$83.11;
- (iii) Region W—[\$113.14] \$115.97;
- (iv) Region X—[\$143.83] \$147.43;
- (v) Region Y—[\$113.09] \$115.91;
- (vi) Region Z—[\$83.38] \$85.46; and
- (vii) Region BC—[\$103.76] \$106.35; or

(b) Rate for a child younger than 24 months old:

- (i) Region U—[\$120] \$123;
- (ii) Region V—[\$97.89] \$100.34;
- (iii) Region W—[\$152.89] \$156.71;
- (iv) Region X—[\$180] \$184.50;
- (v) Region Y—[\$145] \$148.63;
- (vi) Region Z—[\$95] \$97.38; and
- (vii) Region BC—[\$137.64] \$141.08.

C. Rate of Payment and Cost Guidelines — Child Care Center and Large Family Child Care Home.

(1) (text unchanged)

(2) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following regional weekly rates:

(a) Rate for a child 24 months old or older:

- (i) Region U—[\$105.60] \$108.24;
- (ii) Region V—[\$89.02] \$91.25;
- (iii) Region W—[\$122.92] \$126;
- (iv) Region X—[\$162.87] \$166.95;
- (v) Region Y—[\$125.06] \$128.18;
- (vi) Region Z—[\$85.65] \$87.79; and
- (vii) Region BC—[\$109.42] \$112.16; or

(b) Rate for a child younger than 24 months old:

- (i) Region U—[\$168.21] \$172.42;
- (ii) Region V—[\$143.21] \$146.79;
- (iii) Region W—[\$195] \$199.88;
- (iv) Region X—[\$255] \$261.38;
- (v) Region Y—[\$203.21] \$208.29;
- (vi) Region Z—[\$110] \$112.75; and
- (vii) Region BC—[\$183.21] \$187.79.

D. The informal child care weekly service unit rates specified in this section are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following jurisdictional weekly rates:

(1) Rate for a child 24 months old or older:

- (a) Allegany County—[\$52.44] \$53.76;
- (b) Anne Arundel County—[\$55.43] \$56.81;
- (c) Baltimore County—[\$58.91] \$60.38;
- (d) Calvert County—[\$55.43] \$56.81;
- (e) Caroline County—[\$40.51] \$41.53;
- (f) Carroll County—[\$55.43] \$56.81;
- (g) Cecil County—[\$52.44] \$53.76;
- (h) Charles County—[\$55.43] \$56.81;
- (i) Dorchester County—[\$40.51] \$41.53;
- (j) Frederick County—[\$58.91] \$60.38;
- (k) Garrett County—[\$52.69] \$54.01;
- (l) Harford County—[\$58.91] \$60.38;
- (m) Howard County—[\$74.07] \$75.92;
- (n) Kent County—[\$40.51] \$41.53;
- (o) Montgomery County—[\$74.07] \$75.92;
- (p) Prince George's County—[\$55.43] \$56.81;
- (q) Queen Anne's County—[\$45.73] \$46.88;
- (r) St. Mary's County—[\$52.44] \$53.76;
- (s) Somerset County—[\$40.51] \$41.53;
- (t) Talbot County—[\$45.73] \$46.88;
- (u) Washington County—[\$52.69] \$54.01;
- (v) Wicomico County—[\$40.51] \$41.53;
- (w) Worcester County—[\$43] \$44.07; and
- (x) Baltimore City—[\$53.44] \$54.77; or

(2) Rate for a child younger than 24 months old:

- (a) Allegany County—[\$61.39] \$62.93;
- (b) Anne Arundel County—[\$70.09] \$71.84;
- (c) Baltimore County—[\$70.09] \$71.84;
- (d) Calvert County—[\$70.09] \$71.84;
- (e) Caroline County—[\$45.73] \$46.88;
- (f) Carroll County—[\$71.33] \$73.12;
- (g) Cecil County—[\$53.94] \$55.28;
- (h) Charles County—[\$70.09] \$71.84;
- (i) Dorchester County—[\$45.73] \$46.88;
- (j) Frederick County—[\$70.09] \$71.84;
- (k) Garrett County—[\$61.39] \$62.93;
- (l) Harford County—[\$70.09] \$71.84;
- (m) Howard County—[\$88.73] \$90.95;
- (n) Kent County—[\$45.73] \$46.88;
- (o) Montgomery County—[\$88.73] \$90.95;

- (p) Prince George's County—[\$70.09] \$71.84;
- (q) Queen Anne's County—[\$53.94] \$55.28;
- (r) St. Mary's County—[\$61.39] \$62.93;
- (s) Somerset County—[\$45.73] \$46.88;
- (t) Talbot County—[\$53.94] \$55.28;
- (u) Washington County—[\$53.94] \$55.28;
- (v) Wicomico County—[\$45.73] \$46.88;
- (w) Worcester County—[\$45.73] \$46.88; and
- (x) Baltimore City—[\$67.36] \$69.04.

E.—I. (text unchanged)

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

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 02 ACADEMIC REGULATIONS

13B.02.03 Academic Programs—Degree-Granting Institutions

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

Notice of Emergency Action [15-009-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulation .03-1 under **COMAR 13B.02.03 Academic Programs—Degree Granting Institutions**.

Emergency status began: December 19, 2014.
Emergency status expires: May 23, 2015.

Editor's Note: The text of this document will not be printed here because it appears as a Notice of Proposed Action on pages 90—91 of this issue, referenced as [15-009-P].

CATHERINE M. SHULTZ
Acting Secretary of Higher Education

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.42 Continuity of Health Care Notice

Authority: Insurance Article, §§2-109(a)(1), 15-140, and 15-10D-01, Annotated Code of Maryland and Ch. 159, §3, Acts of 2013

Notice of Emergency Action [15-008-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulations .01—.04 under new chapter, **COMAR 31.10.42 Continuity of Health Care Notice**.

Emergency status began: January 1, 2015.
Emergency status expires: April 30, 2015.

Editor's Note: The text of this document will not be printed here because it appears as a Notice of Proposed Action on pages 117—118 of this issue, referenced as [15-008-P].

THERESE M. GOLDSMITH
Insurance Commissioner

Title 34 DEPARTMENT OF PLANNING

Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS

34.04.07 Sustainable Communities Tax Credit Certifications

Authority: State Finance and Procurement Article, §5A-303, Annotated Code of Maryland

Notice of Emergency Action [14-327-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to the repeal of existing Regulations .01 — .07 and to new Regulations .01 — .08 under **COMAR 34.04.07 Sustainable Communities Tax Credit Certifications**.

Emergency status began: January 1, 2015.
Emergency status expires: June 30, 2015.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 41:23 Md. R. 1404 — 1409 (November 14, 2014), referenced as [14-327-P].

RICHARD E. HALL
Secretary of Planning

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 01

EXECUTIVE DEPARTMENT

Subtitle 04 OFFICE OF CRIME CONTROL AND PREVENTION

01.04.04 Online Access to Records of Shielded Peace and Protective Orders

Authority: Courts and Judicial Proceedings Article, §3-1510; Family Law Article, §4-512; Annotated Code of Maryland

Notice of Final Action

[14-338-F]

On December 30, 2014, the Office of Crime Control and Prevention adopted new Regulations .01 — .06 under a new chapter, **COMAR 01.04.04 Online Access to Records of Shielded Peace and Protective Orders**. This action, which was proposed for adoption in 41:23 Md. R. 1378 — 1379 (November 14, 2014), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 19, 2015.

Attorney General's Certification

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

Regulation .02B(5): This change was made based on public comment to correct the omission of “interim protective orders issued by district court commissioners” in the definition of a protective order. This change is being made to comply with the authorizing statute.

Regulation .03C(1): This change was made based on public comment to correct the omission of sexual assault as a category of victims that victim service providers may have a history of providing services to and is inserted to comply with the intent of the authorizing statute.

.02 Definitions.

A. (proposed text unchanged)

B. *Terms Defined.*

(1) — (4) (proposed text unchanged)

(5) “*Protective order*” means either an interim protective order issued by a district court commissioner or a temporary or a final protective order issued by a court under Subtitle 5 of Title 4 of the Family Law Article, Annotated Code of Maryland.

(6) (proposed text unchanged)

.03 Eligibility.

A. — B. (proposed text unchanged)

C. *In determining eligibility under §B of this regulation, the Office shall consider any information it believes relevant, including the organization's:*

(1) *History of providing assistance to victims of domestic violence or sexual assault:*

(2) — (4) (proposed text unchanged)

EDWARD PARKER
Deputy Secretary

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Natural Resources Article, §§4-2A-03 and 4-701, Annotated Code of Maryland

Notice of Final Action

[14-331-F]

On December 30, 2014, the Secretary of Natural Resources adopted amendments to Regulation .24 under **COMAR 08.02.05 Fish**. This action, which was proposed for adoption in 41:23 Md. R. 1379—1381 (November 14, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

JOSEPH P. GILL
Secretary of Natural Resources

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 08 HOME IMPROVEMENT COMMISSION

09.08.03 Claims Against the Home Improvement Guaranty Fund

Authority: Business Regulation Article, §§8-207 and 8-405, Annotated Code of Maryland

Notice of Final Action

[14-048-F]

On December 4, 2014, the Home Improvement Commission adopted amendments to Regulation .03 under **COMAR 09.08.03 Claims Against the Home Improvement Guaranty Fund**. This

action, which was proposed for adoption in 41:3 Md. R. 210 (February 7, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

JOSEPH TUNNEY
Chairman

Home Improvement Commission

Subtitle 21 BOARD OF ARCHITECTS

09.21.02 Code of Ethics

Authority: Business Occupations and Professions Article, §§3-205, 3-208(a)(1), and 3-501, Annotated Code of Maryland

Notice of Final Action

[14-274-F]

On December 15, 2014, the Board of Architects adopted amendments to Regulation **.03** under **COMAR 09.21.02 Code of Ethics**. This action, which was proposed for adoption in 41:19 Md. R. 1085—1086 (September 19, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

DIANE CHO
Chair
State Board of Architects

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 19 DANGEROUS DEVICES AND SUBSTANCES

10.19.07 Prohibition of Child Care Products Containing TCEP or TDCPP

Authority: Health-General Article, §24-306, Annotated Code of Maryland

Notice of Final Action

[14-322-F]

On December 17, 2014, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.01—.03** under **COMAR 10.19.07 Prohibition of Child Care Products Containing TCEP or TDCPP**. This action, which was proposed for adoption in 41:22 Md. R. 1328-1329 (October 31, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

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

Title 13A STATE BOARD OF EDUCATION

Subtitle 04 SPECIFIC SUBJECTS

13A.04.09 Program in Science

Authority: Education Article, §2-205(h), Annotated Code of Maryland

Notice of Final Action

[14-304-F]

On December 16, 2014, the Maryland State Board of Education adopted amendments to Regulation **.01** under **COMAR 13A.04.09 Program in Science**. This action, which was proposed for adoption in 41:21 Md. R. 1275—1276 (October 17, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

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

Title 14 INDEPENDENT AGENCIES

Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

14.22.01 General Regulations

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

Notice of Final Action

[14-339-F]

On December 30, 2014, the Maryland State Commission on Criminal Sentencing Policy adopted amendments to Regulations **.03** and **.08 — .10** under **COMAR 14.22.01 General Regulations**. This action, which was proposed for adoption in 41:23 Md. R. 1402—1403 (November 14, 2014), has been adopted as proposed.

Effective Date: February 1, 2015.

DAVID SOULE
Executive Director

Subtitle 36 MARYLAND LONGITUDINAL DATA SYSTEM CENTER

Notice of Final Action

[14-256-F]

On December 16, 2014, the Maryland Longitudinal Data System Governing Board adopted under a new subtitle, **Subtitle 36 Maryland Longitudinal Data System Center**:

(1) New Regulations **.01 — .16** under a new chapter, **COMAR 14.36.01 Inspection and Copying of Public Records**;

(2) New Regulations **.01 — .11** under a new chapter, **COMAR 14.36.02 Corrections of Public Record**;

(3) New Regulations **.01 — .06** under a new chapter, **COMAR 14.36.03 Meetings**; and

(4) New Regulations .01 — .08 under a new chapter, **COMAR 14.36.04 Longitudinal Data Requests**.

This action, which was proposed for adoption in 41:18 Md. R. 1031—1036 (September 5, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

ROSS GOLDSTEIN
Executive Director

Title 17 DEPARTMENT OF BUDGET AND MANAGEMENT

Subtitle 04 PERSONNEL SERVICES AND BENEFITS

17.04.07 Conferences, Hearings, and Appeals

Authority: State Personnel and Pensions Article, §4-106 and Titles 11 and 12, Annotated Code of Maryland

Notice of Final Action

[14-326-F]

On December 30, 2014, the Secretary of Budget and Management adopted amendments to Regulations .02, .04, and .06 under **COMAR 17.04.07 Conferences, Hearings, and Appeals**. This action, which was proposed for adoption in 41:23 Md. R. 1403—1404 (November 14, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

T. ELOISE FOSTER
Secretary of Budget and Management

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 03 WATER SUPPLY, SEWERAGE, SOLID WASTE, AND POLLUTION CONTROL PLANNING AND FUNDING

26.03.13 Bay Restoration Fund Implementation

Authority: Environmental Article, §9-1605.2, Annotated Code of Maryland

Notice of Final Action

[14-319-F]

On December 17, 2014, the Secretary of the Environment adopted amendments to Regulation .04 under **COMAR 26.03.13 Water Supply, Sewerage, Solid Waste, and Pollution Control Planning and Funding**. This action, which was proposed for adoption in 41:22 Md. R. 1334—1336 (October 31, 2014), has been adopted as proposed.

Effective Date: January 23, 2015.

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

Subtitle 04 REGULATION OF WATER SUPPLY, SEWAGE DISPOSAL, AND SOLID WASTE

26.04.04 Well Construction

Authority: Environment Article, [[§§9-1305, and 19-1305.1]] §§9-1305 *and* 9-1305.1, Annotated Code of Maryland

Notice of Final Action

[14-254-F-I]

On December 19, 2014, the Secretary of the Environment adopted the repeal of existing Regulations .01—.13 and adopted new Regulations .01—.39 under **COMAR 26.04.04 Well Construction**. This action, which was proposed for adoption in 41:18 Md. R. 1037—1054 (September 5, 2014), has been adopted as proposed.

Effective Date: January 15, 2015.

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

Subtitle 12 RADIATION MANAGEMENT

Notice of Final Action

[14-320-F]

On December 19, 2014, the Secretary of the Environment adopted amendments to:

(1) Regulation .01 under **COMAR 26.12.01 Radiation Protection**; and

(2) Regulation .03 under **COMAR 26.12.02 Inspection and Certification**.

This action, which was proposed for adoption in 41:22 Md. R. 1336—1337 (October 31, 2014), has been adopted as proposed.

Effective Date: January 19, 2015.

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

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.11 Out-of-Home Placement Program

Authority: Courts and Judicial Proceedings Article, §§3-801, 3-802, 3-815, 3-816.1, 3-817, 3-819.1, 3-819.2, 3-820, and 3-823; Education Article, §§7-101(b) and 15-106.1; Family Law Article, §§5-501, 5-504, 5-524—5-534, 5-701, and 5-709; Human Services Article, §9-101 et seq.; Annotated Code of Maryland

(Agency Note: Federal Regulatory Reference: 42 U.S.C. §620 et seq., 670 et seq.; 45 CFR §205.10; 45 CFR §303.72; 45 CFR 1355—1357)

Notice of Proposed Action

[15-028-P]

The Secretary of Human Resources proposes to amend existing Regulations .03 — .05 under **COMAR 07.02.11 Out-of-Home Placement Program**.

Statement of Purpose

The purpose of this action is to change the definition of relative to reflect the current definition, alter the definition of parents to include two parents of the same sex, and delete the term “Independent Living Preparation Services”. Additional changes incorporate the provisions of Ch. 207 (S.B. 940), Acts of 2014, which mandates that the Social Services Administration (SSA) adopt regulations that authorize SSA to notify the appropriate criminal or juvenile delinquency court if SSA has information indicating that the child’s interests as a victim are not adequately protected in a case before the court.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 301 W. Saratoga Street, Room 265, Baltimore, MD 21012, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

[(26)] “Independent Living Preparation Program” means services and supervision to prepare youth to live self-sufficiently after discharge from out-of-home placement as described in COMAR 07.02.10.]

[(27)] (26) — [(36)] (35) (text unchanged)

[(37)] (36) Parent or Parents.

(a) “Parent” means:

(i) The birth or adoptive [mother] *mothers* or [father] *fathers* of the child; and

(ii) Includes by reference both the individual [mother] *mothers* and [father] *fathers* as applicable.

(b) “Parents” means the birth or adoptive [mother] *mothers* and [father] *fathers* of the child.

[(38)] (37) — [(45)] (44) (text unchanged)

[(46)] (45) “Relative” means an individual who is at least 18 years old and related to the child by blood, [or] marriage or adoption within five degrees of consanguinity or affinity [and is:

(a) 21 years old or older; or

(b) 18 years old or older and lives with a spouse who is 21 years old or older].

[(47)] (46) — [(49)] (48) (text unchanged)

[(50)] (49) “Return home” has the same meaning as reunification in [(51)] (50) of this regulation.

[(51)] (50) (text unchanged)

[(52)] (51) “Semi-independent living” means a program for [youths] youth 16 through 20 years old who are:

(a) Participating in [the Independent Living Preparation Program] *Youth Transitional Services as described in COMAR 07.02.10;*

(b) — (c) (text unchanged)

[(53)] (52) — [(65)] (64) (text unchanged)

[(66)] (65) “Treatment foster care” means a program designed and implemented by a child placement agency to provide intensive casework and treatment in a family setting to children with special physical, emotional, or behavioral needs as described in COMAR [07.02.21] 07.05.05.

[(67)] (66) — [(71)] (70) (text unchanged)

.04 Eligibility.

A. — B. (text unchanged)

C. *A child is not eligible for out-of-home placement if the child:*

(1) *Is married;*

(2) *Is in the military; or*

(3) *Fails to comply with §B of this regulation.*

[C.] D. — [D.] E. (text unchanged)

.05 Local Department Responsibility for Out-of-Home Placement.

A. — B. (text unchanged)

C. A local department with responsibility for a child’s case shall:

(1) — (14) (text unchanged)

15) Provide services to the child’s family and monitor the safety of any children remaining in the family home; [and]

(16) Ensure that, at a minimum, the caseworker:

(a) — (b) (text unchanged)

(c) Has monthly contact with the out-of-home placement provider; *and*

(17) *Notify the appropriate court if the department has information indicating that a child’s interest as a victim is not protected in a court case.*

TED DALLAS
Secretary of Human Resources

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.13 Post Adoption Reunion Services

Authority: Family Law Article, §5-101, 5-356—5-360, 5-3A-39—5-3A-43, 5-3B-28—5-3B-30, 5-4B-01—5-4B-12, 5-4C-01—5-4C-07, Annotated Code of Maryland

42 U.S.C. §671; 45 CFR §1355.21; Ch. 326, Acts of 2011.

Notice of Proposed Action

[15-030-P]

The Secretary of Human Resources proposes to amend Regulations .01, .02, and .04 under COMAR 07.02.13 **Post Adoption Reunion Services**.

Statement of Purpose

The purpose of this action is to revise the Post Adoption Reunion Services regulations in order to incorporate changes in Ch. 86 (H.B. 178), Acts of 2014, entitled Family Law-Adoption, Search, Contact, and Reunion Services — Relatives of Minors in Out-of-Home Placement. This bill authorizes the director of a local department of

social services to apply for search, contact, and reunion services for a minor in out-of-home placement under certain circumstances. The proposed regulatory changes to COMAR include allowing the local department of social services director to contact biological relatives on behalf of an adopted child that has re-entered out-of-home placement and amending the definition of “relative”.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 301 W. Saratoga St., Rm. 265, Baltimore, MD 21201, or call 410-767-7193, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Purpose.

The purpose of this chapter is to:

A. (text unchanged)

B. Allow adult adoptees and birth parents to file disclosure vetoes to protect their confidentiality; [and]

C. Allow a local department to contact a sibling of a minor in out-of-home placement in order to develop a placement resource or facilitate a family connection, if the sibling was adopted through a local department; *and*

D. *Allow a director of a local department or designee to contact relatives of a minor in out-of-home placement who was adopted through a local department for the purposes of developing a placement resource or to facilitate a family connection if the local department has determined that reunification with the minor’s adoptive parent is not in the minor’s best interest.*

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (16) (text unchanged)

(17) “Relative” means a parent, grandparent, brother, or sister of an adopted individual whether the familial relationship is based on blood or marriage. *In the case of a minor in out-of-home placement who was adopted through a local department, “Relative” means an individual at least 21 years old who is related to the minor by blood or marriage within five degrees or consanguinity or affinity under the civil law rule.*

(18) — (22) (text unchanged)

.04 Search, Contact, and Reunion Services Program.

A. Program Registration Requirements.

(1) (text unchanged)

(2) Completion of Registration Process. The registrant shall provide:

(a) A completed consent form containing a statement of the registrant’s consent to be identified to the birth parents, adoptee, [or] sibling, *or relative*;

(b) — (d) (text unchanged)

(3) (text unchanged)

B. — F. (text unchanged)

TED DALLAS
Secretary of Human Resources

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.29 Guardianship Assistance Program

Authority: Family Law Article, §5-525; Courts and Judicial Proceedings
Article, §3-819.2; Annotated Code of Maryland
(Agency Note: Federal Statutory Reference—42 U.S.C. §673(d))

Notice of Proposed Action [15-029-P]

The Secretary of Human Resources proposes to amend existing Regulations .02 — .08 and .10 under COMAR 07.02.29 Guardianship Assistance Program.

Statement of Purpose

The purpose of this action is to strengthen the language used for eligibility of the Guardianship Assistance Program. The changes will include altering the definition of “relative” to reflect the current definition and additional specific language concerning the child residing with the relative caregiver for the last 6 consecutive months. The changes in these regulations clarify that nonrecurring expenses are only available for youth that are IV-E eligible. In addition, an increase in the amount of the monthly guardianship assistance payment can only be made with the approval of the Social Services Administration.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 301 W. Saratoga St., Room 265, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.shuck@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (10) (text unchanged)

(11) “Relative” means an adult who is at least [21] 18 years old, [or is at least 18 years old and married to an adult who is at least 21 years old,] and who is:

(a) — (b) (text unchanged)

(12) — (17) (text unchanged)

.03 General Requirements.

A. Both the child and the relative caregiver shall meet the eligibility requirements stated in Regulations .04 and .05 of this chapter, respectively; and

(1) The child shall be placed with the relative caregiver for at least *the last* 6 consecutive months prior to the establishment of a guardianship assistance; and

(2) The relative caregiver home shall be approved as a resource home or kinship *care* home for *the last* 6 consecutive months in which the child resided with the relative caregiver.

B. — D. (text unchanged)

.04 General Eligibility Requirements for Child.

A. A child committed to a local department or under a voluntary placement agreement with a local department shall be eligible for consideration to participate when:

(1) (text unchanged)

(2) The child has resided with the relative caregiver for *the last* 6 consecutive months;

(3) — (6) (text unchanged)

B. (text unchanged)

.05 General Eligibility Requirements for Relative Caregiver.

A. To be eligible for the guardianship assistance program, the relative caregiver shall:

(1) (text unchanged)

(2) Be an approved resource or formal kinship *care* home with the child in the placement for *the last* 6 consecutive months; and

(3) (text unchanged)

B. The relative caregiver shall:

(1) — (2) (text unchanged)

(3) Meet all the requirements of approval for a resource home or kinship *care* home as set forth in COMAR 07.02.25.

C. — D (text unchanged)

.06 Title IV-E Guardianship Assistance Eligibility Criteria.

A. (text unchanged)

B. Child Eligibility.

(1) To be eligible for the Title IV-E guardianship assistance payment, the child shall be under 18 years old, except as stated in §B(2) or (3) of this regulation, and the child shall:

(a) (text unchanged)

(b) Have been eligible for Title IV-E foster care maintenance payments for *the last* 6 consecutive month period during which the child resided in the home of the relative caregiver.

(2) — (4) (text unchanged)

C. — D. (text unchanged)

.07 State Guardianship Assistance Eligibility Criteria.

A. (text unchanged)

B. Child Eligibility.

(1) Except as stated in §B(2) of this regulation, the child shall be under the age of 18 years old and shall:

(a) (text unchanged)

(b) Have resided with the relative caregiver in a kinship care placement as set forth in COMAR 07.02.25 for *the last* 6 consecutive months.

(2) A youth that has been determined to be eligible and receiving guardianship *assistance* payment under §B or C of Regulation .06 of this chapter for the Title IV-E guardianship assistance payment shall be deemed eligible for the State guardianship payment beginning at the age of 18 if:

(a) — (c) (text unchanged)

C. (text unchanged).

.08 Responsibilities of the Local Department.

- A. (text unchanged)
- B. The local department shall negotiate and enter into a guardianship assistance agreement with the relative caregiver.
- (1) The agreement shall specify;
- (a) —(d) (text unchanged)
- (e) [That] *For a IV-E eligible child, that the State shall pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, not to exceed \$2,000;*
- (f) — (l) (text unchanged)
- (2) — (4) (text unchanged)
- C. — G. (text unchanged)

.10 Guardianship Assistance Benefits.

- A. The local department shall negotiate the monthly assistance amount for each eligible child or sibling.
- (1) — (3) (text unchanged)
- (4) *Any adjustment must be approved by the Social Services Administration prior to the signing of a new guardianship assistance agreement.*
- B. (text unchanged)
- C. [The] *For a IV-E eligible child, the local department shall provide a one-time only payment for nonrecurring expenses related to cost associated with obtaining legal guardianship up to a maximum of \$2,000.*
- (1) — (5) (text unchanged)
- D. — E. (text unchanged)

TED DALLAS
Secretary of Human Resources

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 03 WILDLIFE

08.03.02 Use of Wildlife Areas

Authority: Natural Resources Article, §10-808, Annotated Code of Maryland

Notice of Proposed Action

[15-027-P]

The Secretary of Natural Resources proposes to amend Regulations .01 and .02 under **COMAR 08.03.02 Use of Wildlife Areas**.

Statement of Purpose

The purpose of this action is to define certain terms and update the list of wildlife management areas within the Statewide system. The new or revised definitions will be used throughout COMAR 08.03.02 to help clarify the use of those terms. The list of wildlife management areas is being updated to include the areas acquired during the past several years and certain lands owned by the Department that are currently undesignated. Acreages of each wildlife management area listed in the regulation are proposed to be deleted so that every time additional land is acquired for a given wildlife management area the regulation does not have to be amended. Note: Heaters Island Wildlife Management Area will become part of the Islands of the Potomac.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Karina Stonesifer, Associate Director, Wildlife and Heritage Service, Department of Natural Resources, 3 Pershing Street, Room 110, Cumberland, MD 21502, or call 301-777-2136, or email to karina.stonesifer@maryland.gov, or fax to 301-777-2029. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Definitions.

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

(1) *“Bait” means fruit, vegetables, nuts, hay, corn, wheat, other feed, salt, or other mineral-based attractant intentionally placed, exposed, deposited, distributed, or scattered so as to serve as an attraction or enticement to forest game birds or mammals. Bait does not include standing crops or where fruit, vegetables, nuts, hay, corn, wheat, other feed, salt or other minerals have been scattered solely as the result of bona fide agricultural operations or procedures such as planting, harvesting, or livestock care.*

(2) *“Baited area” means any area where bait is placed, exposed, deposited, distributed, or scattered.*

(3) *“Camping” means erecting tents or other shelters, sleeping in vehicles or trailers overnight, or otherwise attempting to reside temporarily upon the property overnight.*

[(1)] (4) (text unchanged)

(5) *“Dog Training” means using a dog to hunt or retrieve, or simulate the hunting or retrieving of, a game bird or mammal outside the hunting season established for that species. It does not include the activity of walking with a dog on a leash or engaging in a permitted field trial in accordance with Natural Resources Article, §10-701, Annotated Code of Maryland.*

(6) *“Geocaching” means to hide a small container or other item at discrete locations for the purpose of using GPS coordinates to locate the item.*

(7) *“Natural resources management area” (NRMA) means an area where multiple-use management practices are implemented for the maximum use of the natural resources of the area.*

[(2)] (8) *“[Managed] Permit hunting area” means a wildlife management area (WMA), cooperative wildlife management area, or [wildlife] natural resource management area (NRMA) for which [written permission] a permit from the Service is required [for hunting] to hunt, birdwatch, fish, hike, horseback ride, and train dogs.*

(9) *“Target shooting” means to practice or discharge an airgun, BB gun, bow, crossbow, firearm, or paintball gun at a bottle, can, stump, paper target, or any other object into the air or into a body of water.*

(10) *“Use permit” means written permission provided by the service provided on Department letter head and signed by the director or designee.*

(11) *Vehicle.*

(a) *“Vehicle” means any motorized vehicle or vessel that is capable of traveling on land, water, snow or ice.*

(b) *“Vehicle” includes, but is not limited to, all-terrain vehicles, automobiles, boats, mini-bikes, mopeds, motorcycles, personal watercraft, scooters, snowmobiles, and trucks.*

[(3)] (12) “Wildlife management area” (WMA) means an area acquired by the State to protect, propagate, or manage wildlife, or for hunting purposes[, and for which entire control of the area of land and water shall be under the Service’s direction]. *The Department may open these areas to nature-based outdoor recreational activities, including hunting, fishing, hiking, camping, and wildlife watching.*

[(4)] (13) “[State wildlife] Wildlife refuge” or “wildlife sanctuary” means a designated area on any [State-owned or leased or federally owned forest,] *Service-controlled land*[, or water in which wildlife may not be hunted, disturbed, or molested at any time.

.02 Wildlife Management Area System.

A. (text unchanged)

B. Wildlife Management Areas.

Name of Area	[Acreage]	County
<i>Avondale</i>		<i>Carroll</i>
<i>Belle Grove</i>		<i>Allegany</i>
<i>Billmeyer</i>	[1,064]	<i>Allegany</i>
<i>Bodkin Island</i>		<i>Queen Anne’s</i>
<i>Bowen</i>	[313]	<i>Prince George’s</i>
<i>Cedar Island</i>	[2,880]	<i>Somerset</i>
<i>Cedar Point</i>		<i>Charles</i>
<i>Cheltenham</i>	[10]	<i>Prince George’s</i>
<i>Chicamuxen</i>		<i>Charles</i>
<i>Chicone Creek</i>		<i>Dorchester</i>
<i>Cunningham Swamp</i>		<i>Garrett</i>
<i>Dan’s Mountain</i>	[9,081]	<i>Allegany</i>
<i>Deal Island</i>	[12,363]	<i>Somerset</i>
<i>Devil Island</i>		<i>Worcester</i>
<i>Dierrsen</i>	[40]	<i>Montgomery</i>
<i>Earleville</i>	[190]	<i>Cecil</i>
<i>E. A. Vaughn</i>	[1,751]	<i>Worcester</i>
<i>Ellis Bay</i>	[2,874]	<i>Wicomico</i>
<i>Fairmount</i>	[4,031]	<i>Somerset</i>
<i>Fishing Bay</i>	[21,153]	<i>Dorchester</i>
<i>Fort Hill</i>		<i>Allegany</i>
<i>Globe Comm</i>		<i>Anne Arundel</i>
<i>Gravel Hill Swamp</i>		<i>Frederick</i>
<i>Grove Farm</i>		<i>Cecil</i>
<i>Gwynnbrook</i>	[74]	<i>Baltimore</i>
<i>[Heater’s Island]</i>	[194]	<i>[Frederick]</i>
<i>Hugg-Thomas</i>	[274]	<i>Howard, Carroll</i>
<i>Idylwild</i>	[2,994]	<i>Caroline</i>
<i>Indian Springs</i>	[6,363]	<i>Washington</i>
<i>Islands of the Potomac</i>	[598]	<i>Frederick, Montgomery</i>
<i>Isle of Wight</i>	[224]	<i>Worcester</i>
<i>Johnson</i>	[115]	<i>Wicomico</i>
<i>LeCompte</i>	[485]	<i>Dorchester</i>
<i>Linkwood</i>	[313]	<i>Dorchester</i>
<i>Little Patuxent Oxbow</i>		<i>Anne Arundel</i>
<i>Maryland Marine Properties</i>	[1,030]	<i>Somerset</i>
<i>McIntosh Run</i>		<i>St. Mary’s</i>
<i>McKee-Beshers</i>	[1,971]	<i>Montgomery</i>
<i>Millington</i>	[3,702]	<i>Kent</i>
<i>Mt. Nebo</i>	[1,763]	<i>Garrett</i>
<i>Myrtle Grove</i>	[831]	<i>Charles</i>
<i>Nanjemoy</i>		<i>Charles</i>
<i>Nanjemoy Creek</i>		<i>Charles</i>
<i>Nanticoke River</i>	[1,688]	<i>Wicomico</i>
<i>Old Bohemia</i>		<i>Cecil</i>
<i>Pocomoke River</i>	[821]	<i>Worcester</i>

<i>Pocomoke Sound</i>	[922]	<i>Somerset</i>
<i>Prather’s Neck</i>		<i>Washington</i>
<i>Ridenour Swamp</i>		<i>Frederick</i>
<i>Riverside</i>		<i>Charles</i>
<i>Sideling Hill</i>	[3,016]	<i>Allegany, Washington</i>
<i>Sinepuxent Bay</i>	[75]	<i>Worcester</i>
<i>South Marsh Island</i>	[2,969]	<i>Somerset</i>
<i>Strider</i>	[267]	<i>Montgomery</i>
<i>Tar Bay</i>		<i>Dorchester</i>
<i>Taylor’s Island</i>	[2,500]	<i>Dorchester</i>
<i>Warrior Mountain</i>	[4,310]	<i>Allegany</i>
<i>Wellington</i>	[389]	<i>Somerset</i>
<i>Wetipquin</i>		<i>Wicomico</i>

JOSEPH P. GILL
Secretary of Natural Resources

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 10 RACING COMMISSION

09.10.02 Harness Racing

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

Notice of Proposed Action

[15-004-P]

The Maryland Racing Commission proposes to amend Regulations .43 and .53 under **COMAR 09.10.02 Harness Racing**. This action was considered by the Maryland Racing Commission at a public meeting held on November 11, 2014, notice of which was given by publication in 41:22 Md. R. 1350 (October 31, 2014), pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to change the percentage of the purse paid to a Standardbred owner when only three horses compete and finish in a race, and to standardize the qualifying time for horses competing at a Maryland Standardbred Race Track.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to J. Michael Hopkins, Executive Director, Maryland Racing Commission, 300 East Towsontown Boulevard, Towson, MD 21286, or call 410-296-9682, or email to mike.hopkins@maryland.gov, or fax to 410-296-9687. Comments

will be accepted through March 13, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Racing Commission during a public meeting to be held on March 17, 2015 at 12:30 P.M., at Laurel Park, Laurel, Maryland 20725.

.43 Foaled Stakes Program.

A.—J. (text unchanged)

K. Eligibility to Start.

(1) (text unchanged)

(2) A satisfactory charted performance line is a performance line:

(a) (text unchanged)

(b) Which shows that the horse has completed the race without a break, other than a break caused by interference or broken equipment, at, or within, the following times according to the horse's age and gait:

(i) For events conducted on a 5/8 mile track:

Age and Gait	Time
2-year-old pace	2:07
2-year-old trot	2:09
3-year-old pace	2:06
3-year-old trot	2:08, and

(ii) For events conducted on a 1/2 mile track:]

Age and Gait	Time
2-year-old pace	2:08
2-year-old trot	2:10
3-year-old pace	2:07
3-year-old trot	2:09.

(3) (text unchanged)

L.—T. (text unchanged)

U. Purse Distribution.

(1) The purse in each race shall be divided in the following manner:

(a)—(b) (text unchanged)

(c) [60] 55 percent, 30 percent, and [10] 15 percent to the first three finishers, respectively, if only three horses finish;

(d)—(e) (text unchanged)

(2)—(3) (text unchanged)

V. (text unchanged)

.53 Sires Stakes Program.

A.—N. (text unchanged)

O. Eligibility to Start.

(1) (text unchanged)

(2) A satisfactory charted performance line is a performance line:

(a) (text unchanged)

(b) Which shows that the horse has completed the race without a break, other than a break caused by interference or broken equipment, at, or within, the following times according to the horse's age and gait:

(i) For events conducted on a 5/8 mile track:

Age and Gait	Time
2-year-old pace	2:07
2-year-old trot	2:09
3-year-old pace	2:06
3-year-old trot	2:08, and

(ii) For events conducted on a 1/2 mile track:]

Age and Gait	Time
2-year-old pace	2:08
2-year-old trot	2:10
3-year-old pace	2:07
3-year-old trot	2:09.

(3) (text unchanged)

P.—Z. (text unchanged)

AA. Purse Distribution.

(1) The purse in each race shall be divided in the following manner:

(a)—(b) text unchanged

(c) [60] 55 percent, 30 percent, and [10] 15 percent to the first three finishers, respectively, if only three horses finish;

(d)—(e) (text unchanged)

(2)—(3) (text unchanged)

BB. (text unchanged)

J. MICHAEL HOPKINS

Executive Director

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.44 Unpaid Parental Leave—Birth or Adoption of a Child

Authority: Labor and Employment Article, §3-1206, Annotated Code of Maryland

Notice of Proposed Action

[15-005-P]

The Commissioner of Labor and Industry proposes to adopt new Regulations .01 and .02 under a new chapter, **COMAR 09.12.44 Unpaid Parental Leave—Birth or Adoption of a Child.**

Statement of Purpose

The purpose of this action is to provide that the Commissioner of Labor and Industry will, to the extent applicable, utilize provisions of the Family Medical Leave Act rules and regulations in interpreting the unpaid parental leave law with regard to the birth or adoption of a child. In addition, these regulations explain an employer's requirements if the employer denies a request for unpaid leave.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Melissa Myer, Special Projects Coordinator, Department of Labor, Licensing and Regulation, 1100 N. Eutaw Street, Room 606, or call 410-767-2182, or email to melissa.myer1@maryland.gov, or fax to 410-767-2986. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Applicability.

To the extent necessary to enforce or clarify the application of the *Unpaid Parental Leave for Birth or Adoption of a Child*, the Commissioner shall, where appropriate, utilize existing rules, regulations and interpretations applicable under the *Family Medical Leave Act*.

.02 Employer Denial Requirements.

If an employer denies an eligible employee's request for *Unpaid Parental Leave for Birth or Adoption of a Child* on the basis that the employee's absence will cause substantial and grievous economic injury to the employer, the employer must:

A. Provide the employee with written notice of the denial:

(1) Prior to when the employee plans to take leave; or

(2) As soon as possible if the employee leaves work unexpectedly.

B. State the reason why the employee's leave will cause substantial and grievous economic injury.

J. RONALD DEJULIIS
Commissioner of Labor and Industry

Subtitle 14 STATE ATHLETIC COMMISSION

09.14.04 Safety and Health Standards for Contestants

Authority: Business Regulation Article, §4-205, Annotated Code of Maryland

Notice of Proposed Action

[15-024-P]

The State Athletic Commission proposes to amend Regulations .01, .02, and .04 under **COMAR 09.14.04 Safety and Health Standards for Contestants**. This action was considered by the State Athletic Commission at a public meeting held on August 27, 2014, notice of which was published in 41:16 Md. R. 958 (August 8, 2014), pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to (1) extend the timeline within which a contestant must complete the comprehensive physical examination and ophthalmological evaluation before applying to the Commission for a license, from 30 days to 1 year; (2) provide that a contestant must have had a comprehensive physical examination and ophthalmological evaluation within 1 year of participating in a contest; and (3) prohibit a boxer from engaging in a contest if the boxer has a undergone a lens implant or lasik surgery.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Contestants are required, as a condition of licensure, to obtain both a physical examination performed by a physician and an ophthalmological evaluation performed by an ophthalmologist. Current regulations require these conditions to be met within 30 days of the licensing application. By extending the period of time from 30 days to one year, the proposed regulations minimize the expenditures that a promoter or contestant would incur because they enable the promoter or the contestant to use the results of examinations that were already performed in the same year in conjunction with another contest.

II. Types of Economic Impact.

Revenue (R+/R-)

Expenditure
(E+/E-)

Magnitude

A. On issuing agency: NONE

B. On other State agencies: NONE

C. On local governments: NONE

Benefit (+)
Cost (-)

Magnitude

D. On regulated industries or trade groups: NONE

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

(1) Boxers (+) Indeterminable

(2) Promoters (+) Indeterminable

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

F(1). If the unlicensed contestant is paying to have a physical examination and ophthalmological evaluation performed, exams which are both conditions of licensure, then the contestant will potentially save on the cost of having to pay for one or more additional exams provided that the exams being submitted have been performed within the extended time period allowed. The cost of a physical examination of a contestant varies from state to state; in the State of Maryland, a physical examination of a contestant typically costs between \$25 and \$150. The cost of an ophthalmological evaluation varies from state to state; in the State of Maryland, an ophthalmological evaluation of a contestant typically costs between \$75 and \$150.

F(2). If the promoter is paying to have an ophthalmological evaluation and a physical examination performed on an unlicensed contestant, exams which are both conditions of licensure, then the promoter will potentially save on the cost of having to pay for one or more additional exams for this contestant provided that the exams being submitted have been performed within the extended time period allowed. The cost of a physical examination of a contestant varies from state to state; in the State of Maryland, a physical examination of a contestant typically costs between \$25 and \$150. The cost of an ophthalmological evaluation varies from state to state; in the State of Maryland, an ophthalmological evaluation of a contestant typically costs between \$75 and \$150.

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 Patrick Pannella, Executive Director, State Athletic Commission, 500 North Calvert Street, Room 304, Baltimore, MD 21202, or call 410-230-6223, or email to patrick.pannella@maryland.gov, or fax to 410-333-6314. Comments

will be accepted through February 20, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Athletic Commission during a public meeting to be held on February 25, 2015, 2 p.m., at 500 N. Calvert Street, Third Floor Conference Room, Baltimore, MD 21202.

.01 Medical Examinations.

A. A contestant applying for a license or license renewal shall have a comprehensive physical examination by [the applicant's personal physician] *a physician of the applicant's choice* performed within [30 days before the application is submitted to the Commission] *1 year before the application is submitted to the Commission.*

B. *A contestant who is currently licensed shall have a comprehensive physical examination by a physician of the contestant's choice performed within 1 year before the date of a contest in which the contestant is to participate.*

[B.] C. The findings from a physical examination under §A or B of this regulation shall be reported by the applicant *or contestant* to the Commission at least 5 business days before the date of contest.

.02 Ophthalmological Evaluation.

A. In this regulation, "ophthalmological evaluation" means an examination by an ophthalmologist to detect abnormalities of a person's *uncorrected* vision and includes, but is not limited to:

(1) — (3) (text unchanged)

B. A contestant applying for a license or license renewal shall submit to the Commission an ophthalmological evaluation completed by an ophthalmologist licensed by or eligible for certification by the American Board of Ophthalmology, performed within [30 days before the date of filing the application.] *1 year before the application is submitted to the Commission.*

C. *A contestant who is currently licensed shall have an ophthalmological evaluation completed by an ophthalmologist licensed by or eligible for certification by the American Board of Ophthalmology, performed within 1 year before the date of a contest in which the contestant is to participate.*

[C.] D. The evaluation under §B or C of this regulation shall include an official report of the indirect ophthalmoscopy and slit lamp.

[D.] E. — [E.] F. (text unchanged)

.04 Precontest Examinations.

A. (text unchanged)

B. A contestant may not engage in a contest if any of the following physical conditions are found by the Commission's physician:

(1) — (9) (text unchanged)

(10) Use of narcotics, stimulants, depressants, or strong analgesics; [or]

(11) Detached retina, retinal tear, or macular hole in one or both eyes[.];

(12) *A lens implant in one or both eyes; or*

(13) *Lasik surgery in one or both eyes.*

C. — I. (text unchanged)

ARNOLD DANSICKER
Chairman
State Athletic Commission

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 01 PROCEDURES

10.01.17 Fees for [Community Health] *Food Protection, Public Pools, Public Spas, Public Spray Grounds, and Youth Camp Programs*

Authority: Health-General Article, §§2-104, 14-403, 21-301, 21-308, 21-309, 21-309.1, 21-403, 21-412, 21-808, and 21-812, Annotated Code of Maryland

Notice of Proposed Action

[15-018-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01 and .02 under COMAR 10.01.17 **Fees for Food Protection, Public Pools, Public Spas, Public Spray Grounds, and Youth Camp Programs.**

Statement of Purpose

The purpose of this action is to:

(1) Update the name of the chapter and one of the offices responsible for regulating entities under this chapter;

(2) Reduce the fees for civic or nonprofit organizations that process meat for human consumption no more than three times per year for 5 days or less each time per year, including changing the annual food processing plant license fee from \$400 to \$150, the plan review fee from \$400 to \$150, and the hazard analysis critical control point plan review fee from \$200 to \$150;

(3) Add a food processing license for charity deer processing to the regulation with no fee; and

(4) Clarify regulations to reflect current practice, by adding to the regulation, fees for an annual permit or inspection that are already being collected for: a farmstead cheese processor (\$100); and a milk tank truck cleaning facility (\$25).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. (1) With respect to fees for food processing licenses, the Department will collect \$1,550 less per year in revenue in the form of annual license fees, plan review fees, and hazard analysis critical control plan review fees related to food processing plants. Nonprofit and civic organizations that manufacture food are expected to benefit from the lower fees, particularly small processors and manufacturers.

(2) Farmstead cheese processors already pay a \$100 annual permit/inspection fee and milk tank truck cleaning facilities already pay a \$25 annual permit/inspection fee so the addition of these fees to the regulations will not have an economic impact. This proposed change will align regulations with current practice of collecting these fees.

II. Types of Economic Impact.

Revenue (R+/R-)

Expenditure (E+/E-)
)

Magnitude

A. On issuing agency:	(R-)	\$1,550
B. On other State agencies:	NONE	
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$1,550
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. As of December 19, 2014 there are five licensed civic/nonprofit organizations impacted by the annual license fee change from \$400 to \$150 in SB 11 (2014). There were four such organizations at the time that the fiscal note for SB 11 (2014) was completed. These licenses are renewed on an annual basis, and the Department has no way of accurately predicting how many licenses will be issued in a given year. This number is currently accurate, however, it may change. An organization may add or remove processes at any time during the year, potentially impacting the way a plant is categorized, and which fees are paid; further, an organization can go into or out of business at any given time. This reduction will result in a decrease of \$1,250 in annual revenue for the Department.

Plan review fees are only for new businesses or new process reviews, so we have no real way to predict this number. In general there are very few each year, and sometimes none occur. The Department expects to receive one plan review per year for an organization that qualifies for the reduced fee of \$150 from the current plan review fee of \$400. Therefore, this reduction will result in a decrease of \$250 in plan review fees collected.

The Department also expects to receive one hazard analysis critical control point plan review per year from an organization that qualifies. The fee reduction from \$200 to \$150 will result in a decrease of \$50 in hazard analysis critical control point plan review fees collected. The sum of the anticipated revenue reductions is \$1,550.

D. The regulated industry as a whole will save \$1,550 annually in Department fees.

Economic Impact on Small Businesses

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

As noted in Part A, the proposed changes will decrease costs for small businesses by \$1,550 annually.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Scope.

This chapter applies to entities regulated by the Office of Food Protection and [Consumer Health Services] *the Office of Healthy Homes and Communities*.

.02 Fees.

The following fees are established by the Secretary:

A. Annual permit or inspection fee for:

- (1)—(4) (text unchanged)
- (5) *Farmstead cheese processor* — \$100;
- [(5)] (6) *Milk processor* — \$100;
- (7) *Milk tank truck cleaning facility* — \$25;
- [(6)] (8) —[(8)] (10) (text unchanged)

B. Annual youth camp application fee based on estimated camper days, that is, the estimated average number of campers enrolled each day multiplied by the estimated number of days a camp intends to operate during a camp season, for:

(1) Except as specified in §B(2) of this regulation:

- (a) (text unchanged)
- (b) *Residential camp*:
 - (i)—(iii) (text unchanged)
 - [(d)] (iv) (text unchanged)

(2) (text unchanged)

C. Annual license fee for:

(1) Food processing plants:

- (a)—(b) (text unchanged)

(c) *Charity deer processing plant, as defined in COMAR 10.15.04 — no fee;*

(d) *Civic or nonprofit organizations that process meat for human consumption no more than three times a year for 5 days or less each time* — \$150;

- [(c)] (e)—[(g)] (i) (text unchanged)

[(h)] (j) *Effective January 6, 2014, a food warehouse or distribution center that distributes:*

- [(i)] (k)—[(n)] (p) (text unchanged)

(2) *Frozen dessert mix or frozen dessert plant with manufacturing capacity of:*

- (a) [0—25,000] *0 to 25,000 gallons* — \$10;
- (b) [25,001—100,000] *25,001 to 100,000 gallons* — \$50;
- (c) [100,001—250,000] *100,001 to 250,000 gallons* — \$100;
- (d) [250,001—500,000] *250,001 to 500,000 gallons* — \$150; and

- (e) (text unchanged)

D. Except for a local subdivision with delegated authority, plan review fee for food processing plants:

(1) (text unchanged)

(2) *Bottled water plant* — \$400;

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

(4) *Charity deer processing plant — no fee;*

(5) *Civic or nonprofit organizations that process meat for human consumption no more than three times a year for 5 days or less each time* — \$150;;

[(3)] (6)—[(4)] (7) (text unchanged)

(8) *Food manufacturing plant* — \$400;

(9) *Food manufacturing plant operating in another licensed food establishment* — \$200;

(10) *Food warehouse or distribution center* — \$400;

(11) *Frozen food manufacturing plant* — \$400;

[(5)] (12) (text unchanged)

(13) *On-farm home processing plant — no fee;*

(14) *Producer mobile farmer's market unit — no fee;*

(15) *Seasonal food manufacturing plant — no fee; and*

[(6)] (16) (text unchanged)

[(7)] *Food manufacturing plant* — \$400;

(8) *Food warehouse or distribution center* — \$400;

(9) *Bottled water plant* — \$400;

(10) *Frozen food manufacturing plant* — \$400;

(11) *Seasonal food manufacturing plant — no fee;*

(12) *On-farm home processing plant — no fee;*

- (13) Producer mobile farmer's market unit — no fee; and
 (14) Food manufacturing plant operating in another licensed food establishment — \$200;]
 E. (text unchanged)
 F. Food process or hazard analysis critical control point plan review [in]:
 (1) *In a retail facility or a food processing plant — \$200; [and] or*
 (2) *In a bona fide civic or nonprofit organization that processes meat for human consumption no more than three times a year for 5 days or less each time — \$150; and*
 G. (text unchanged)

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.05 Dental Services

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

Notice of Proposed Action

[15-021-P-I]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01, .04, and .07 under **COMAR 10.09.05 Dental Services**.

Statement of Purpose

The purpose of this action is to account for updates in the Maryland Medicaid Dental Services Fee Schedule and Procedure Codes CDT, and the addition of Ambulatory Surgical Centers (ASC) as a covered service location.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Department received \$2,200,000 in total funds to increase dental rates for FY 15.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$2,167,327
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	(+)	\$2,167,327
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

- A. and D. The Department is receiving \$2,200,000 in general

funds to increase a limited number of dental rates.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Maryland Medical Assistance Program, Dental Fee Schedule, Revision 2014, Effective January 2015, has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 41:1 Md. R. 9 (January 10, 2014), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) *"Ambulatory surgical center (ASC)" means any Medicare-certified entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization.*

[(3)] (4)—[(30)] (31) (text unchanged)

.04 Covered Services.

A.—B. (text unchanged).

C. The Program [will] *shall* reimburse for covered services in §§A and B of this regulation if:

(1) The services are rendered in:

(a)—(e) (text unchanged).

(f) An EPSDT certified provider's office; [or]

(g) An approved mobile dental unit; or

(h) *A Medicare-certified ambulatory surgical center;*

(2)—(4) (text unchanged)

.07 Payment Procedures.

A.—D. (text unchanged).

E. [The fee schedule is incorporated by reference with the following amendments: Maryland Medicaid Dental Services Fee Schedule and Procedure Codes CDT (2009—2010), Revision (2009)] *The current Maryland Medicaid Dental Services Fee Schedule and Procedure Codes CDT is incorporated by reference, effective January 1, 2015.*

F.—N. (text unchanged).

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.08 Freestanding Clinics

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

Notice of Proposed Action

[15-025-P]

The Secretary of Health and Mental Hygiene proposes to repeal existing Regulations .01—.13 and adopt new Regulations .01—.14 under COMAR 10.09.08 Freestanding Clinics.

Statement of Purpose

The purpose of this action is to repeal outdated regulations for freestanding clinics and to replace it with new regulations.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) "All-inclusive cost-per-visit rate" means the rate that is established for Federally Qualified Health Centers (FQHCs) which includes all services that are rendered to a participant on a given date of service.

(2) "Clinic services" means preventive, diagnostic, therapeutic, rehabilitative or palliative items or services furnished by or under the direction of a licensed physician or dentist either in a freestanding clinic, or outside the clinic if the:

(a) Recipient does not reside in a permanent dwelling or have a fixed home or mailing address; and

(b) Service is provided by clinic personnel.

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

(4) "Department" means the Department of Health and Mental Hygiene, the State agency designated to administer the Maryland Medical Assistance Program under Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq.

(5) "Direct supervision" means that a physician is:

(a) Physically present in the same area of a facility as a nonphysician providing the services required in the physician's plan of care unless standing orders and protocols are provided for

physician extenders such as nurse practitioners, nurse midwives, and physician assistants; and

(b) Readily available for consultation.

(6) "Early and periodic screening, diagnosis and treatment (EPSDT)" means the provision of preventive health care, including medical and dental services under 42 CFR §441.50 et seq. (1981), and COMAR 10.09.23 for assessing growth and development and for detecting and treating health problems in Medical Assistance enrollees younger than 21 years old.

(7) "Extraordinary one-time circumstance" means a highly unusual event beyond the control of a federally qualified health center (FQHC), such as an earthquake or flood, which results in an increase in the FQHC's operating costs.

(8) Freestanding Clinic.

(a) "Freestanding clinic" means a health care facility that is not licensed as a hospital, part of a hospital, or nursing home and is not administratively part of a physician's, dentist's, or osteopath's office, but which has a separate staff functioning under the direction of a clinic administrator or health officer and is organized and operated to provide ambulatory health services.

(b) "Freestanding clinic" does not include a clinic or clinic site located in a recipient's home.

(9) Home.

(a) "Home" means the house, apartment, trailer, licensed health care facility, or other dwelling in which a recipient resides.

(b) "Home" does not include dedicated commercial space in a high-rise apartment building.

(10) "Hospital" means an institution which:

(a) Falls within the jurisdiction of Health-General Article, Title 19, Subtitle 3, Annotated Code of Maryland; and

(b) Is licensed under COMAR 10.07.01 or is licensed by the state in which the service is provided.

(11) "Medicare" means the insurance program administered by the federal government under Title XVIII of the Social Security Act, 42 U.S.C. §1395 et seq.

(12) "Mental health services" means those services described in COMAR 10.09.70.10C that are rendered to treat an individual for a diagnosis as set forth in COMAR 10.09.70.10A.

(13) "Out-stationed eligibility worker" means an employee of a federally qualified health center who is responsible for the receipt and initial processing of applications for Medical Assistance for pregnant women, and children born after September 30, 1983, who are younger than 19 years old in accordance with 42 CFR 435.904.

(14) "Participant" means an individual who is certified as eligible for, and is receiving, Medical Assistance benefits.

(15) "Patient care policies" means written policies and protocols, describing patient care practices and procedures:

(a) Established for the clinic's operation by a group of professional personnel, including one or more physicians affiliated with the freestanding clinic; and

(b) Approved by the signature of the clinic's medical director.

(16) "Plan of care" means a written plan for the evaluation, treatment, and follow-up of each patient, maintained in the individual's medical record and containing, at a minimum, the following information where applicable:

(a) Patient identification data, dates of service, and medical history;

(b) Chief complaint, physical findings, and presumptive diagnosis;

(c) Plan of treatment;

(d) Results of all laboratory tests and diagnostic radiology procedures ordered and performed;

(e) Referral to consultant specialist and consultants report;

(f) Medications administered and prescribed, with notations indicating quantity, strength, dosage, and refill instructions; and
(g) Final diagnoses, other therapy ordered, and follow-up plan.

(17) "Preauthorization" means the approval required from the Department or its designee before services can be rendered.

(18) "Primary care services" means those medical care services which address a patient's general health needs, including the coordination of the individual's health care with the responsibility for the:

- (a) Prevention of disease;
- (b) Promotion and maintenance of health;
- (c) Treatment of illness; and
- (d) When appropriate, referral to other specialists for more intensive care.

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

(20) "Provider" means a freestanding clinic which, through appropriate agreement with the Department, has been identified as a Program provider by the issuance of a provider number.

(21) "Rural health clinic" means a facility that meets the definition of a rural health clinic as contained in 42 CFR §491.2(f).

(22) "Scope of services change" means a permanent and substantial change in the services or practices of a FQHC that results from one or more of the following:

- (a) The addition or deletion of a Medicaid-covered FQHC service as described in §1905(a)(2)(B) and (C) of the federal Social Security Act;
- (b) The addition, elimination, expansion, or reduction of a Health Resources and Service Administration (HRSA) approved FQHC practice location; or
- (c) A change in costs for out-stationed eligibility worker services.

.02 License Requirements.

A. The provider shall meet all license requirements as set forth in COMAR 10.09.36.02.

B. A physician or osteopath providing services in a freestanding clinic shall be licensed and legally authorized to practice medicine in the state in which the service is provided.

C. The provider shall ensure that all X-ray and other radiological equipment:

- (1) Is maintained and inspected in compliance with the requirements of the Maryland Radiation Act, Environment Article, Title 8, Subtitle 3, Annotated Code of Maryland; and
- (2) Meets the standards established by COMAR 26.12.01—26.12.03, or other applicable standards established by the state in which the service is provided.

D. The provider shall ensure that a Clinical Laboratory Improvement Amendment (CLIA) certification exists for all clinical laboratory services performed, and:

- (1) If located in Maryland, comply with requirements of:
 - (a) Health-General Article, Title 17, Subtitles 2 and 3, Annotated Code of Maryland; and
 - (b) COMAR 10.10.06; or
- (2) If located out-of-State, comply with other applicable standards established by the state or locality in which the service is provided.

E. When applicable, abortion clinics shall be licensed in accordance with 10.21.01.

.03 Conditions for Participation.

A. General requirements for participation in the Program are that a provider shall meet all conditions for participation as set forth in COMAR 10.09.36.03.

B. Specific requirements for participation in the Program as a freestanding clinic provider require that the provider:

- (1) Meet the applicable standards and requirements of Regulation .04 of this chapter;
- (2) Verify the licenses and credentials of all professionals employed by or under contract with the freestanding clinic to provide services;
- (3) Have clearly defined, written, patient care policies;
- (4) Maintain adequate documentation of each contact with each recipient as part of the plan of care, which, at a minimum, shall include:
 - (a) Date of service;
 - (b) Recipient's chief medical complaint or reason for visit;
 - (c) A brief description of the physical findings and the service provided, including procedures and progress notes; and
 - (d) A legible signature and printed or typed name of professional providing care, with the appropriate title;
- (5) Have written, effective procedures for infection control under COMAR 10.06.01 Communicable Diseases;
- (6) Maintain adequate administrative and medical records which are defined as having documentation sufficient in quantity, scope, and detail to confirm that the freestanding clinic services are provided in accordance with this chapter;
- (7) Be approved by the Medicaid program in the state in which the service is provided; and
- (8) Provide for in-house program evaluation and clinical record review which assess use of services for appropriateness in meeting client's needs.

C. In the absence of specifically applicable regulations, a freestanding clinic may participate in the Program by:

- (1) Complying with §A of this regulation;
- (2) Complying with specific conditions which may be included in the written agreement; and
- (3) Accepting reimbursement according to COMAR 10.09.02 Physicians' Services.

D. Abortion clinics shall provide services in accordance with Health-General Article, §20-209, Annotated Code of Maryland.

.04 Covered Services.

A. The Program covers the services listed in §§B—E of this regulation according to the conditions and requirements indicated.

B. Medically Necessary Services. The program covers medically necessary services as described in §§C, D, and E of this regulation and in Regulation .05 of this chapter, rendered to participants by a freestanding clinic, when these services are performed by a physician or by one of the following:

- (1) A registered nurse, psychologist, or a social worker, provided that the individual:
 - (a) Performing the service is in the physician's employ;
 - (b) Is under the physician's direct supervision; and
 - (c) Performs the service within the scope of the individual's license or certification for the purpose of assisting in the provision of physicians' services;
- (2) A nurse midwife, a nurse practitioner, a licensed practical nurse, or a registered physician's assistant, provided that the individual performs the services within the scope of the individual's license or certification; or
- (3) An addictions counselor who meets the requirements in accordance with COMAR 10.58.07.

C. Family Planning Clinic Services.

(1) To participate in the Program as a family planning clinic, a provider shall meet the requirements of Regulation .03 of this chapter and §§B and C(2) of this regulation and shall:

- (a) Participate in the Title X: National Family Planning Program; or

(b) Provide documented evidence of adherence to and compliance with standards established for family planning by the State of Maryland, Planned Parenthood, or the American College of Obstetricians and Gynecologists.

(2) Covered services include:

(a) Complete initial and annual physical examination including auscultation of heart and lungs for all patients;

(b) Pelvic examination, including bimanual and speculum, and Pap smears on all females annually, unless clinical indication for more frequent examination exists;

(c) Laboratory tests including, but not limited to:

(i) Hemoglobin or hematocrit, or both, for all patients;

(ii) Urinalysis for albumin sugar for all patients;

(iii) Sexually transmitted disease (STD) testing for all patients;

(iv) Pregnancy testing if indicated by physical examination or history, or both;

(v) Rubella titer of all females without documentation of prior rubella immunization which may be done by documented referral to a known provider of this service;

(d) Contraceptive methods and devices approved by the Federal Drug Administration, their insertion, filling, or removal, and education on proper use;

(e) Rectal examination, if indicated;

(f) Basic education regarding human sexuality and reproduction, for all patients;

(g) Advice and counseling regarding all family planning methods, including natural family planning measures and sterilization procedures, the availability and effectiveness of methods, procedures involved in each method and untoward effects and potential complications of each method when performed according to §B of this regulation;

(h) Sperm count and analysis done on premises or by appropriate documented referral;

(i) Sterilizations, including vasectomy, when coded as family planning and when the appropriate forms, as established by Program guidelines, are properly completed and attached to the claim;

(j) Post-vasectomy follow-up; and

(k) Referral mechanism and documented referral for all patients demonstrating illness, disease, or pregnancy.

D. Abortion Clinic Services.

(1) To participate in the Program as an abortion clinic, the provider shall meet the requirements of Regulations .02 and .03 of this chapter and §B of this regulation and shall:

(a) Meet all applicable state and local requirements for licensure and certification in the state or jurisdiction in which the clinic is located;

(b) Perform abortions upon certification by the physician performing the procedure that the procedure is necessary, based upon his or her professional judgment, in compliance with COMAR 10.09.02 Physicians' Services; and

(c) Complete the "Certification of Abortion" (DHMH 521) form and keep the form in the patient's medical record for services related to the termination of pregnancy or for medical procedures necessary to voluntarily terminate a pregnancy for victims of rape or incest.

(2) Covered services shall include:

(a) An abortion procedure for pregnancies which shall include a pelvic examination, and preoperative and postoperative care;

(b) Laboratory tests to include pregnancy test, urinalysis for sugar and albumin, hemoglobin or hematocrit, or both, and Rh factor typing;

(c) Pap smear;

(d) Anesthesia or sedatives or analgesics or any combination of these drugs;

(e) Referral to family planning clinic for follow-up family planning;

(f) Gross and microscopic tissue examination if there is any doubt in the proper identification of the extracted product of conception concerning composition or completeness; and

(g) Obstetrical pelvic ultrasound.

E. Rural Health Clinic Services.

(1) To participate as a rural health center, the provider shall:

(a) Meet the requirements of Regulations .03 and .05A of this chapter; and

(b) Be federally certified in accordance with 42 CFR Part 491, Subpart A.

(2) Covered services include rural health clinic services as defined in 42 CFR §440.20.

(3) The provider shall follow the general rural health center rules and regulations in accordance with 42 CFR §405.2400—42 CFR §405.2417.

.05 Federally Qualified Health Center Services.

A. To participate as a federally qualified health center, the provider shall meet the requirements of Regulations .03 and .04B of this chapter and shall:

(1) Meet the conditions for coverage in accordance with 42 CFR §491, Subpart A;

(2) Be enrolled in the EPSDT/Healthy Kids Program as provided in COMAR 10.09.23 and provide EPSDT/Healthy Kids services to recipients who are eligible to receive them;

(3) Supply the Department with financial and other information as requested;

(4) Meet one of the following conditions:

(a) Meet all of the requirements for receiving a grant under §329, 330, or 340 of the Public Health Service Act, 42 U.S.C. §254(c), as determined by the Secretary of the United States Department of Health and Human Services, and in accordance with 42 CFR §405.2401;

(b) Receive a waiver from the Secretary of the United States Department of Health and Human Services of one or more of the requirements for receiving a grant pursuant to §329, 330, or 340 of the Public Health Service Act; or

(c) Be an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an Urban Indian organization receiving funds under Title V of the Indian Health Care Improvement Act;

(5) Comply with the requirements contained in COMAR 10.09.59 if delivering mental health services and COMAR 10.09.80 when providing substance use disorder services; and

(6) Comply with the requirements contained in COMAR 10.09.05, if rendering dental services.

B. Covered services are the same as those authorized to be provided by rural health clinics as described in 42 CFR §440.20(b), rural health clinic services, and 42 CFR §440.20(c), other ambulatory services furnished by a rural health clinic.

C. In the event that the provider elects to institute a scope of services change, the provider shall:

(1) Notify the Department of its intent to institute the scope of services change:

(a) Not later than 30 days before it begins to deliver services under the scope of services change; or

(b) Within 30 days after the adoption of this section; and

(2) Provide the Department with any information the Department needs to:

(a) Assure continuity of care for enrollees;

(b) Arrange for the processing and payment of claims; or

(c) Otherwise administer services to Medical Assistance participants under the provider's scope of services change.

D. Rate Revisions for FQHCs Due to Scope of Services Change or Extraordinary One-Time Circumstance.

(1) If an FQHC implements a change in the FQHC's scope of services or if the FQHC experiences an extraordinary one-time circumstance, the FQHC or the Department may request a revision of the FQHC's prospective rate of reimbursement.

(2) The FQHC shall provide the Department with written notification no later than 30 days after the implementation of the scope of services change or the occurrence of the one-time circumstance.

(3) After receiving notification from an FQHC that the FQHC plans to institute a scope of services change, the Department shall notify the FQHC within 30 days if the Department wishes to request a revision to an FQHC's rate.

(4) An FQHC or the Department may not request more than one rate revision per FQHC per calendar year under this regulation.

(5) When an FQHC or the Department requests a rate revision based on §D(1) of this regulation, the FQHC shall submit to the Department or its designee a cost report and supporting documentation.

(6) The cost report and supporting documentation required under §D(5) of this regulation shall:

(a) Be submitted within 90 days after the end of the first 1-year period immediately following the implementation of the scope of service change or the occurrence of the extraordinary one-time circumstance;

(b) Reflect the change in costs relating to the rate revision request for the center's operations for the first 1-year period immediately following the implementation of the scope of service change or the occurrence of the extraordinary one-time circumstance;

(c) Conform with the standards described in §C of this regulation and instructions issued by the Department or its designee;

(d) Contain an explanation of the scope of services change or extraordinary one-time circumstance and schedules to support the calculation of the change in the cost-per-visit rate; and

(e) Be subject to verification and adjustment by the Department or its designee.

(7) Rate revisions granted under this section shall be effective the first day after the first full year of operation after the implementation of the scope of service change or the occurrence of the extraordinary one-time circumstance.

(8) The revised rate granted under this section shall be the rate referenced in §A(3) of this regulation.

E. Rates of reimbursement established according to this regulation shall be for:

(1) Payment of covered services rendered to participants; and

(2) Determining supplemental payments under COMAR 10.09.65.21A.

.06 Limitations.

The Program does not cover the following:

A. Services not specified in Regulation .04 of this chapter;

B. Services not medically necessary;

C. Investigational and experimental drugs and procedures;

D. Procedures solely for cosmetic purposes;

E. Services denied by Medicare as not medically justified;

F. Freestanding clinic services for inpatient recipients in State-operated facilities serving individuals with intellectual disabilities;

G. Freestanding clinic services provided to hospital inpatients;

H. Freestanding clinic visits when patients are referred to hospital outpatient departments or emergency rooms for services ordinarily provided in freestanding clinics covered by this chapter;

I. Freestanding clinic visits solely for the purpose of one or more of the following:

(1) Prescription drugs or collection of laboratory specimens, unless otherwise allowed;

(2) Certification or recertification of food supplements;

(3) Performing laboratory tests required only for certification or recertification of food supplement programs;

(4) Nutritional assessments in the absence of diagnosis of nutritional disorders, unless EPSDT or primary health services are provided at the same time;

(5) Ascertaining the patient's weight;

(6) Interpretation of laboratory tests or panels; and

(7) Measurement of blood pressure;

J. Injections and visits solely for the administration of injections, unless medical necessity and the recipient's inability to take appropriate oral medications are documented in the patient's medical record;

K. More than one visit per day to the same freestanding clinic, unless the additional visit is adequately documented as:

(1) An emergency situation; or

(2) A visit to a different specialty;

L. Central nervous system stimulants and anorectic agents when used for weight control;

M. Immunizations required for travel outside the continental United States;

N. Vision care services excluded under COMAR 10.09.14 or COMAR 10.09.23;

O. Separate billing for services which are specifically included as part of another service;

P. Separate reimbursement to a physician for services provided in a freestanding clinic in addition to the freestanding clinic reimbursement;

Q. Payment for more than one visit to complete an EPSDT screening service;

R. Visits solely for group or individual health education;

S. Freestanding clinic visits in addition to an EKG procedure when the EKG procedure is the only purpose for the visit; and

T. Services for which preauthorization is required under Regulation .09 of this chapter but has not been obtained.

.07 Freestanding Clinic Reimbursement Methodology.

A. Reimbursement for Family Planning Clinics. The Department shall pay the family planning clinic the lower of the provider's usual and customary charge, or the provider's acquisition cost, but no more than the maximum reimbursement allowed for similar procedures or services required in the Maryland Medical Assistance Program Physicians' Services Provider Fee Manual, which is incorporated by reference in COMAR 10.09.02.07.

B. Reimbursement for Abortion Clinics. For dates of service on or after January 1, 2015, the Department shall pay the abortion clinics the lower of the provider's usual and customary charge, but no more than the maximum reimbursement allowed for similar procedures or services required in the Maryland Medical Assistance Program Physicians' Services Provider Fee Manual, which is incorporated by reference in COMAR 10.09.02.07.

C. Reimbursement for Rural Health Clinics. The Department shall reimburse rural health clinics in accordance with 42 CFR §447.371.

D. The Department shall pay all other freestanding clinics at the lower of the provider's usual and customary charge, or the provider's acquisition cost, but no more than the maximum reimbursement allowed for similar procedures or services required in the Maryland Medical Assistance Program Physicians' Services Provider Fee Manual, which is incorporated by reference in COMAR 10.09.02.07.

.08 Reimbursement Methodology for FQHC Services.

A. Federally qualified health centers shall be reimbursed for covered services once the provider is in compliance with all federal and State requirements.

B. The only well-child visits that are eligible for Program reimbursement are those that are billed as EPSDT screens.

C. Payment of Allowable Costs.

(1) Federally qualified health centers shall be paid 100 percent of the FQHC's allowable costs, subject to the limitations contained in §§D—G of this regulation, that are related to the provision of covered services.

(2) Allowable costs will be determined in accordance with Medicare principles of cost reimbursement as contained in 42 CFR 413.5, unless otherwise specified in this chapter.

(3) Providers' allowable costs are subject to audit and verification by the Department or its designee.

(4) Costs not adequately documented, return on equity, bad debts incurred by private pay, Medicare patients, or third-party payers, and bad debts resulting from denied costs of the Program are not allowable in establishing reimbursement rates.

(5) Services covered under §1915(g) of Title XIX of the Social Security Act, which are called targeted case management services, and the costs associated with these services, are excluded when establishing reimbursement rates.

D. All-Inclusive Cost-per-Visit Rate.

(1) Reimbursement to providers of federally qualified health center services shall be on a per-visit basis. The Department or its designee shall establish an all-inclusive interim and an all-inclusive final cost-per-visit rate for each provider.

(2) Each provider shall have a rate established for primary care services. A rate for dental care services shall be established if the service is offered.

(3) The all-inclusive cost-per-visit rate for primary care visits covers the allowable costs associated with covered primary care, mental health, and substance abuse services. FQHCs may not charge the program, other than an all-inclusive cost-per-visit rate, for any ambulatory service.

(4) The all-inclusive cost-per-visit rate for dental care visits covers only those services that are reimbursed by the Program under COMAR 10.09.05. Other dental services are not reimbursable.

(5) Providers' costs, except for those of OB/GYN physicians, for staff who provide radiology services, for off-site visits, and for out-stationed eligibility workers, are divided into the following four cost centers:

(a) General service cost center is composed of those costs associated with the depreciation of the facility's building or buildings and equipment, the operation of the plant, the administration and management of the facility, medical records, and those administrative costs associated with pharmacy and EPSDT services which are not reimbursed under a different payment methodology;

(b) Primary care services costs are composed of those costs, including supplies, associated with health care staff, including laboratory technicians, who provide direct care to patients;

(c) Dental services costs are the costs of supplies and health care staff associated with the provision of dental services to patients; and

(d) Non-reimbursable costs are those costs that are not reimbursable under this payment methodology.

(6) The interim and final cost-per-visit rates for each service shall be determined by dividing the provider's allowable costs for each service by the total number of visits to the provider for each service.

E. Calculation of the Interim All-Inclusive Cost-per-Visit Rate.

(1) An interim all-inclusive cost-per-visit rate shall be established for the first 2 years of operation.

(2) Providers shall be divided into those located in urban areas and those located in rural areas. Baltimore City and the Maryland counties of Allegany, Anne Arundel, Baltimore, Carroll, Cecil, Charles, Harford, Howard, Montgomery, Prince George's, St. Mary's and Wicomico are urban areas.

(3) All other Maryland counties are rural areas.

(4) Providers located out-of-State shall be placed in the same reimbursement class as that of the nearest Maryland county.

(5) An interim all-inclusive cost-per-visit rate shall be established for primary care and for dental care services, if applicable, for each provider, by averaging the current FQHC all-inclusive cost-per-visit rate amounts for each area, urban or rural.

F. Calculation of the Final All-Inclusive Cost-per-Visit Rate.

(1) Following the close of the provider's 2nd fiscal year, the Department or its designee shall determine the final all-inclusive cost-per-visit rate for primary care services and, if offered, for dental care services, for those fiscal years based on the costs stated in the cost report for the 2 fiscal years and subject to the limitations in these regulations.

(2) The provider shall submit to the Department or the Department's designee, on the form prescribed, direct and indirect costs and statistical data applicable to patient care.

(3) The provider's cost report shall be reviewed in accordance with the standards referenced in §C(1) of this regulation to determine the allowable costs and the number of visits for that cost reporting period.

(4) In calculating the final all-inclusive cost-per-visit rates, the limitation on general service cost center costs described in §D(5)(a) of this regulation shall apply.

(5) Once the all-inclusive cost-per-visit rate has been determined for each fiscal year, each provider is eligible for additional primary care reimbursement for services rendered by OB/GYN physicians, staff who provide radiology services, off-site visits, and out-stationed eligibility workers. Costs for these additional services are limited to salaries and fringe benefits, including any malpractice insurance, that are paid by the provider. The additional primary care reimbursement shall be calculated by taking the sum of the provider's expenditures for OB/GYN physicians, for staff who provide radiology services, out-stationed eligibility workers, and off-site visits. This sum is divided by the total number of primary care visits. The resulting rate shall be added to the all-inclusive cost-per-visit rate.

(6) The final all-inclusive cost-per-visit rate shall be determined by averaging the all-inclusive cost-per-visit rates for the 2 fiscal years and by adding, if applicable, the additional rate for OB/GYN, staff who provide radiology services, or off-site visits.

(7) This final all-inclusive cost-per-visit rate shall be implemented retroactively to the start date of the FQHC's operation.

(8) The final all-inclusive rate shall be increased by the Medicare Economic Index (MEI) each calendar year.

(9) The provider shall maintain adequate financial records and statistical data according to generally accepted accounting principles and procedures.

(10) The provider shall keep all records available for a period of 6 years subject to inspection or audit by the Department or the Department's designee at any reasonable time during normal business hours.

G. Cost Reporting.

(1) A provider shall submit to the Department or the Department's designee a cost report, and other financial and statistical information requested, within 3 months after the close of the provider's 2nd fiscal year, unless the Department grants the provider an extension or the provider discontinues participation as a federally qualified health center. The following apply:

(a) The Program may grant a provider an extension if the provider makes a written request setting forth the specific reasons for

the request and the Department determines that the request is reasonable; or

(b) If a provider discontinues participation as a federally qualified health center, it shall submit its cost report and other financial and statistical data to the Department within 45 days after the effective date of termination.

(2) Cost reports are considered to have been received by the Department or the Department's designee when the submitted reports are completed according to the instructions issued by the Department, or the Department's designee.

(3) If a provider's cost report has not been received within 3 months after the close of the provider's 2nd fiscal year or within the deadline set by the Department after an extension has been granted, the Department shall reduce the provider's current interim all-inclusive cost-per-visit rate by 20 percent for visits paid during the calendar month in which the report is due and any subsequent calendar month until the report has been submitted. This amount shall be eligible for repayment to the provider upon final cost settlement for the fiscal year or fiscal years from which the payments were withheld.

(4) When a provider's cost report is received by the last day of the 6th month after the end of the provider's 2nd fiscal year and the Department or the Department's designee determines that the final all-inclusive cost-per-visit rate is different than the interim all-inclusive cost-per-visit rate, the increase or decrease is applicable to all reimbursable visits retroactively.

(5) The Department or its designee shall notify each provider of the results of the verification of the provider's cost report.

(6) The provider may appeal the final cost settlement by following the procedures described in COMAR 10.09.36.09.

H. Calculation and Reimbursement of Number of Visits for FQHC Services Rendered to MCO Enrollees.

(1) The FQHC shall transmit all of the encounter data to the appropriate MCO.

(2) The MCO shall reimburse the FQHC their established all-inclusive cost-per-visit rate for all eligible visits.

(3) The FQHC shall have the responsibility of reconciling the number of eligible visits with the MCOs.

(4) Each MCO shall transmit all of its FQHC encounter visits to the Department.

(5) For an FQHC, the calculation of the number of MCO enrollee visits is as follows:

(a) For each 6-month period thereafter, the number of eligible visits received for each period shall be totaled by the Department 12 months after the end of the period;

(b) The number of visits reported in §H(5)(a) of this regulation shall constitute the number of visits on which final payments shall be made to each MCO as reported by each FQHC for that 6-month period;

(c) The MCO shall receive an interim supplemental payment once every 3 months (quarterly);

(d) The interim supplemental payment shall be modified by a final reconciliation of the number of eligible visits applicable to a previous 6-month period received by the Department within 1 year from the end of the 6-month period; and

(e) The final payment made to each MCO according to this regulation is not subject to cost settlement.

.09 Preauthorization Requirements.

A. The following procedures or services require preauthorization:

(1) Vision care according to COMAR 10.09.14.06 and COMAR 10.09.23;

(2) Mental health services which shall comply with the requirements of COMAR 10.09.59;

(3) Substance use disorder services which shall comply with the requirements of COMAR 10.09.80; and

(4) Dental services which shall comply with the requirements of COMAR 10.09.05.

B. The Department or its designee shall preauthorize services when the provider submits adequate documentation demonstrating that the service to be preauthorized is medically necessary.

C. Preauthorization is valid only for services rendered or initiated within 60 days of the date preauthorization was issued. The patient shall be an eligible recipient at the time the service is rendered.

D. Preauthorization normally required by the Program is waived when the service is covered and approved by Medicare. However, if the entire or any part of a claim is rejected by Medicare, and the claim is referred to the Program for payment, payment shall be made for services needing preauthorization from the Program only if authorization for those services has been obtained before the services were rendered.

.10 Payment Procedures.

A. The provider shall submit a completed request for payment in the format designated by the Department with any required documentation.

B. The Program reserves the right to return to the provider, before payment, all invoices not properly completed with a diagnosis, procedure code, and description of the services provided.

C. Unless the Program provides otherwise, a provider shall bill the Program the provider's usual and customary charge to the general public for similar services.

D. The Department shall authorize payment on Medicare cross-over claims only if:

(1) The provider accepts Medicare assignments;

(2) Medicare makes direct payment to the provider;

(3) Medicare has determined that the services are medically necessary;

(4) The services are covered by the Program; and

(5) Initial billing is made directly to Medicare according to Medicare guidelines.

E. The Department shall make supplemental payment on Medicare cross-over claims subject to the following provisions:

(1) A deductible shall be paid in full;

(2) Coinsurance shall be paid at the lesser of:

(a) 100 percent of the coinsurance amount; or

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

(3) Services not covered by Medicare, but considered medically necessary by the Program, shall be paid according to the limitations of this chapter.

F. The provider may not bill the Program for:

(1) Completion of forms and reports;

(2) Broken or missed appointments;

(3) Professional services rendered by mail or telephone with the exception of telemedicine services;

(4) Services which are provided at no charge to the general public;

(5) Home visits unless specifically authorized by federal law or regulation;

(6) More than one visit to complete an EPSDT screen; and

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

G. The Program may not make direct payment to recipients.

H. The Program may not make a separate direct payment to any person employed by or under contract to any freestanding clinic for services provided in a freestanding clinic.

I. Billing time limitations for claims submitted pursuant to this chapter are set forth in COMAR 10.09.36.

.11 Recovery and Reimbursement.

Recovery and reimbursement are as set forth in COMAR 10.09.36.07.

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

Cause for suspension or removal and imposition of sanctions are as set forth in COMAR 10.09.36.08.

.13 Appeal Procedures.

Providers filing appeals from administrative decisions made in connection with this chapter shall do so according to COMAR 10.09.36.09.

.14 Interpretive Regulation.

State regulations shall be interpreted in conformity with COMAR 10.09.36.10.

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.10 Nursing Facility Services

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

Notice of Proposed Action

[15-020-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01, .03—.07, .08, .09, .09-1, .10, .11, .11-2, .12—.17, and .28, and adopt new Regulations .07-2, .08-1, .09-2, .10-1, .11-7, .11-8, .12-1, .14-1, .14-2, .15-1, .16-1, and .17-1 under COMAR 10.09.10 Nursing Facility Services.

Statement of Purpose

The purpose of this action is to:

- (1) Adopt prospective payment for providers of nursing facility services;
- (2) Sunset certain current regulations and to implement, on a phased-in basis, a reimbursement methodology that is price-based, uses a more precise acuity adjustment for nursing services, and covers capital costs through a fair rental value approach; and
- (3) Increase Medicaid rates for nursing facility services by 1.725 percent effective January 1, 2015, consistent with the Program's budget for Fiscal Year 2015.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Fiscal Year 2015 Medicaid budget for nursing facility services is increased by 0.8625 percent. Provider reimbursement rates did not increase July 1, 2014, but will increase by 1.725 percent effective January 1, 2015, increasing Program expenditures by \$11,206,268. All other changes are budget-neutral.

II. Types of Economic Impact.

	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)		\$11,206,268
B. On other State agencies:		NONE	

C. On local governments: NONE

Benefit (+) Cost (-)	Magnitude
NONE	\$11,206,268
NONE	
NONE	

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

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

A. The Program projects that increasing reimbursement for nursing facility services by 1.725 percent will increase the average nursing home rate by \$4.14 per Medicaid day of care. With a projection of 2,706,828 Medicaid days during the period January 1, 2015 through June 30, 2015, the result is an increase in nursing home reimbursement of \$11,206,268.

D. Provider reimbursement for nursing facilities will be increased by \$11,206,268 during Fiscal Year 2015 as described in Section A.

Economic Impact on Small Businesses

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

Thirty-eight nursing homes, which qualify as small businesses, are expected to account for 386,500 Medicaid days during the period January 1, 2015 through June 30, 2015. At an average increase in rates of \$4.14 per day, the impact on small businesses is estimated as an increase in revenue of \$1,600,000.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "2012 final per diem rate" means a nursing facility per diem amount representative of the reimbursement methodology in effect before January 1, 2015 and is based on each nursing facility's cost report ending in calendar year 2012.

[(1)] (2)—[(7)] (8) (text unchanged)

(9) "Case mix index (CMI)" means a numeric score that identifies the average relative nursing resource needs for the residents classified under the Resource Utilization Group (RUG) based on the assessed nursing needs of the resident, whose values are set forth as CMI Set F01, located at <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/NHQIMDS30TechnicalInformation.html>.

(10) "Centers for Medicare and Medicaid Services (CMS)" means the federal agency that is located in the U.S. Department of

Health and Human Services that administers the Medicare and Medicaid programs.

[(8)] (11)—[(11)] (14) (text unchanged)

(15) “Cost report period case mix index” means the simple average of the day weighted facility case mix indices for residents of all payer sources from the final quarterly resident rosters for a nursing facility, carried to four decimal places, for the quarterly resident roster periods that most closely match a cost reporting period.

[(12)] (16) (text unchanged)

[(13)] (17) “Current interim costs” means those costs in the Uniform Cost Report most recently submitted by a provider to the Department or its designee and which have been desk reviewed by the Department or its designee. [New facilities shall submit prospective budgets of costs to be desk reviewed and used as “current interim costs” for interim rate determination but not for ceiling computations.]

[(14)] (18)—[(19)] (23) (text unchanged)

(24) “Facility average Medicaid case mix index” means the day-weighted average case mix index for all identified Medicaid days from each nursing facility’s final resident roster for each resident roster quarter calculated as the sum of the number of days each assessment associated with a Medicaid payer source is active times the assessment CMI divided by the sum of all Medicaid payer source days.

[(20)] (25)—[(29)] (34) (text unchanged)

(35) “Market basket index” means inflation indices from the latest Skilled Nursing Home without Capital Market Basket Index, published 2 months before the period in which rates are being calculated and which is available from CMS at www.cms.gov, or a comparable index available from, and used by, CMS, if this index ceases to be published by Global Insight, Inc. or its successor.

[(30)] (36)—[(34)] (40) (text unchanged)

(41) “Medicare upper payment limit” means that aggregate payments to nursing facilities may not exceed the limits established for such payment in 42 CFR §447.272.

(42) “Minimum Data Set (MDS)” means the MDS required by 42 CFR §483.20 and set forth in the Resident Assessment Instrument published by CMS, and available at www.cms.gov, incorporated herein by reference, as amended and supplemented, a core set of screening, clinical, and functional status elements, including common definitions and coding categories that forms the foundation of the assessment required for all residents in Medicare-certified or Medicaid-certified nursing facilities.

[(35)] (43)—[(36)] (44) (text unchanged)

[(37)] (45) “New facility” means [a]:

(a) A facility that has not been a provider during the previous 12-month period or, for rates effective January 1, 2015 and after, does not have a cost report in the price database as set forth in Regulation .08-1B(1) of this chapter; and

(b) A facility not defined as a replacement facility.

[(38)] (46)—[(48)] (56) (text unchanged)

(57) “Prospective rate” means a facility-specific quarterly per diem rate effective January 1, 2015, and after, based on the RUG classification system, and calculated as the sum of:

(a) Administrative and Routine rate as calculated in accordance with Regulation .08-1 of this chapter;

(b) Other Patient Care Rate as calculated in accordance with Regulation .09-2 of this chapter;

(c) Capital Rate as calculated in accordance with Regulation .10-1 of this chapter; and

(d) Nursing Rate as calculated in accordance with Regulation .11-7 of this chapter.

[(49)] (58)—[(55)] (64) (text unchanged)

[(56)] (65) “Reimbursement class” means the [type] group of [provider] providers for which a separate maximum per diem rate or standard per diem rate will be prepared in the Administrative and Routine, Other Patient Care, and Nursing Service cost centers based on geographic [location] region as set forth in Regulation .24 of this chapter.

[(57)] (66) (text unchanged)

(67) “Replacement facility” means:

(a) A newly constructed nursing facility that replaces an existing licensed and certified facility; or

(b) A facility that was closed for significant renovation that reopens and is approved by the Department as a replacement facility.

(68) “Resident roster” means a list of all residents in a nursing facility for a calendar quarter based on MDS assessments and tracking forms, accurately and successfully transmitted by the nursing facility into the CMS-approved submission system, used for the calculated day-weighted case mix indices for Medicaid, Medicare, and other payment sources.

[(58)] (69) (text unchanged)

(70) “Resource Utilization Group (RUG)” means the version IV (RUG-IV), 48-Group classification system, that has been developed by CMS and set forth at <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/NHQIMDS30TechnicalInformation.html> for grouping nursing facility residents according to the residents’ functional status and anticipated uses of services and resources as identified from data supplied by the MDS.

[(59)] (71)—[(63)] (75) (text unchanged)

(76) “Statewide average case mix index” means the simple average of all of the cost report period case mix indices for the rate year.

(77) “Statewide average Medicaid case mix index” means the Medicaid day weighted average of all nursing facilities’ case mix indices for the Medicaid days identified on the final resident rosters for each resident roster quarter.

[(64)] (78)—[(71)] (85) (text unchanged)

.03 Conditions for Participation.

To participate in the Program, the provider shall:

A.—V. (text unchanged)

W. Not less than 30 days before the date of any change of ownership, except when the Program agrees to a shorter period, provide the Department the notification and indemnity bond, letter of credit, or certificate of assurance required by Regulation .15B(2) or .15-1C(2)(b) of this chapter.

.04 Covered Services.

The Program covers routine care and the following supplies, equipment, and services when appropriate to meet the needs of the recipient:

A.—D. (text unchanged)

E. Administrative days approved by the Department or its designee according to the conditions set forth in Regulation [.16D] .16E or .16-1D of this chapter.

F. (text unchanged)

G. Supplies and equipment necessary to meet the needs of the recipient, including but not limited to:

(1)—(45) (text unchanged)

(46)—(68) (text unchanged)

(69) [Stethoscopes] *Stethoscopes*.

(70)—(72) (text unchanged)

(73) [Surgical] *Surgical* dressings, including sterile sponges.

(74)—(86) (text unchanged)

H.—BB. (text unchanged)

.05 Limitations.

The following are not covered:

A. Services by an out-of-State [long-term] *nursing* facility unless [a provider agreement is executed by] the Department and the [long-term care] *nursing* facility *execute a provider agreement*;

B. (text unchanged)

C. [The portion of physical therapy services which is] *Services* reimbursed under Title XVIII of the Social Security Act; *and*

D. Services for which payment is made directly to a provider other than the nursing facility[;]

E. Food supplement and tubing for recipients who are eligible for those services under Title XVIII of the Social Security Act[.]

.06 Preauthorization Requirements.

A. The Department of Human Resources shall certify the recipient for financial eligibility, and the Department or its designee shall certify the recipient as requiring nursing facility services, except as provided in Regulation [.16F] .16E or .16-1D of this chapter.

B. The Department or its designee will certify as requiring nursing facility services only those financially eligible recipients requiring nursing facility services as defined in Regulation [.01B(31)] .01B of this chapter.

.07 Payment Procedures — Maryland Facilities for Rates Effective on or Before December 31, 2014.

A. The Department shall pay the provider the sum of the rates calculated under the provisions of Regulations [.08—.11] .08, .09, .10 and .11 of this chapter. All interim per diem rates shall remain unchanged during the rate year unless documentation is submitted by the provider to the Department or its designee to demonstrate that a recalculation of the provider's interim per diem rate for the Administrative and Routine, Other Patient Care, or Capital cost center would change by 5 percent (10 percent during the period July 1, 2009 through [June 30, 2014] *December 31, 2014*), or more or unless otherwise authorized by the Department. A provider may request an interim rate change in the Nursing Service cost center by submitting documentation to the Department or its designee to demonstrate that a recalculation of the provider's interim per diem rate would change by 2 percent or more. For the cost of power wheelchairs or power wheelchair repairs, there is no requirement of a percent change in the Capital cost center. The revised interim per diem rates shall be applicable from the first whole month after submission of the request for revision to the end of the rate year. A provider may not request an interim rate change more than two times during the same rate year. Interim and maximum per diem rates shall be increased or decreased as necessary to the extent these adjustments are required by State law or Title XIX of the Social Security Act.

B. The per diem average of all projected Medicaid payments for all cost centers shall be determined in accordance with the provisions of §A of this regulation (and, for services provided during the period July 1, 2012 through June 30, 2013, in accordance with provisions of §C-1 of this regulation). When this average exceeds the average determined if payments were to be made for Medical Assistance Program covered services on the basis of Medicare's principles of cost reimbursement, selected parameters of the rate determination process shall be adjusted downward in order to project a per diem patient average for Medicaid payments which does not exceed the Medicare Statewide class average. The following apply:

(1) (text unchanged)

(2) The per diem average of all projected Medicaid payments is to be estimated by:

(a) Applying the reimbursement provisions of Regulations [.08—.10] .08, .09, and .10 of this chapter to each facility for each cost center;

(b)—(d) (text unchanged)

(3) (text unchanged)

C.—C-1. (text unchanged)

C-2. With the exception of interim rate changes allowed in accordance with §A of this regulation, for services provided during the period July 1, 2013 through June 30, 2014, interim and maximum reimbursement rates shall remain [Unchanged] *unchanged* from those in effect for the period November 1, 2008 through July 31, 2009, except that rates calculated under the provisions of Regulations .08, .09, and .10 of this chapter shall be increased by 3.2 percent.

C-3. — D. (text unchanged)

.07-2 Prospective Rates Effective January 1, 2015.

A. For dates of service from January 1, 2015 through June 30, 2016, a 2012 final per diem rate shall be determined based on the following from each nursing facility's cost report ending in 2012 and shall be adjusted by the nursing facility budget changes implemented from the settled 2012 rate through and including June 30, 2016:

(1) The Administrative and Routine final per diem rate identified under Regulation .08B of this chapter;

(2) The Other Patient Care final per diem rate identified under Regulation .09B of this chapter;

(3) The kosher kitchen add-ons identified under Regulations .08H and .09H of this chapter;

(4) The total amount of therapy payments identified under Regulation .09-1 of this chapter divided by the total Medicaid days excluding hospital bed hold days for the cost reporting period;

(5) The Capital component calculated as:

(a) Capital payments identified under Regulation .10 of this chapter, less the Nursing Facility Quality Assessment expense; and

(b) Divided by the total Medicaid days excluding hospital bed hold days; and

(6) The Nursing payments identified under Regulation .11C of this chapter divided by the total Medicaid days less Hospital Bed Hold Days and Therapeutic Leave Days.

B. Per diem rates paid for services beginning January 1, 2015, shall be calculated as follows:

(1) Rates paid for services January 1, 2015, through June 30, 2015, shall be calculated as the sum of:

(a) 75 percent of the 2012 final per diem rate in accordance with §A of this regulation;

(b) 25 percent of the prospective rate; and

(c) The Nursing Facility Quality Assessment add-on identified in Regulation .10-1E of this chapter;

(2) Rates paid for services July 1, 2015, through December 31, 2015, shall be calculated as the sum of:

(a) 50 percent of the 2012 final per diem rate in accordance with §A of this regulation;

(b) 50 percent of the prospective rate; and

(c) The Nursing Facility Quality Assessment add-on identified in Regulation .10-1E of this chapter;

(3) Rates paid for services January 1, 2016, through June 30, 2016, shall be calculated as the sum of:

(a) 25 percent of the 2012 final per diem rate in accordance with §A of this regulation;

(b) 75 percent of the prospective rate; and

(c) The Nursing Facility Quality Assessment add-on identified in Regulation .10-1E of this chapter; and

(4) Rates paid for services after June 30, 2016, shall be calculated as 100 percent of the prospective rate plus the Nursing Facility Quality Assessment add-on identified in Regulation .10-1E of this chapter.

C. Hold Harmless.

(1) For each provider, the Department shall determine the difference between the rate calculated in §A of this regulation and the rate calculated under §B(1)(a) and (b) of this regulation.

(2) If a provider's rate determined under §B(1)(a) and (b) of this regulation is less than the rate under §A of this regulation, the provider shall be paid 100 percent of the rate under §A of this regulation during the period January 1, 2015 through June 30, 2015, plus the amount of the Nursing Facility Quality Assessment add-on identified in Regulation .10-1E of this chapter.

(3) During implementation of §B(2) of this regulation, providers identified in §C(2) of this regulation shall be paid the rate determined under §B(2) of this regulation plus 67 percent of the amount calculated in §C(1) of this regulation.

(4) During implementation of §B(3) of this regulation, providers identified in §C(2) of this regulation shall be paid the rate determined under §B(3) of this regulation plus 33 percent of the amount calculated in §C(1) of this regulation.

D. Hold Harmless Offset.

(1) The Department shall determine the total aggregate amount under §C(1) of this regulation for all facilities for which the rate determined under §B(1)(a) and (b) of this regulation is less than the rate under §A of this regulation.

(2) The Department shall determine the total aggregate amount under §C(1) of this regulation for all facilities for which the rate determined under §B(1)(a) and (b) of this regulation is greater than the rate under §A of this regulation.

(3) The Department shall determine the percentage of the amount in §D(2) of this regulation that is equal to the amount calculated under §D(1) of this regulation.

(4) The Department shall identify all facilities that have a rate determined under §B(1)(a) and (b) of this regulation that is greater than the rate identified under §A of this regulation.

(5) For each facility identified in §D(4) of this regulation, the Department shall multiply the amount by which §B(1)(a) and (b) of this regulation is greater than the rate identified under §A of this regulation by the percentage determined in §D(3) of this regulation.

(6) During implementation of §B(1) of this regulation, providers identified in §D(4) of this regulation shall be paid the amount determined under §B(1) of this regulation, minus 100 percent of the amount determined under §D(5) of this regulation.

(7) During implementation of §B(2) of this regulation, providers identified in §D(4) of this regulation shall be paid the amount determined under §B(2) of this regulation, minus 67 percent of the amount determined under §D(5) of this regulation.

(8) During implementation of §B(3) of this regulation, providers identified in §D(4) of this regulation shall be paid the amount determined under §B(3) of this regulation, minus 33 percent of the amount determined under §D(5) of this regulation.

E. When necessary, each facility's per diem rate paid for services January 1, 2015 and after shall be reduced by the same percentage to maintain compliance with the Medicare upper payment limit requirement.

F. Power wheelchairs and bariatric beds are not included in either the 2012 final per diem rate or the prospective rate, but may be preauthorized for payment in accordance with COMAR 10.09.12.

G. Support Surfaces.

(1) Support surfaces are not included in either the 2012 final per diem rate or the prospective rate.

(2) A provider shall be paid a per diem rate for providing appropriate specialized support surfaces to patients with pressure ulcers or in recovery from myocutaneous flap or graft surgery for a pressure ulcer.

(3) A Class A support surface is a mattress replacement which has been approved as a Group 2 Pressure Reducing Support Surface by the Medical Policy of the Medicare Durable Medical Equipment Regional Carrier. A Class A support surface shall be reimbursed per day at the Medicare Durable Medical Equipment Regional Carrier Maryland monthly fee cap, in effect at the beginning of the State

fiscal year, for HCPCS Code E0277 multiplied by 12 and then divided by the number of days in the State fiscal year.

(4) A Class B support surface is an air fluidized bed which has been approved as a Group 3 Pressure Reducing Support Surface by the Medical Policy of the Medicare Durable Medical Equipment Regional Carrier. A Class B support surface shall be reimbursed per day at the Medicare Durable Medical Equipment Regional Carrier Maryland monthly fee cap, in effect at the beginning of the State fiscal year, for HCPCS Code E0194 multiplied by 12 and then divided by the number of days in the State fiscal year.

H. Negative pressure wound therapy is not included in either the 2012 final per diem rate or the prospective rate, but is reimbursed in accordance with rates established under COMAR 10.09.12. Reimbursement shall include the cost of pumps, dressings, and containers associated with this procedure.

I. Nursing facilities that are owned and operated by the State are not paid in accordance with the provisions of §§A—C of this regulation, but are reimbursed reasonable costs based upon Medicare principles of reasonable costs as described at 42 CFR Part 413. Aggregate payments for these facilities may not exceed Medicare upper payment limits as specified at 42 CFR §447.272. If the Medicare upper payment limit is above aggregate costs for this ownership class, the State may elect to make supplemental payments to increase payments up to the Medicare upper payment limit.

.08 Rate Calculation — Administrative and Routine Costs for Rates Effective on or Before December 31, 2014.

A. (text unchanged)

B. The final per diem rate for administrative and routine costs in each reimbursement class is the sum of:

(1) (text unchanged)

(2) An efficiency allowance equal to the lesser of 50 percent (40 percent for the period November 1, 2008 through [June 30, 2014] December 31, 2014) of the amount by which the allowable per diem costs in §B(1) of this regulation are below the maximum per diem rate for this cost center, or 10 percent of the maximum per diem rate for the cost center.

C.—D. (text unchanged)

E. Maximum per diem rates for administrative and routine costs in each reimbursement class shall be established according to the following:

(1)—(4) (text unchanged)

(5) The maximum per diem rate for each reimbursement class shall be 114 percent (112 percent for the period November 1, 2008 through [June 30, 2014] December 31, 2014) of the lowest aggregate indexed current interim per diem cost, from §E(1) of this regulation, which is equal to the aggregate indexed current interim per diem costs associated with at least 50 percent of the paid Medical Assistance days in the reimbursement class.

F.—H. (text unchanged)

.08-1 Rate Calculation — Administrative and Routine Costs for Rates Effective January 1, 2015.

A. The Administrative and Routine cost center includes:

(1) Administrative expenses;

(2) Medical records expenses;

(3) Training expenses;

(4) Dietary;

(5) Laundry;

(6) Housekeeping;

(7) Operation and maintenance; and

(8) Capitalized organization and start-up costs.

B. The Department shall initially establish cost center prices for the rate period January 1, 2015 through June 30, 2015, and thereafter rebase the cost center prices between every 2 and 4 rate years. Prices may be rebased more frequently if the Department

determines that there is an error in the data or in the calculation that results in a substantial difference in payment, or, if a significant change in provider behavior or costs has resulted in payment that is inequitable, across providers. The Department shall rebase based on the following steps:

(1) The price database shall be established using the most recent desk reviewed Nursing Home Uniform Cost Report for each current provider, or the immediately prior owner of that nursing facility, that is available 2 months before the period for which prices are being established or rebased;

(2) If no desk reviewed cost report is available, that provider shall be excluded from the price database;

(3) The total cost center expenses for each cost report in the price database shall be adjusted from the midpoint of each cost reporting period to the midpoint of the rate year for which the price is being established based on the following steps:

(a) A monthly market basket index shall be calculated based on the following calculations:

Market Basket Index Quarter	Assigned Month	Monthly Index
Quarter 1	January	33 percent of Quarter 4 prior year index plus 67 percent of Quarter 1 index
Quarter 1	February	100 percent of Quarter 1 index
Quarter 1	March	67 percent of Quarter 1 index plus 33 percent of Quarter 2 index
Quarter 2	April	33 percent of Quarter 1 index plus 67 percent of Quarter 2 index
Quarter 2	May	100 percent of Quarter 2 index
Quarter 2	June	67 percent of Quarter 2 index plus 33 percent of Quarter 3 index
Quarter 3	July	33 percent of Quarter 2 index plus 67 percent of Quarter 3 index
Quarter 3	August	100 percent of Quarter 3 index
Quarter 3	September	67 percent of Quarter 3 index plus 33 percent of Quarter 4 index
Quarter 4	October	33 percent of Quarter 3 index plus 67 percent of Quarter 4 index
Quarter 4	November	100 percent of Quarter 4 index
Quarter 4	December	67 percent of Quarter 4 index plus 33 percent of Quarter 1 next year index

(b) The index factor for each cost reporting period shall be calculated by dividing the index associated with the midpoint of the rate year by the index associated with the midpoint of the cost reporting period; and

(c) The indexed costs shall be calculated as total cost center expenses times the index factor;

(4) Each cost report's indexed Administrative and Routine costs shall be divided by the greater of total resident days or days at full occupancy times an occupancy standard calculated as the Statewide average occupancy, not including providers with occupancy waivers, plus 1.5 percent to arrive at the Administrative and Routine cost per diem; and

(5) For each reimbursement class, each cost report's Medicaid resident days shall be used in the array of Administrative and Routine cost per diems identified in §B(4) of this regulation to calculate the Administrative and Routine Medicaid day weighted median as follows:

(a) Array the Administrative and Routine cost per diems for each geographic region from low to high;

(b) For each Administrative and Routine cost per diem, identify the Medicaid days from the nursing facilities' cost reports;

(c) Calculate a cumulative Medicaid day total; and

(d) Identify the median Administrative and Routine cost per diem as the Administrative and Routine per diem associated with the cumulative Medicaid days that first equals or exceeds half the number of total Medicaid days for the geographic region.

C. The final price for Administrative and Routine costs for each reimbursement class shall be calculated as the geographic regional Medicaid day weighted median multiplied by 1.025.

D. For years between periods when the prices are rebased, the final cost center price shall be adjusted by the change in the indexes as calculated in §B(3) of this regulation that correspond to midpoint of the prior rate year to the midpoint of the new rate year.

E. The final Administrative and Routine rate for each nursing facility is the Administrative and Routine price for its reimbursement class.

F. The reimbursement classes for the Administrative and Routine cost center are specified under Regulation .24A of this chapter.

G. Kosher Kitchen Add-on.

(1) Nursing facilities that maintain kosher kitchens and have Administrative and Routine costs in excess of the Administrative and Routine price in their reimbursement class that are attributable to dietary expense shall receive an add-on to its final price in an amount up to 15 percent of the median per diem cost for dietary expense in its reimbursement class.

(2) For years between periods when the kosher kitchen add-ons are rebased, the kosher kitchen add-on shall be calculated as the prior year kosher kitchen add-on multiplied by the rate year monthly index divided by the prior year monthly index as identified in §B(3)(a) of this regulation.

.09 Rate Calculation — Other Patient Care Costs for Rates Effective on or Before December 31, 2014.

A.—H. (text unchanged)

.09-1 Rate Calculation — Therapy Services for Rates Effective on or Before December 31, 2014.

A.—C. (text unchanged)

.09-2 Rate Calculation — Other Patient Care Costs for Rates Effective January 1, 2015.

A. The Other Patient Care cost center includes:

- (1) Medical director administrative expenses;
- (2) Pharmacy;
- (3) Recreational activities;
- (4) Patient care consultant services;
- (5) Food cost (unprepared);
- (6) Social services; and
- (7) Religious services.

B. The Department shall initially establish Other Patient Care prices for the rate period January 1, 2015, through June 30, 2015, and thereafter rebase the Other Patient Care prices between every 2 and 4 rate years. Prices may be rebased more frequently if the Department determines that there is an error in the data or in the calculation that results in a substantial difference in payment, or if a significant change in provider behavior or costs has resulted in payment that is inequitable across providers. The Department shall rebase based on the following steps:

(1) The indexed costs shall be calculated as set forth in Regulation .08-1B(1)—(3) of this chapter;

(2) Each cost report's indexed Other Patient Care costs shall be divided by the actual days of nursing facility services to arrive at the Other Patient Care cost per diem;

(3) For each reimbursement class, each cost report's Medicaid resident days shall be used in the array of Other Patient Care cost per diems identified in §B(2) of this regulation to calculate the Other

Patient Care Medicaid day weighted median using the method established in Regulation .08-1B(5) of this chapter;

(4) *The final price for Other Patient Care costs for each reimbursement class is calculated as the geographic regional Medicaid day weighted median multiplied by 1.07; and*

(5) *For years between periods when the prices are rebased, the final price for Other Patient Care costs shall be calculated as set forth in Regulation .08-1D of this chapter.*

C. *The final Other Patient Care rate for each nursing facility is the Other Patient Care price for its reimbursement class.*

D. *The reimbursement classes for the Other Patient Care cost center are specified under Regulation .24B of this chapter.*

E. *Kosher Kitchen Add-on.*

(1) *Nursing facilities that maintain kosher kitchens and have Other Patient Care costs in excess of the Other Patient Care price in its reimbursement class that are attributable to food costs shall receive an add-on to its final price an amount up to 15 percent of the median per diem cost for food costs in its reimbursement class.*

(2) *For years between periods when the kosher kitchen add-ons are rebased, the kosher kitchen add-on shall be calculated as the prior year kosher kitchen add-on multiplied by the rate year monthly index divided by the prior year monthly index as identified in Regulation .08-1B(3)(a) of this chapter.*

.10 Rate Calculation — Capital Costs for Rates Effective on or Before December 31, 2014.

A.—F. (text unchanged)

G. *The net capital value rental for those facilities which are subject to rate determination under §C of this regulation is determined through the following steps:*

(1)—(8) (text unchanged)

(9) *The value of net capital from §G(7) of this regulation shall be multiplied by 0.0857 (0.0757 for the period November 1, 2008 through [June 30, 2014] December 31, 2014) except that, effective July 1, 2012, the value of the net capital for facilities located in Baltimore City shall be multiplied by 0.0942, in order to generate the net capital value rental.*

H.—N. (text unchanged)

.10-1 Rate Calculation — Capital Costs for Rates Effective January 1, 2015.

A. *The Capital cost center includes:*

- (1) *Real estate taxes; and*
- (2) *Fair rental value.*

B. *Final Capital Cost.*

(1) *The determination of a provider's allowable final Capital per diem rate for the cost items under §A of this regulation is calculated as follows:*

(a) *Appraise each facility at least every 4 years;*

(b) *2 months before the period for which final Capital rates are being calculated, determine the most recent appraisal for each facility;*

(c) *Determine the cost report for each facility that covers the date of valuation of the appraisal identified in §B(1)(b) of this regulation;*

(d) *Multiply the ending licensed nursing facility beds from the cost report in §B(1)(c) of this regulation by the land per bed amount from the appraisal to calculate a total land amount;*

(e) *Sum the total land amount, building, and equipment;*

(f) *Divide the total appraisal amount by the number of ending licensed nursing facility beds to determine an appraised value per bed;*

(g) *Apply a maximum appraised value per bed of \$110,000;*

(h) *Multiply the final appraised value per bed times the number of ending licensed nursing facility beds to determine the facility's gross value;*

(i) *For facilities in Baltimore City, multiply the facility's gross value by 10 percent to determine the facility's annual fair rental value;*

(j) *For facilities in all jurisdictions except Baltimore City, multiply the facility's gross value by 8 percent to determine the facility's annual fair rental value;*

(k) *Divide the facility's annual fair rental value by the greater of actual resident days, or days at full occupancy times an occupancy standard calculated under Regulation .08-1B(4) of this chapter, to establish a fair rental value per diem rate;*

(l) *Divide real estate taxes obtained from the most recent desk reviewed cost report available 2 months before the start of the rate year by the greater of actual resident days, or days at full occupancy times an occupancy standard calculated under Regulation .08-1B(4) of this chapter, to establish a real estate tax per diem rate; and*

(m) *Sum the fair rental value and the real estate tax per diem rates.*

(2) *The appraisal may not include any value associated with a Certificate of Need for nursing home beds.*

C. *The final Capital rate for nursing facilities that have a change in the number of licensed beds or have replacement beds placed into operation during a State fiscal year shall not be recalculated as a result of that change until such time as an appraisal incorporating the changes is selected according to §B(3) of this regulation and used in the facility's rate calculation.*

D. *The provider may protest the appraisal by submitting written notification to the Department within 90 days of receipt of the appraisal. If the protest cannot be resolved administratively, the provider may appeal under Regulation .28 of this chapter.*

E. *Nursing facilities that are required to pay an assessment in accordance with COMAR 10.01.20.02 shall receive a Quality Assessment add-on calculated as follows:*

(1) *Sum the assessed days reported on the Nursing Facility Quality Assessment Payment Reporting Forms for the quarters covering the calendar year preceding the rate year;*

(2) *Multiply the assessed days by the assessment rate established for the rate quarters; and*

(3) *Divide the total assessed amount by the sum of the total patient days reported on the quarterly Nursing Facility Quality Assessment Payment Reporting Forms.*

.11 Rate Calculation — Nursing Service Costs for Rates Effective on or Before December 31, 2014.

A.—B. (text unchanged)

C. *The final Medical Assistance reimbursement for nursing services is the lesser of:*

(1) (text unchanged)

(2) *The sum of:*

(a) (text unchanged)

(b) *60 percent of the difference between the amount of the reimbursement calculated under §B(1) of this regulation and the amount of the costs under §C(2)(a) of this regulation, subject to a maximum of the reimbursements calculated under §B(1) of this regulation multiplied by 0.04 (0.035 for the period July 1, 2008 through October 31, 2008 and 0.03 for the period November 1, 2008 through [June 30, 2014] December 31, 2014);*

(c)—(d) (text unchanged)

D.—V. (text unchanged)

.11-2 Pay-for-Performance — Quality Measures.

A. (text unchanged)

B. *Staffing Levels.*

(1) *Maryland nursing facilities serving Medicaid patients shall provide salary data and hours of work data at least 3 months before the start of the new rate year. These data shall be for selected*

personnel types for a 2-week period to be specified by the Department.

(2) Each Maryland facility covered by these regulations which fails to comply with §G(1) of this regulation shall incur a 1 percentage point reduction in its applicable rental rate presented in Regulation .10G(9) of this chapter.

[(1)] (3) A facility's average staffing level shall be determined from its most recent data reported in accordance with [Regulation .11G(1) of this chapter] §B(1) of this regulation. Total staff hours shall be divided by average daily census during the survey period in order to establish the facility's average daily staffing.

[(2)] (4) (text unchanged)

[(3)] (5) The result from [§B(2)] §B(3) of this regulation shall be multiplied by 1.26555 in order to establish the facility's staffing goal.

[(4)] (6) The facility's staffing level from [§B(1)] §B(2) of this regulation shall be divided by the facility's staffing goal from [§B(3)] §B(4) of this regulation in order to determine a score based on its percentage of the goal. A facility staffing exceeding its goal shall be scored at 100 percent.

[(5)] (7) (text unchanged)

C. Staff Stability.

(1) Staff stability is based upon dates of employment for nursing staff reported on the facility's most recent salary and hours survey in accordance with [Regulation .11G(1) of this chapter] §B(1) of this regulation.

(2)—(3) (text unchanged)

D.—G. (text unchanged)

.11-7 Rate Calculation — Nursing Service Costs for Rates Effective January 1, 2015.

A. The Nursing Service cost center includes all nursing expenses related to the direct provision of patient care.

B. The Department shall initially establish Nursing Service prices for the rate period January 1, 2015, through June 30, 2015, and thereafter rebase the Nursing Service prices between every 2 and 4 rate years. Prices may be rebased more frequently if the Department determines that there is an error in the data or in the calculation that results in a substantial difference in payment, or if a significant change in provider behavior or costs has resulted in payment that is inequitable across providers. The Department shall rebase based on the following steps:

(1) The indexed costs shall be calculated as set forth in Regulation .08-1B(1)—(3) of this chapter;

(2) Each cost report's indexed Nursing Service costs shall be divided by the actual days of nursing care to arrive at the indexed Nursing Service cost per diem;

(3) The indexed Nursing Service cost per diem shall be normalized to the Statewide average case mix index by multiplying the indexed Nursing Service cost per diem by the facility's normalization ratio calculated as the Statewide average case mix index divided by the cost report period case mix index rounded to four decimals which creates the Normalized Nursing Cost per diem;

(4) For each reimbursement class, each cost report's Medicaid resident days shall be used in the array of cost per diems identified in §B(3) of this regulation to calculate the Medicaid day weighted median using the method established in Regulation .08-1B(5) of this chapter;

(5) The final price for Nursing Service costs for each reimbursement class is calculated as the geographic regional Medicaid day weighted median Nursing Service cost multiplied by 1.0825; and

(6) For years between periods when the prices are rebased, the final price for Nursing Service costs shall be adjusted as set forth in Regulation .08-1D of this chapter.

C. The final Nursing Service rate for each nursing facility for each quarter is calculated as follows:

(1) Determine the Nursing Service price for the facility's geographic region;

(2) Calculate an initial nursing facility rate by multiplying the price by the facility average Medicaid case mix index divided by the Statewide average case mix index;

(3) Calculate a Medicaid adjusted Nursing Service cost per diem by multiplying the per diem identified under §B(2) of this regulation by the Medicaid case mix adjustment ratio calculated as the facility average Medicaid case mix index divided by the cost report period case mix index rounded to four decimals; and

(4) Calculate the final Nursing Service rate as the initial nursing facility rate reduced by any positive difference between 95 percent of the initial nursing facility rate and the Medicaid adjusted Nursing Service cost per diem.

D. The reimbursement classes for the Nursing Service cost center are specified under Regulation .24C of this chapter.

E. Resident Rosters.

(1) A nursing facility shall electronically transmit MDS assessment information in a complete, accurate, and timely manner.

(2) The Department shall provide a preliminary resident roster to a nursing facility based on the facility's transmitted MDS assessment information for a calendar quarter on the fifth day of the second month following the end of the calendar quarter, provided that the nursing facility has transmitted the MDS assessment information by the 15th day following the end of the calendar quarter.

(3) The distribution of the preliminary resident roster shall serve as notice of the MDS assessments transmitted and provide an opportunity for the nursing facility to correct and transmit any missing MDS record.

(4) The Department shall provide a final resident roster to a nursing facility based on the facility's transmitted MDS assessment information for a calendar quarter, provided that the nursing facility has transmitted the MDS assessment information by the 25th day of the second calendar month following the end of the calendar quarter.

(5) The Department may not consider MDS assessment information for the purpose of reimbursement rate calculations for a calendar quarter that is not submitted by the 25th day of the second calendar month following the end of the calendar quarter, except as provided in §E(6) of this regulation.

(6) The Department may only grant an exception to compliance with the electronic MDS assessment transmission due dates if the delay has been caused by fire, flood, act of God, or other good cause.

(7) The Department or its designated contractor shall distribute preliminary and final resident rosters according to the following schedule:

Resident Roster Quarter	Preliminary Resident Roster Distributed	Facility's Revised Resident Roster Transmission Due	Final Resident Roster Distributed
January 1 through March 31	May 5	May 25	June 15
April 1 through June 30	August 5	August 25	September 15
July 1 through September 30	November 5	November 25	December 15
October 1 through December 31	February 5	February 25	March 15

F. Case Mix Index Calculation.

(1) The Department shall use the resource utilization group to adjust Nursing Service costs and to determine each nursing facility's Nursing Service rate component.

(2) The Department shall adjust a nursing facility's case mix reimbursement rates quarterly based on the change in case mix of each facility according to the following schedule:

(a) The facility average Medicaid case mix index obtained from January 1 through March 31 shall be used to adjust rates effective July 1 through September 30 of the same calendar year;

(b) The facility average Medicaid case mix index obtained from April 1 through June 30 shall be used to adjust rates effective October 1 through December 31 of the same calendar year;

(c) The facility average Medicaid case mix index obtained from July 1 through September 30 shall be used to adjust rates effective January 1 through March 31 of the following calendar year; and

(d) The facility average Medicaid case mix index obtained from October 1 through December 31 shall be used to adjust rates effective April 1 through June 30 of the following calendar year.

(3) If the Department or its contractor determines that a nursing facility has delinquent MDS resident assessments, for purposes of determining both facility CMI averages, the assessments shall be assigned the case mix index associated with the RUG group "BC1" or its successor.

(4) A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the RUG classification system, or its successor.

(5) For each resident roster quarter, the Department shall calculate a Statewide average case mix index and a Statewide average Medicaid case mix index from all final resident rosters.

(6) A Medicaid case mix index equalizer shall be used to prevent any aggregate increase or decrease in expected State fiscal year Medicaid program expenditures for the rate quarters beginning every October, January and April, as follows:

(a) The Statewide average Medicaid case mix index for the July rate quarter shall be divided by the Statewide average Medicaid case mix index for the rate quarter identified in §F(2) of this regulation to determine the Medicaid case mix index equalizer for the quarter;

(b) Each facility average Medicaid case mix index for use in the rate quarter for each nursing facility shall be multiplied by the Medicaid case mix index equalizer to result in a facility Medicaid equalized case mix index; and

(c) The facility Medicaid equalized case mix index shall be used in place of the facility Medicaid case mix index in the calculation of the initial and final Nursing Service rate in §C of this regulation for every October, January, and April rate quarter.

(7) To determine cost report period case mix index for cost reporting periods starting before the midpoint of a calendar quarter, the associated quarterly resident roster period CMIs are used. If a cost report end date is before the midpoint of a calendar quarter, the associated quarterly resident roster period CMIs are not used.

G. Assignment of Different Geographic Region.

(1) The Department may approve a provider's request to be included in a different Nursing Service cost center geographic region of this chapter upon review of sufficient documentation. Documentation shall show that the assigned geographic region is not appropriate for the provider and that economic conditions have placed the provider directly in competition with facilities in a geographic region other than the one to which the provider has been assigned by the Department. Payment of higher wages, or higher total expenditures, is not in itself sufficient to demonstrate that the provider is subject to economic conditions different from other providers in its reimbursement class.

(2) All approved waivers for geographic regions shall be effective for the following State fiscal year for the purpose of establishing the final Nursing Service rate in §C of this regulation,

(3) Nursing Service prices established in §B of this regulation shall be based on all facilities in a geographic region that do not have an approved waiver to be included in a different geographic region plus facilities with an approved waiver to receive prices in that geographic region.

.11-8 Ventilator Care Nursing Facilities Effective January 1, 2015.

Nursing facilities with licensed nursing facility beds, which have been determined by the Department to meet the standards for ventilator care under COMAR 10.07.02, shall be reimbursed as follows:

A. Services for residents receiving ventilator care shall be reimbursed as follows:

(1) The Nursing Service rate identified in Regulation .11-7 of this chapter shall be calculated with a facility average Medicaid case mix index that includes only residents receiving ventilator care; and

(2) An amount of \$280 shall be added to the total prospective rate;

B. Rates under §A of this regulation shall be paid in full and are not subject to the phase-in provisions identified in Regulation .07-2B of this chapter;

C. The facility average Medicaid case mix index for rates under §A of this regulation are not subject to the Medicaid case mix index equalizer adjustment in Regulation .11-7F(2)(h) of this chapter;

D. Nursing facilities adding ventilator care services for the first time, which have been determined by the Department to meet the standards for ventilator care under COMAR 10.07.02, shall be reimbursed as described in §A of this regulation, except that the facility average Medicaid case mix index is assumed to be that of RUG classification ES3 (or its future equivalent);

E. The facility should request this rate from the Department at least 60 days before the opening of the ventilator unit;

F. For years between periods when the Nursing Services prices are rebased, the final price for Ventilator costs shall be adjusted as set forth in Regulation .08-1D of this chapter; and

G. Services for residents not receiving ventilator care shall be reimbursed as follows:

(1) The Initial Facility Nursing Service rate identified in Regulation .11-7 of this chapter shall be calculated with a facility average Medicaid case mix index that excludes residents receiving ventilator care;

(2) The 2012 final settlement per diem identified in Regulation .07-2B of this chapter shall be calculated exclusive of ventilator care costs; and

(3) The 2012 final settled per diem for nursing services exclusive of ventilator costs shall be calculated as follows:

(a) Determine the ratio of settled 2012 nursing costs, including incentives and add-ons, to interim payments;

(b) Multiply the ratio by 2012 interim payments for ventilator payments including heavy special daily rate payments and add-on payments included in additional procedures payments;

(c) Subtract the result from the total settled 2012 nursing cost including incentives and add-ons to compute the 2012 final settled per diem for nursing services exclusive of ventilator costs; and

(d) Divide by Medicaid patient days exclusive of Medicaid ventilator days per the 2012 final settlement report for nursing.

.12 Payment Procedures — Out-of-State Facilities for Rates Effective on or Before December 31, 2014.

A.—D. (text unchanged)

.12-1 Payment Procedures — Out-of-State Facilities for Rates Effective January 1, 2015.

A. Out-of-State nursing facilities that are not special rehabilitation nursing facilities and do not meet the exception to cost reporting requirements set forth in Regulation .13N of this chapter shall be reimbursed at a rate that is the lesser of:

(1) The average quarterly rate identified by Regulation .07-2 of this chapter for in-State nursing facilities minus the quality assessment; and

(2) The out-of-State facility's Medicaid per diem rate provided by the state in which the facility is located, or, if the state provides the facility with more than one Medicaid per diem rate, the facility's lowest per diem rate.

B. Out-of-State nursing facilities that are not special rehabilitation nursing facilities and do not meet the exception to cost reporting requirements set forth in Regulation .13N of this chapter shall be reimbursed the average quarterly rate identified by Regulation .07-2 of this chapter for in-State nursing facilities minus the quality assessment.

C. Out-of-State special rehabilitation nursing facilities shall be reimbursed by the Program when the following conditions are met:

(1) The facility is accredited by the Commission on Accreditation of Rehabilitation Facilities;

(2) The facility is licensed and certified as a nursing facility; and

(3) Services for which reimbursement is requested have been preauthorized by the Program and subject to all utilization review requirements of Regulation .11I of this chapter or the MDS validation requirement of Regulation .11-7G of this chapter.

D. The rate for each resident in an out-of-State special rehabilitation nursing facility shall be negotiated to:

(1) Be less than the cost of available institutional alternatives; and

(2) Not exceed the home state's Medicaid rate for the same service by the same provider if the provider participates in its home state Medicaid program.

.13 Cost Reporting.

A.—D. (text unchanged)

E. Financial and Statistical Data Required.

(1) The provider shall submit to the Department or its designee, in the form prescribed, financial and statistical data within 3 months after the end of the provider's fiscal year unless the Department grants the provider an extension or the provider discontinues participation in the Program.

(2) [All providers] The provider shall submit nursing cost report data, in the form prescribed, for costs incurred from the end of their most recent fiscal period through June 30, 2003, by September 30, 2003. [When]

(3) If reports ending December 31, 2014 or before are not received within 3 months and an extension has not been granted, the Department shall withhold from the provider 10 percent of the interim payment for services provided during the calendar month after the month in which the report is due and any subsequent calendar month through the month during which the report has been submitted. This amount shall be repaid to the provider upon final cost settlement for the fiscal year from which the payments were withheld.

(4) If reports ending after December 31, 2014 are not received within 3 months and an extension has not been granted, the Department shall reduce the per diem rate by 3 percent for services provided during the calendar month after the month in which the report is due and any subsequent calendar month through the month during which the report has been submitted.

(5) If a provider discontinues participation, financial and statistical data shall be submitted to the Department within 45 days after the effective date of termination.

(6) A 1-month extension will be granted upon written request in advance by the provider. The Department may not grant an extension longer than 1 month unless the delay in filing the report has been caused by fire, flood, or act of God, and an extension is not allowed past March 31 after the calendar year during which the provider's fiscal year ended unless the report cannot be submitted by that date due to fire, flood, or act of God.

F. (text unchanged)

G. When a report ending December 31, 2014 or before is not submitted by the last day of the sixth month after the end of the provider's fiscal year, or a report ending December 31, 2014 or before is submitted but the provider cannot furnish proper documentation to verify costs, the Department shall make final cost settlement for that fiscal year at the last final per diem rates for which the Department has verified costs for that facility, provided that the rates established will not exceed the maximum per diem rates in effect when the facility's costs were last settled.

H.—K. (text unchanged)

L. Except as indicated in §M of this regulation, administrative and routine, other patient care, and capital costs incurred by the provider exclusively for providing ventilator care are not allowed in these cost centers, but are allowable nursing service costs. [These] For payments for dates of service on or before December 31, 2014, these costs shall be identified and reported to the Department or its designee for the purpose of recalibrating the percentage adjustment under Regulation .11G(9)(h) of this chapter. This percentage shall be recalibrated at least every 3 years.

M. For any provider who provides ventilator care on 50 percent or more of its Maryland Medical Assistance days of care, all costs incurred by the provider exclusively for providing ventilator care are not allowable costs. At final settlement, for payments for dates of service on or before December 31, 2014, this provider will be reimbursed for each day of ventilator care at the standard per diem rate.

N. (text unchanged)

O. The notice required in §N(2) of this regulation shall include:

(1) (text unchanged)

(2) A statement that the provider agrees to accept as final reimbursement the average projected Medical Assistance payment calculated under Regulation .07B(2) of this chapter for each day of care rendered to a Maryland Medical Assistance recipient during the fiscal period, or for rates effective after December 31, 2014, the average rate paid to all other nursing facilities in the facility's geographic region.

P. (text unchanged)

.14 Field Verification for Rates Effective on or Before December 31, 2014.

A.—C. (text unchanged)

C-1. [For the purpose of field verification or desk review of nursing service costs, the period July 1, 2001 through June 30, 2003 shall be considered as one reporting period. The nursing service costs for this period shall be subject to a tentative cost settlement process under Regulation .13E of this chapter] For each provider's fiscal year that includes December 31, 2014, the final cost settlement shall be based on the portion of the fiscal year up through December 31, 2014.

D.—M. (text unchanged)

.14-1 Desk Reviews and Field Verification for Rates Effective January 1, 2015.

A. Desk Reviews.

(1) The Department or its designee may conduct a desk review of the costs before establishing the Administrative and Routine and Other Patient Care prices and Nursing Service rates.

(2) The Department or its designee shall notify each provider participating in the Program if any adjustments resulted from the desk review.

(3) Desk review adjustments shall be used in the computation of any future rate for the facility or the facility's future owner that is based on the reported or desk reviewed costs, until the rate is rebased.

B. Field Verifications.

(1) The Department or its designee may conduct a field verification of the reported or desk reviewed costs affecting reimbursement rates.

(2) The Department or its designee shall notify each provider participating in the Program of the results of the field verification.

(3) Field audit adjustments shall be used in the computation of any future rate for the facility or the facility's future owner that is based on the reported or desk reviewed costs, until the rate is rebased.

(4) Field audit adjustments shall be used in the recomputation of any past rate for the facility or the facility's past owner that is based on the reported or desk reviewed costs.

(5) If the recomputation of rates results in a rate that differs more than 2 percent from the initial rate computation excluding the quality assessment, the Department shall initiate an adjustment for the impacted service dates within 60 days after the notification described in §B(2) of this regulation.

(6) Field audit adjustments shall only affect the facility's rates and do not affect prices or rates for other facilities within the geographic region.

.14-2 MDS Validation and Ventilator Care Validation for Rates Effective January 1, 2015.

A. MDS Validation.

(1) In order to validate that the Nursing Service rate is supported by medical record documentation, accurately coded and submitted, the Department shall conduct periodic MDS validation reviews, which shall:

(a) Compare the MDS assessment coding with the corresponding medical record documentation to determine unsupported MDS assessments;

(b) Determine the completeness, timeliness, and accuracy of resident MDS assessments identified on the resident roster; and

(c) Determine the completeness and accuracy of the resident payment source listed on the resident roster.

(2) Findings from the MDS validation may be used to adjust a nursing facility's per diem payment rate to reflect the validated case mix index used in the rate setting process.

B. Ventilator Care Validation.

(1) In order to validate that days paid for residents that meet the requirements for ventilator care are supported by medical record documentation of the need for ventilator care services, the Department shall conduct a periodic ventilator care validation.

(2) Findings from the ventilator care validation shall be used to recoup payments for days not supported by medical record documentation.

.15 Change of Ownership and Provider Status for Rates Effective on or Before December 31, 2014.

A.—F. (text unchanged)

.15-1 New Nursing Facilities, Replacement Facilities, and Change of Ownership for Rates Effective January 1, 2015.

A. The Department shall establish rates for new nursing facilities, replacement facilities, and nursing facilities with a change of ownership as outlined in §§B—D of this regulation.

B. New Nursing Facilities.

(1) Until such time as an appraisal for the new facility is available as set forth in Regulation .10-1B(3) of this chapter, the fair rental value portion of the Capital rate shall be based on the lower of the facility's construction costs plus the assessed land value divided by the number of licensed beds, or the maximum appraised value per bed in Regulation .10-1B(8) of this chapter.

(2) A new nursing facility shall be assigned the Statewide average Medicaid CMI until assessment data submitted by the nursing facility is used in a quarterly rate determination.

(3) The nursing facility shall be assigned to the appropriate geographic region, as specified under Regulation .24 of this chapter, for purposes of assigning the Nursing Service rate, the Other Patient Care price, and the Administrative and Routine price.

(4) The geographic region price for Nursing Service costs shall be multiplied by the new nursing facility's Medicaid CMI until there is a nursing facility cost report used in the rebasing process.

(5) The Capital rate shall use days as the greater of total estimated resident days or days at full occupancy times an occupancy standard calculated under Regulation .08-1B(4) of this chapter and the maximum bed value identified in Regulation .10-1B(8) of this chapter. For the period of time the facility is operating under a waiver of occupancy granted in accordance with Regulation .16-1F of this chapter, the Capital rate shall be calculated using estimated resident days. At the completion of the waiver period, either the State or the facility may initiate a settlement payment should the estimate vary from the actual by more than 10 percent.

(6) Upon providing the real estate bills to the State which incorporate the new construction at least 15 days before the start of operations or at least 15 days before the beginning of any calendar quarter, the real estate tax pass through amount shall be calculated in accordance with Regulation .10-1B(14) of this chapter. This amount shall be used for the period from the time of submission until the next facility cost report is filed. For the period of time the facility is operating under a waiver of occupancy granted in accordance with Regulation .16-1F of this chapter, the real estate tax rate shall be calculated using estimated resident days. At the completion of the waiver period, either the State or the facility may initiate a settlement payment should the estimate vary from the actual by more than 10 percent.

(7) For the first 2 State fiscal rate setting years, or portions thereof, new nursing facilities that are required to pay an assessment in accordance with COMAR 10.01.20.02 shall receive a Quality Assessment add-on calculated as follows:

(a) Estimate the assessed days to be reported on the Nursing Facility Quality Assessment Payment Reporting Forms for the quarters covering the upcoming State fiscal rate setting year or portion thereof;

(b) Multiply the estimated assessed days by the assessment rate anticipated for the rate quarters; and

(c) Divide the total estimated assessed amount by the sum of the total estimated patient days. At the completion of either of these first two rate setting periods, either the State or the facility may initiate a settlement payment should the estimates vary from the actual by more than 10 percent.

C. Replacement Facilities.

(1) Until such time as an appraisal for the replacement facility is available as set forth in Regulation .10-1B(3) of this chapter, the fair rental value portion of the Capital rate shall be based on the lower of the facility's construction costs plus the assessed land value

divided by the number of licensed beds, or the maximum appraised value per bed in Regulation .10-1B(8) of this chapter.

(2) The Capital rate shall use days as the greater of total estimated resident days or days at full occupancy times an occupancy standard calculated as the Statewide average under Regulation .08-1B(4) of this chapter. For the period of time the facility is operating under a waiver of occupancy granted in accordance with Regulation .16-1F of this chapter the Capital rate shall be calculated using estimated resident days. At the completion of the waiver period either the State or the facility may initiate a settlement payment should the estimate vary from the actual by more than 10 percent.

(3) Upon providing the real estate bills to the State, which incorporate the new construction, at least 15 days before to the start of operations or at least 15 days before the beginning of any calendar quarter, the real estate tax pass through amount shall be calculated in accordance with Regulation .10-1B(13) of this chapter. This amount shall be used for the period from the time of submission until the next facility cost report is filed. For the period of time the facility is operating under a waiver of occupancy granted in accordance with Regulation .16-1F of this chapter, the real estate tax rate shall be calculated using estimated resident days. At the completion of the waiver period either the State or the facility may initiate a settlement payment should the estimate vary from the actual by more than 10 percent.

(4) The replacement facility fair rental value rate shall be effective beginning on the date the replacement facility meets the requirements in Regulations .02 and .03 of this chapter.

(5) Except for the fair rental value portion of the Capital rate, the replacement facility shall be paid exactly as the original facility.

(6) The replacement facility rates shall be based on the original facility's average Medicaid case mix index and cost report costs.

D. Change of Ownership.

(1) Except when the Program agrees to a shorter notification period, when there is an anticipated change of ownership of a provider, not less than 30 days before the date of the change of ownership:

(a) The provider shall:

(i) Notify the Program of the anticipated change of ownership; and

(ii) If the provider has not filed for bankruptcy, post an indemnity bond or a standby letter of credit, or provide assurance satisfactory to the Program that the purchaser shall assume and be responsible for all financial obligations of the existing provider; and

(b) The purchaser shall:

(i) Notify the Program of the intent to engage in a change of ownership and the desire to enroll in the Program;

(ii) Submit a provider application and execute a provider agreement with the Department before being assigned new interim per diem rates; and

(iii) If the provider has filed for bankruptcy, post an indemnity bond or a standby letter of credit, or provide some assurance satisfactory to the Program that the purchaser shall assume and be responsible for all financial obligations of the existing provider.

(2) Indemnity Bond or Standby Letter of Credit.

(a) The indemnity bond or standby letter of credit required by §C(2)(a)(ii) or (b)(iii) of this regulation shall be in the amount of:

(i) 10 percent of the Program billings for each unsettled fiscal period outstanding;

(ii) All unpaid amounts due and owing the Program for each settled fiscal period; and

(iii) All debt owed by the provider to the Interim Working Capital Fund under Regulation .07-1 of this chapter.

(b) If a court of competent jurisdiction discharges the debt of a bankrupt provider, the Program shall release to the purchaser

the difference between the indemnity bond of standby letter of credit required under §C(2)(b)(iii) of this regulation and the amount of the financial obligation discharged by the court.

(3) The purchaser shall submit a provider application and execute a provider agreement with the Department before being assigned a prospective rate.

(4) The new owner shall assume the old owner's facility average Medicaid case mix index and cost reports.

(5) The new owner shall be paid at the same rates as the old nursing facility provider except for the period of time the facility is operating under a waiver of occupancy granted in accordance with Regulation .16-1F of this chapter in which the Capital rate shall be calculated using estimated resident days. At the completion of the waiver period either the State or the facility may initiate a settlement payment should the estimate vary from the actual by more than 10 percent.

.16 Selected Costs — Allowable for Payments for Services Provided on or Before December 31, 2014.

The following costs are allowable in establishing interim and final per diem payment rates:

A.—F. (text unchanged)

.16-1 Selected Costs — Allowable for Payments for Services Provided Effective January 1, 2015.

A. Recreational Services. The allowable costs of recreational services of a facility shall be based on an hourly or salary rate, not on a fee-for-service basis.

B. Over-the-Counter Drugs. The cost of over-the-counter drugs is not to exceed the average wholesale price plus 50 percent, or the usual selling price, whichever is lower.

C. Leave of Absence. The Department shall pay the sum of the rates identified in Regulations .08-1, .09-2 and .10-1 of this chapter, less patient resources for the cost of reserving beds for recipients for therapeutic home visits or participation in State-approved therapeutic or rehabilitative programs, subject to the following conditions:

(1) The recipient's plan of care provides for the absence;

(2) The leave of absence does not exceed 18 days during any calendar year;

(3) The recipient's attending physician shall complete the physician's authorization form not more than 30 days before the recipient's anticipated leave of absence; and

(4) The facility submits the physician's authorization form to the Department with the facility's invoice, which covers the month in which the leave of absence occurred.

D. Administrative Days. The Department shall pay the sum of the rates identified in Regulations .08-1, .09-2, and .10-1 of this chapter, and 50 percent of the rate identified in Regulation .11-7 of this chapter, less patient resources for administrative days, documented on forms designated by the Department, which satisfy the following conditions:

(1) The recipient's required level of care has changed, and the following conditions are met:

(a) The Department or its designee has determined that the recipient's level of care is provided by an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID);

(b) The provider has implemented a predischARGE planning program and initiated placement activities for the recipient at the earliest appropriate time;

(c) The provider has actively pursued placement of the recipient at the required level of care in an appropriate facility during the entire period of administrative days;

(d) The provider has submitted documentation to the Department or its designee that it has complied with the requirements

of §D(1)(a)–(c) of this regulation for the entire period of the administrative stay claimed for reimbursement; and

(e) The recipient is transferred promptly to the first available appropriate facility licensed and certified for the required level of care;

(2) When institutional care is no longer appropriate, and the following conditions are met:

(a) The Department or its designee has determined that the recipient no longer requires the level of care, which is provided by a nursing facility or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID);

(b) The provider has implemented a predischARGE planning program and initiated placement activities for the recipient at the earliest appropriate time;

(c) The provider has actively pursued placement of the recipient at the required level of care at home or in an appropriate setting during the entire period of administrative days;

(d) The provider has submitted documentation to the Department or its designee that it has complied with the requirements of §D(2)(a)–(c) of this regulation for the entire period of the administrative stay claimed for reimbursement; and

(e) The recipient is transferred promptly after appropriate placement has been found; and

(3) When the recipient is at an inappropriate level of care but cannot be moved, and the following conditions are met:

(a) The attending physician has declared that, because of physical or emotional problems, the recipient is unable to be moved;

(b) The reason the recipient cannot be moved is adequately documented by the attending physician in the recipient's record; and

(c) Reevaluation by the attending physician of the recipient's inability to be moved and appropriate documentation of it in the recipient's record have been made at least every 60 days.

E. *Bed Occupancy.* The Statewide average occupancy, defined in Regulation .08-1B(4) of this chapter, shall be calculated after the exclusion of all providers which operated under a waiver of the occupancy standard during any part of the cost report period.

F. A waiver of the occupancy standards defined in Regulation .08-1B(4) of this chapter may be made by the Department under the following conditions:

(1) During a period not to exceed the first 12 months of operation for a newly constructed facility or for a newly constructed portion of an existing facility;

(2) During periods throughout which the occupancy standard could not be attained due to labor strike, fire, flood, or act of God, when this event is reported to the State licensing authority within 10 days of the event and request for waiver is submitted to the Program within 30 days of the event;

(3) For a period not to exceed 12 months when a voluntary reduction in licensed nursing facility bed capacity has been granted by the Department and the provider has received prior approval from the Program to reduce available beds while renovations are being completed;

(4) For a period not to exceed 12 months after a new provider acquires an existing facility which has been operated by the previous provider below the occupancy standard due to a ban on admissions, and when prior approval for the waiver has been granted by the Program;

(5) For a period not to exceed 12 months after a new provider acquires an existing facility which was in bankruptcy and operated below the occupancy standard at the time of purchase; or

(6) For a period not to exceed 12 months after a new provider has acquired or leased a building that was not licensed as a nursing facility immediately before the provider's acquisition or lease.

G. When a waiver is granted under the provisions of §F of this regulation, the occupancy standards shall be applied to the reduced licensed capacity.

H. A waiver of the occupancy standards defined in Regulation .08-1B(4) of this chapter may not be allowed due to a ban on admissions or under any circumstances other than those described in §F of this regulation.

.17 Selected Costs — Not Allowable for Payments for Services Provided on or Before December 31, 2014.

The following costs are not allowable in establishing interim and final per diem payment rates:

A.—W. (text unchanged)

.17-1 Selected Costs — Not Allowable for Payments for Services Provided Effective January 1, 2015.

The following costs are not allowable in establishing prospective rates:

A. Costs not adequately documented;

B. Costs for chaplaincy training and other religious training programs;

C. Bad debts incurred by private pay or Medicare patients or third-party payers and bad debts resulting from denied costs of the Program;

D. Recipient resources certified as available for medical and remedial care by the Department of Human Resources which are uncollected;

E. Advertising expenses, except those necessary for personnel recruitment;

F. Stockholder costs incurred primarily for the benefit of stockholders or other investors, including the costs of stockholders' annual reports and newsletters, annual meetings, mailing of proxies, stock transfer agent fees, stock exchange registration fees, stockbroker and investment analysis, stock issuance costs, and accounting and legal fees for consolidating statements for Securities and Exchange Commission purposes;

G. Any contributions, whether charitable or not, to any individual or organization;

H. Public relations expenses;

I. Costs of maintaining a recipient in a private room which exceeds costs of a semiprivate room;

J. Cost of depreciable assets and minor equipment useful for a lifetime of at least 2 years, with a historical cost of at least \$500 or an aggregate historical cost of at least \$500 if they are purchased in a quantity of like or similar items;

K. Civil money penalties, fines, and all costs associated with sanctions, including receivership, initiated by the Department or any other local, State, or federal government agency;

L. Interest paid by a provider under Regulations .14J(2) or .30E(5) of this chapter;

M. Administrator compensation for any owner, or relative of the owner, in excess of the limits established based on the results of the 2001 nonowner administrator compensation survey, trended forward based on the percentage of the annual increase or decrease in the All Items category of the Consumer Price Index for All Urban Consumers (CPI-U), as follows:

(1) For facilities with 1—74 beds, the median compensation from that group;

(2) For facilities with 75—199 beds, the median compensation from that group; and

(3) For facilities with 200 or more beds, the median compensation from all facilities with 200 or more beds;

N. Compensation for any administrator, who is not an owner, or relative of the owner, in excess of the limits established based on the results of the 2001 nonowner administrator compensation survey, trended forward based on the percentage of the annual increase or

decrease in the All Items category of the Consumer Price Index for All Urban Consumers (CPI-U), as follows:

(1) For facilities with 1—74 beds, the 75th percentile compensation from that group plus 15 percent;

(2) For facilities with 75—199 beds, the 75th percentile compensation from that group plus 15 percent;

(3) For facilities with 200—299 beds, the 75th percentile compensation from all facilities with 200 or more beds plus 15 percent; and

(4) For facilities with 300 or more beds, 15 percent more than the limit established in §N(3) of this regulation for the facilities with 200—299 beds;

O. Assistant administrator compensation for any owner, or relative of the owner, in excess of 80 percent of the maximum administrator compensation for the facility established in accordance with §M of this regulation;

P. Compensation for any assistant administrator, who is not an owner, or relative of the owner, in excess of 80 percent of the maximum administrator compensation for the facility established in accordance with §N of this regulation;

Q. Central office employee compensation for any owner or relative of the owner in excess of the amount established in accordance with §M of this regulation, for the bed size category determined as the sum of beds if multiple facilities, plus 10 percent;

R. Compensation for any central office employee, who is not an owner, or relative of the owner, in excess of the amount established in accordance with §N of this regulation, for the bed size category determined as the sum of beds if multiple facilities, plus 10 percent;

S. Costs incurred in any effort to acquire a Certificate of Need or an exemption from a Certificate of Need for nursing home beds;

T. Costs incurred for specialized support surfaces used for pressure ulcer care;

U. Legal, accounting, and other professional expenses related to an appeal challenging a payment determination pursuant to Regulations .28 and .30E of this chapter unless a final adjudication is issued sustaining the nursing facility's appeal;

V. A percentage of the legal, accounting, and other professional expenses related to an appeal as described in §U of this regulation, based upon the proportion of additional reimbursement denied to the total additional reimbursement sought on appeal, if a facility prevails on some but not all issues raised in the appeal or action;

W. Any charges assessed by the Department for recovery of overpayments; and

X. Direct service costs for physical, occupational, and speech therapy.

.28 Appeal Procedures.

A. (text unchanged)

[B. Providers filing appeals of final cost settlements shall do so according to:

(1) Regulation .30 of this chapter; and

(2) COMAR 10.01.09.]

B. Nursing Home Appeal Board.

(1) Appeals regarding cost report adjustments go to the Nursing Home Appeal Board.

(2) The Appeal Board shall be composed of the following members:

(a) A representative of the nursing home industry who is:

(i) Knowledgeable in Medicare and Medicaid reimbursement principles; and

(ii) Appointed by the Secretary;

(b) An individual who:

(i) Is employed by the State;

(ii) Knowledgeable in Medicare and Medicaid reimbursement principles;

(iii) Did not directly participate in the field verification or desk review; and

(iv) Is appointed by the Secretary; and

(c) A third member selected by the first two members of the Board.

(3) When the Board is reviewing an appeal from a provider in which a Board member is employed or in which he has a financial or personal interest, the Secretary shall designate an alternate for that member.

(4) If the provider elects to appeal to the Appeal Board and the Appeal Board finds in favor of the provider, the Department shall initiate a claims adjustment settlement for the impacted service dates within 60 days after the notification of the findings.

(5) The Department or any provider aggrieved by a reimbursement decision of the Appeal Board may not appeal to the Board of Review but may take a direct judicial appeal. The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act, §10-222, State Government Article, Annotated Code of Maryland.

(6) An appeal shall be filed in accordance with COMAR 10.01.09.

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

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.55 Physician Assistants

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

Notice of Proposed Action

[15-019-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01—.10 under a new chapter, **COMAR 10.09.55 Physician Assistants**.

Statement of Purpose

The purpose of this action is to allow Physician Assistants (PAs) to enroll in the Medical Assistance Program.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Definitions.

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

B. Terms Defined.

(1) "Advanced duties" means medical acts that require training and certification beyond the basic physician assistant education program.

(2) "Board" means the State Board of Physicians.

(3) "Delegation agreement" means a document that is executed by a licensed physician and a physician assistant containing the requirements of Health Occupation Article, §15-302, Annotated Code of Maryland, and COMAR 10.32.03.05.

(4) "Department" means the Department of Health and Mental Hygiene, the single State agency designated to administer the Maryland Medical Assistance Program under Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq.

(5) "Dispense" means to dispense starter dosages or drug samples.

(6) "Medical Assistance Program" means the program of comprehensive medical and other health-related care for indigent and medically indigent persons.

(7) "Modification" means any change to the delegation agreement that governs the physician assistant's performance of duties, including but not limited to practice location, scope of practice, change of supervising physician (primary or alternate), and prescriptive authority.

(8) "Physician" means an individual who meets the licensure requirements and conditions of participation of COMAR 10.09.02.

(9) "Physician assistant" means an individual who is licensed to practice medicine with physician supervision.

(10) "Practice as a physician assistant" means the performance of medical acts that are:

(a) Delegated by a supervising physician to a physician assistant;

(b) Within the supervising physician's scope of practice; and

(c) Appropriate to the physician assistant's education, training, and experience.

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

(12) "Provider" means a licensed physician assistant who, through appropriate agreement with the Department, has been identified as a Program provider by the issuance of a provider number.

(13) "Participant" means a person who is certified as eligible for, and is receiving, Medical Assistance benefits.

(14) "Supervision" means the responsibility of the physician to exercise on-site supervision or to be able to provide immediate available direction for the physician assistants performing delegated medical acts, and includes:

(a) Oversight of the physician assistant and acceptance of direct responsibility for the patient services and care rendered by the physician assistant;

(b) Continuous availability to the physician assistant either in person, by telephone, by electronic means, or by some other form of telecommunication; and

(c) Designation of one or more alternate supervising physicians.

.02 License and Certification Requirements.

A. The provider shall meet all license requirements as set forth in COMAR 10.09.36.02.

B. A physician assistant applying for provider status shall:

(1) Be licensed to practice as a physician assistant in Maryland or in the state or jurisdiction in which the service is provided;

(2) Be in compliance with requirements set forth in COMAR 10.32.03;

(3) If practicing in Maryland, have a delegation agreement with a supervising physician that outlines the physician assistant's

duties within the medical practice or facility which has been filed with and approved by the Board of Physicians; and

(4) If practicing in Maryland, have a delegation agreement with a supervising physician that documents the specialized training, education, and experience of the physician assistant for performing advanced duties.

C. A physician having a written agreement to supervise a physician assistant shall:

(1) Be licensed to practice medicine in the state in which the physician assistant is providing services;

(2) Delegate only medical acts that are within the scope of the practice of the physician and are suitable to be performed by the physician assistant, taking into account the physician assistant's education, training, and level of competence;

(3) Accept Program reimbursement as payment in full for services provided;

(4) Establish and review drug and other medical guidelines with the physician assistant;

(5) Participate with the physician assistant in reviewing and discussing medical diagnoses and the therapeutic and corrective measures employed in the practice setting;

(6) Jointly sign records to document accountability of both the physician and the physician assistant;

(7) Be available for consultation in person, by telephone, electronic means, or by some other form of telecommunication; and

(8) Designate an alternate supervising physician if the physician identified in the delegation agreement temporarily becomes unavailable.

D. For hospitals, correctional facilities, detention centers, or public health facilities, the primary supervising physician shall keep an ongoing list of all approved alternate supervising physicians within the alternate supervising physicians' scopes of practice, with each alternate supervising physician's signature and date.

.03 Conditions for Participation.

A. A physician assistant shall meet all conditions for participation as set forth in COMAR 10.09.36.03.

B. A physician assistant shall:

(1) Have a written and executed delegation agreement with a licensed physician approved by the Board, or as required by the state in which services are provided; and

(2) If the primary supervising physician delegates the prescribing of controlled dangerous substances to a physician assistant, the physician assistant shall:

(a) Obtain a Maryland Controlled Dangerous Substance (MCDS) license from the Maryland Division of Drug Control; and

(b) After obtaining an MCDS license:

(i) Register with the Drug Enforcement Administration (DEA); and

(ii) Obtain a license from the DEA.

C. To continue to participate as a provider, the physician assistant shall submit to the Program periodically as necessary a copy of the provider's:

(1) Current approved delegation agreement; and

(2) Current license to practice in the state in which services are provided.

D. Modification of Delegation Agreement.

(1) If the provider's approved written delegation agreement with the physician is modified or terminated by either party, the physician assistant and supervising physician shall notify the Program within 5 days in writing.

(2) If the delegation agreement is modified, the physician assistant and the supervising physician shall submit to the Program a copy of the modified or new written agreement.

(3) If the duties of the physician assistant are limited, reduced, or result in other changes of employment that might be grounds for disciplinary actions under Health Occupations Article, §15-314, Annotated Code of Maryland, the supervising physician, hospital, alternative health care system, or employer shall notify the Program immediately or within 5 days in writing.

E. A physician assistant may practice in Maryland:

(1) Only in accordance with the delegation agreement approved by the Board; or

(2) If out-of-State, only in accordance with the scope of practice allowed by the licensing authority in the state in which services are provided.

.04 Covered Services.

A. The Program covers medically necessary services rendered to participants in accordance with:

(1) The functions allowed under:

(a) The Physician Assistant's Practice Act;

(b) COMAR 10.32.03; and

(c) The physician assistant's written delegation agreement with a physician; or

(2) If out-of-State, those functions authorized in the state in which the services are provided.

B. The services in §A of this regulation shall be described in the participant's medical record in sufficient detail to support the invoice submitted for those services.

.05 Limitations.

The Program does not cover the following under these regulations:

A. Services not encompassed by the physician assistant's written delegation agreement with the physician, if required by the state in which services are provided;

B. Services not medically necessary;

C. Services prohibited by the Board;

D. Services prohibited in the state in which services are provided;

E. Physician assistant services included as part of the cost of an inpatient facility, hospital outpatient department, or freestanding clinic;

F. Visits by or to the physician assistant solely for the purpose of the following:

(1) Prescription, drug, or food supplement pickup;

(2) Recording of an electrocardiogram;

(3) Ascertaining the patient's weight;

(4) Interpretation of laboratory tests or panels; or

(5) Prescribing or administering oral medications;

G. Drugs and supplies which are acquired by the licensed and certified physician assistant at no cost;

H. Injections and visits solely for the administration of injections, unless medical necessity and the patient's inability to take appropriate oral medications are documented in the patient's medical record;

I. More than one visit per day per participant unless adequately documented as an emergency situation;

J. Services paid under the free-standing dialysis program described in COMAR 10.09.22;

K. Physician assistant billings for those laboratory or X-ray services performed by another facility, which shall bill the Program directly;

L. Immunizations required for travel outside the continental United States;

M. Acupuncture;

N. Hypnosis;

O. Travel expenses;

P. Prescriptions and injections for central nervous system stimulants and anorectic agents when used for weight control;

Q. Investigational or experimental drugs and procedures;

R. Services denied by Medicare as not medically justified;

S. Services for which the supervising physician has not reviewed and signed the patient's medical record;

T. Services for which the patient has not signed a written attestation permitting the physician assistant to perform advanced duties; and

U. Services for which the patient specifically requests to see a physician.

.06 Payment Procedures.

A. The provider shall submit the request for payment in the format designated by the Department.

B. The Department reserves the right to return to the provider, before payment, all invoices not properly signed, completed, and accompanied by any properly completed forms required by the Department.

C. A physician assistant shall charge the Program their usual and customary charge to the general public for similar services and charge their acquisition cost for injectable drugs or dispensed medical supplies.

D. The Department shall reimburse the physician assistant for covered services at the lower of their usual and customary charge or the maximum rates according to COMAR 10.09.02.07E. Payments on Medicare claims are authorized, if:

(1) Services are covered by the Program;

(2) The provider accepts Medicare assignments;

(3) Medicare makes direct payment to the provider;

(4) Medicare has determined that services were medically justified; and

(5) Initial billing is made directly to Medicare according to Medicare guidelines.

E. The Department shall make supplemental payments on Medicare claims subject to the following provisions:

(1) Deductible insurance shall be paid in full; and

(2) Coinsurance shall be paid at the lesser of:

(a) 100 percent of the coinsurance amount; or

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

F. The provider may not bill the Program for:

(1) Completion of forms and reports;

(2) Broken or missed appointments;

(3) Professional services rendered by mail or telephone;

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

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

G. The Program may not make direct payment to participants.

H. Billing time limitations for claims submitted pursuant to this chapter are set forth in COMAR 10.09.36.

I. Physician assistants who are employed by or under contract to any physician, clinic, or hospital may not bill for any service for which reimbursement is sought by the physician, clinic, or hospital.

.07 Recovery and Reimbursement.

Recovery and reimbursement are as set forth in COMAR 10.09.36.07.

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

Cause for suspension or removal and imposition of sanctions is as set forth in COMAR 10.09.36.08.

.09 Appeal Procedures.

Providers filing appeals from administrative decisions made in connection with these regulations shall do so according to COMAR 10.09.36.09.

.10 Interpretive Regulation.

State regulations shall be interpreted in conformity with COMAR 10.09.36.10.

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

Subtitle 16 HOUSING

10.16.06 Certification for Youth Camps

Authority: Family Law Article, §§5-560—5-568, 5-704, and 5-705;
Health-General Article, §§2-104, 14-402(d), 14-403, 18-318, and 18-403;
Health Occupations Article, §§8-6A-01—8-6A-16 and 14-306; Annotated
Code of Maryland

Notice of Proposed Action

[15-026-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.02—, .05, .08, .12—, .15, .17—, .19, .22—, .27, .29, .31, .34—, .38, .42, and .46—, .54**, repeal existing Regulations **.21, .28, .30, and .33**, and adopt new Regulations **.21, .28, .30, and .33** under **COMAR 10.16.06 Certification for Youth Camps**.

Statement of Purpose

The purpose of this action is to:

- (1) Update definitions and terminology;
- (2) Simplify and update processes for camps to apply for and receive certification by the Department and maintain compliance;
- (3) Update regulations related to camper health and safety; and
- (4) Simplify camp record-keeping requirements related to health records.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) “Acceptance letter” means a notice sent to a unit of local government, the Maryland-National Capital Park and Planning Commission, or a State agency, issued by the Department pursuant to this chapter and Health-General Article, §14-403, Annotated Code of Maryland, accepting written certification that the programs or activities operated by:

- (a) The unit or the Maryland-National Capital Park and Planning Commission comply with Regulation .03 of this chapter; or
- (b) The State agency comply with Regulation .04 of this chapter.

[(1)] (2) “Acute illness” means an abnormal condition of the body with rapid onset associated with recognizable symptoms and signs, such as chicken pox, gastroenteritis, influenza, or streptococcal sore throat, which has a short course of duration, as opposed to a chronic illness of long duration lasting 30 *calendar* days or more.

[(2)] (3) Administer [Medicine] *Medication*.

(a) “Administer [medicine] *medication*” means the act of providing, preparing, or applying a nonprescription or prescription [medicine] *medication*.

(b) “Administer [medicine] *medication*” does not include:

(i) Reminding a camper to take a nonprescription or prescription [medicine] *medication*; or

(ii) Providing physical assistance with opening and removing a nonprescription or prescription [medicine] *medication* from the container or locked storage.

[(3)] (4) “Adult” means an individual 18 years old or older *or an individual 17 years old who has graduated from high school*.

[(4)] (5)—[(5)] (6) (text unchanged)

[(6)] (7) “Assistant counselor” means an individual who is 16 years old or older or an individual who has successfully completed the tenth grade[, who performs the duties of a counselor, but who is not exclusively responsible for a group of campers without the presence of a counselor or instructor].

[(7)] (8)—[(11)] (12) (text unchanged)

[(11-1)] (13) “Critical violation” means failure to comply with:

(a) Regulation .07 of this chapter;

(b) Regulation .10 of this chapter;

[(a)] (c)—[(b)] (d) (text unchanged)

(e) A majority of the required procedures in Regulation .22A(4) and (5) of this chapter;

[(c)] (f) Regulation [23A] .23 of this chapter;

[(d)] Regulation .23B and D of this chapter;]

[(e)] (g) (text unchanged)

[(f)] (h) A majority of the required procedures in Regulation .34A of this chapter;

[(g)] (i) A majority of the required procedures in Regulation [.35] .35B of this chapter;

[(h)] (j)—[(n)] (p) (text unchanged)

(q) A majority of the required procedures in Regulation .52A(2)—(5) of this chapter;

[(o)] (r)—[(p)] (s) (text unchanged)

[(12)] (14) (text unchanged)

[(13)] (15) “Day camp” means a youth camp that:

(a) (text unchanged)

(b) Is conducted for at least 7 *calendar* days during a 3-week period; and

(c) (text unchanged)

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

(18) “Emergency medication” means a medication, identified by a camper’s plan of action for use in case of a medical emergency, for a camper with an identified medical problem.

[(16)] (19)—[(25)] (29) (text unchanged)

(30) “Personnel administrator” means an adult who is 21 years old or older and:

(a) Has completed a:

(i) National and State criminal history records check through the Maryland Department of Public Safety and Correctional Services using the Department’s authorization number; and

(ii) Child Protective Services background clearance using the Department’s contact information; and

(b) Who the Department has determined is eligible to serve according to Regulation .21D—F of this chapter.

[(26)] (31)—[(28)] (33) (text unchanged)

[(29)] (34) Recreational Activity.

(a) (text unchanged)

- (b) "Recreational activity" includes, but is not limited to:
- (i)—(xi) (text unchanged)
 - (xii) *Except if for credit and taught by a certified teacher, a subject matter enrichment program;*
 - [(xii)] (xiii) (text unchanged)
 - [(xiii)] (xiv) Instruction or skill development in an activity listed in [§B(29)(b)(i)—(xii) and (34)] §B(34)(b) (i)—(xiii) and (39) of this regulation.
 - [(30)] (35) (text unchanged)
 - [(31)] (36) Routine Activity.
 - (a) (text unchanged)
 - (b) "Routine activity" includes:
 - (i) Except for a specialized activity, a recreational activity listed in [§B(29)] §B of this regulation;
 - (ii)—(vii) (text unchanged)
 - [(32)] (37)—[(33)] (38) "Self-administer [medicine] medication" means the act of an individual's ingesting, injecting, or applying the individual's own nonprescription or prescription [medicine] medication when the individual:
 - (a) Identifies the individual's own nonprescription or prescription [medicine] medication; and
 - (b) Follows the directions for use, including the correct route [and], dose, and frequency.
 - [(34)] (39)—[(39)] (44) (text unchanged)
 - [(40)] (45) Youth Camp.
 - (a)—(b) (text unchanged)
 - (c) "Youth camp" does not include:
 - (i) A child care center as defined by COMAR [07.04.02] 13A.16.01;
 - (ii) A child care program as defined by COMAR [07.04.05] 13A.17.01;
 - (iii) A family [day] child care home as defined by COMAR [07.04.01] 13A.15.01;
 - (iv) (text unchanged)
 - (v) A program that operates before, after, or before and after a child care program's daily session as set forth in [§B(40)(c)(i)—(iii)] §B(45)(c)(i)—(iii) of this regulation;
 - (vi)—(xi) (text unchanged)
 - [(41)] (46) (text unchanged)

.03 Local Government Health and Safety Standards.

A. Subject to the provisions of §B of this regulation, each unit of local government shall [adopt]:

- (1) *Adopt* health and safety standards pertaining to the operation of youth camps[.]; and
- (2) *Submit to the Department documentation that verifies that the unit of local government maintains standards that are at least as protective as those required by this chapter.*

B. Each unit of local government or the Maryland-National Capital Park and Planning Commission that directs or operates a program or activity under Regulation .01B of this chapter shall certify to the Department, in writing on a form prescribed by the Department, on or before April 1 of each year, [to the Department] that all of those programs or activities operated by the unit comply with:

- (1)—(2) (text unchanged)
- C. (text unchanged)

.04 State Agency Program or Activity.

Each agency of the State that directs or operates a program or activity that is not exempt under Regulation .01C of this chapter shall annually certify to the Department, in writing[, to the Department] on a form prescribed by the Department on or before April 1 of each year, that each program or activity operated by the State agency complies with Health-General Article, Title 14, Subtitle 4, Annotated Code of Maryland, and this chapter.

.05 Random Inspections, Complaints, and Violations.

The Department shall:

- A. (text unchanged)
- B. Advise the unit of local government or State agency of any significant violation of Maryland regulations that would adversely impact the health or safety of children participating in a program or activity.

.08 Application Procedures and Fees.

A. For a camp that was not issued a certificate or a letter of compliance by the Department in the previous calendar year, an operator shall:

- (1)—(2) (text unchanged)
- (3) Submit documentation that verifies compliance with or capability of compliance with:
 - (a) *Construction or alteration of a camp facility as specified in Regulation .20 of this chapter;*
 - (b) *Personnel administrator's criminal background investigation as specified in Regulation .21A of this chapter;*
 - [(b)] (c) *Health program as specified in Regulation [.22A(1), (3), and (4)] .22A(1), (3), and (4)—(6) of this chapter;*
 - [(c)] (d) *Health personnel as specified in Regulation .23 of this chapter;*
 - [(d)] (e) *Camper's health record as specified in Regulation .27 of this chapter;*
 - [(e)] (f) *Staff member's or volunteer's health record as specified in Regulation .29 of this chapter;*
 - [(f)] (g) *Emergency procedures as specified in Regulation .34A of this chapter;*
 - (h) *Child abuse prevention and reporting procedures as specified in Regulation .35B of this chapter;*
 - [(g)] (i) *Water supply as specified in Regulation .36B(1)—(2), C, or D of this chapter;*
 - [(h)] (j) *Sewage disposal as specified in Regulation .37A(1)—(2), B, C, or D of this chapter;*
 - [(i)] (k) *Bathing and hand washing as specified in Regulation .39B of this chapter;*
 - [(j)] (l) *Food service as specified in Regulation.42A(1) or B of this chapter;*
 - [(k)] (m) *Fire and electrical code safety as specified in Regulation .46A or B of this chapter;*
 - [(l)] (n) *Aquatic programs as specified in Regulation .47A, C, and F(7)—(9) of this chapter;*
 - [(m)] (o) *Marksanship as specified in Regulation [.48C(2) and D(1)] .48E of this chapter;*
 - [(n)] (p) *Archery as specified in Regulation [.49B(1) and C] .49D of this chapter;*
 - [(o)] (q) *Horseback riding as specified in Regulation [.50A(1) and B] .50C of this chapter; and*
 - [(p)] (r) *Specialized activities, trips, transportation, and supervision as specified in Regulations .51—.54 of this chapter.*

B.—F. (text unchanged)

G. An operator of a camp that was issued a certificate or a letter of compliance by the Department in the previous calendar year shall, at least 30 calendar days before the proposed opening date:

- (1)—(4) (text unchanged)
- H. (text unchanged)

.12 Issuance of a Certificate, [or] Letter of Compliance, or Acceptance Letter.

A. Certificate or Letter of Compliance.

- (1) (text unchanged)
- (2) [When] *Except for a camp that applies under Regulation .08A, when a camp does not meet all the requirements of this chapter, the Department may issue a nontransferable certificate or letter of*

compliance in accordance with the information provided on the application if:

(a) (text unchanged)

(b) There exists no imminent and substantial danger to a camper by the camp's not being in total compliance with the requirements of the chapter for the limited time.

[B.] (proposed for repeal)

B. Acceptance Letter for a Unit of Local Government or State Agency. The Department shall issue an acceptance letter to:

(1) *A unit of local government or the Maryland-National Capital Park and Planning Commission that complies with Regulation .03 of this chapter; or*

(2) *An agency of the State that complies with Regulation .04 of this chapter.*

.13 Posting of Certificate [or], Letter of Compliance, or Acceptance Letter.

An operator shall:

A. Post a certificate [or a], letter of compliance, *or acceptance letter* in a conspicuous place on the [camp] premises; or

B. For a primitive, travel, or trip camp, have the certificate [or], letter of compliance, *or acceptance letter* available upon request.

.14 Denial of a Certificate or Letter of Compliance.

A. The Department may deny an application for a certificate or a letter of compliance, setting forth in writing the reason or reasons for the denial, if the operator:

(1) Fails to:

(a)—(d) (text unchanged)

(e) File an annual report in accordance with Regulation .06 of this chapter; [or]

(f) Pay a fee owed as set forth in Regulation .08H of this chapter[.]; *or*

(g) *If applicable, file a self-assessment in accordance with Regulation .06 of this chapter;*

(2)—(5) (text unchanged)

B. The Department shall deny *an application* for a certificate or a letter of compliance in writing, setting forth the reason or reasons for the denial, if the operator fails within the time period specified by the Department to correct a violation of:

(1)—(2) (text unchanged)

(3) *Regulation .21A(2) of this chapter;*

[(3)] (4)—[(4)] (5) (text unchanged)

[(5)] (6) Regulation [.23B and D] .23B and E of this chapter for at least one adult at camp at all times;

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

[(7)] (8) Regulation [.27D and E] .27D of this chapter;

[(8)] (9) Regulation .28 of this chapter;

[(9)] (10)—[(19)] (20) (text unchanged)

C. The Department may deny *an application* for a certificate or letter of compliance if the health, safety, or welfare of a camper at the camp is or has been threatened.

D. (text unchanged)

.15 Suspension or Revocation of a Certificate or Letter of Compliance.

A. (text unchanged)

B. The Department shall suspend or revoke a certificate or letter of compliance if the operator fails within the time period specified by the Department to correct a violation of:

(1) (text unchanged)

(2) *Regulation .21 of this chapter;*

[(2)] (3)—[(3)] (4) (text unchanged)

[(4)] (5) Regulation [.23B and D] .23B and E of this chapter for at least one adult at camp at all times;

[(5)] (6) (text unchanged)

[(6)] (7) Regulation [.27D and E] .27D of this chapter;

[(7)] (8)—[(18)] (19) (text unchanged)

C.—D. (text unchanged)

.17 Opportunity for a Hearing.

A.—B. (text unchanged)

C. To preserve the right to a hearing, a person shall submit the written request within 10 *calendar* days of the receipt of the denial, suspension, or revocation notice or an order.

.18 Prohibitions to Operate.

A. (text unchanged)

B. A person whose *application* for a certificate or letter of compliance is denied [or revoked]:

(1)—(2) (text unchanged)

C.—D. (text unchanged)

.19 Alternative Accreditation.

A. Alternative Accreditation Organization.

(1) (text unchanged)

(2) When a camp is accredited by an alternative accreditation approved by the Department and the accreditation organization suspends, revokes, or discontinues the youth camp's accreditation, the accreditation organization shall notify the Department of the suspension, revocation, or reasons to discontinue camp:

(a) (text unchanged)

(b) In writing within 3 *calendar* days.

B. The Department:

(1) Shall review the alternate accreditation proposal submitted by the camping organization within 60 *calendar* days from receipt of the documentation;

(2)—(8) (text unchanged)

C. The camp operator shall:

(1)—(2) (text unchanged)

(3) When a camp is accredited by an alternative accreditation approved by the Department and the youth camp's accreditation is suspended, revoked, or discontinued by the accreditation organization, notify the Department of the suspension, revocation, or reasons to discontinue camp:

(a) (text unchanged)

(b) In writing within 3 *calendar* days;

(4)—(5) (text unchanged)

.21 Criminal Background Investigations.

A. An operator shall:

(1) *Comply with the provisions of the criminal history records check requirements law in Family Law Article, §§5-560—5-568, Annotated Code of Maryland;*

(2) *Ensure that before the camp operates, the Department has on file for the personnel administrator a:*

(a) *Completed national and State criminal history records check through the Maryland Department of Public Safety and Correctional Services; and*

(b) *Notice from Child Protective Services indicating the background clearance; and*

(3) *Notify the Department, in writing, if the personnel administrator changes.*

B. *Upon notification that an individual may not serve as the personnel administrator, an operator:*

(1) *Shall terminate the individual from employment or remove from consideration for employment, as applicable; and*

(2) *Unless the individual appeals the decision to the Office of Administrative Hearings and the appeal is concluded in favor of the individual, may not:*

(a) *Reconsider the individual for employment;*

(b) *Allow the individual to volunteer at camp; or*

(c) Except to exercise parental responsibilities with respect to a related child at camp, allow the individual on the premises of the facility or to have any contact with an unrelated child at camp.

C. The personnel administrator shall:

(1) Ensure that, for an individual employed at a camp a:

(a) Completed national and State criminal history records check through the Maryland Department of Public Safety and Correctional Services is on file with the employer;

(b) Consent for Release of Information/Background Clearance Request form is on file with the employer that has been:

(i) Completed;

(ii) Signed by the employee;

(iii) Notarized; and

(iv) Forwarded to Child Protective Services; and

(c) Notice from Child Protective Services indicating the background clearance is kept on file with the employer once received from Child Protective Services;

(2) Determine if the individual may be employed at camp according to §§E and F of this regulation; and

(3) Upon determining that an individual may not be employed at camp:

(a) Terminate the individual from employment;

(b) Not reconsider the individual for employment;

(c) Not allow the individual to volunteer at camp; and

(d) Except to exercise parental responsibilities with respect to a related child at camp, not allow the individual on the premises of the facility or to have any contact with an unrelated child at camp.

D. The Department shall:

(1) Determine if the individual may serve as the personnel administrator at camp according to §§E and F of this regulation; and

(2) Notify the individual, camp owner, and camp operator in writing about the:

(a) Department's decision that the individual may not serve as the personnel administrator;

(b) Basis for that decision;

(c) Individual's right to request reassessment pursuant to §G of this regulation;

(d) Individual's right to appeal the decision regarding reassessment to the Office of Administrative Hearings;

(e) Specific requirements for submitting an appeal to the Office of Administrative Hearings; and

(f) 10 calendar day time frame to notify the Department of the new personnel administrator and complete the criminal history records check as required in §A of this regulation.

E. A youth camp operator may not employ an individual who, as reported on or after October 1, 2005, has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

(1) A crime involving:

(a) A child;

(b) Cruelty to animals;

(c) Domestic violence; or

(d) A weapon or firearm violation of federal or State laws;

(2) A sex offense;

(3) A violent crime classified as a felony;

(4) Abduction or kidnapping;

(5) Abuse of a child or an adult;

(6) Confinement of an unattended child;

(7) Manufacturing, distributing, or dispensing a controlled dangerous substance;

(8) Perjury;

(9) Pornography;

(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or

(11) Reckless endangerment.

F. If, as reported on or after October 1, 2005, an individual has been identified as responsible for child abuse or neglect or received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime or offense that is not included in §E of this regulation, the operator:

(1) Shall assess, on the basis of the following factors, the individual's suitability for employment:

(a) The job position at the camp for which the individual is applying or for which the individual is currently employed;

(b) The nature and seriousness of the incident, crime, or offense;

(c) The period of time that has elapsed since the incident, crime, or offense occurred;

(d) The age of the individual at the time the incident, crime, or offense occurred;

(e) The individual's probation or parole status, if applicable; and

(f) Any other information the camp considers pertinent; and

(2) Depending on the results of the assessment, shall permit or prohibit employment of the individual.

G. Request for Reassessment.

(1) A personnel administrator who is prohibited from employment by the Department pursuant to §§E and F of this regulation may request that the Department conduct a reassessment with respect to the incident, crime, or offense.

(2) For a reassessment request to be eligible for consideration:

(a) The request shall be in writing and include documentation, such as but not limited to letters of support or evaluation reports pertinent to the incident, crime, or offense; and

(b) The personnel administrator may not have submitted a reassessment request, whether for the same or a different job position, within the previous 12 months.

(3) In order to reach a decision on the request for reassessment, the Department may request additional information from the personnel administrator, the camp operator, or any agency or entity cited by the personnel administrator or the operator in connection with the reassessment request.

(4) Upon reaching a decision on the request, the Department shall notify the personnel administrator, owner, and director of that decision.

(5) The camp operator may not permit the personnel administrator to begin or to resume employment until the Department has notified the operator that the personnel administrator may be employed.

.22 Health Program.

A. An operator shall prepare and implement a written health program that:

(1) Is approved annually, in writing, by a physician, certified nurse practitioner, or registered nurse licensed [by] to practice in the State;

(2) (text unchanged)

(3) Includes the name, title, and [Maryland] license number of the health supervisor;

(4) Includes procedures for the camp staff members to:

(a) Obtain camper, [and staff] staff, and volunteer health information;

(b)—(e) (text unchanged)

(f) Observe campers each day for easily [discernable] discernible signs of injury or illness;

(g)—(k) (text unchanged)

(l) Prevent the spread of an infectious disease using:

(i)—(iii) (text unchanged)

(iv) An exposure control plan[.];

(5) *Includes procedures for handling medication at camp, in accordance with Regulation .33 of this chapter; and*

(6) *If using electronic medical records, includes procedures for, in the event that a power or server outage prevents access to the electronic medical record:*

(a) *Accessing camper, staff, and volunteer health information;*

(b) *Documenting injuries, illnesses, and other reportable diseases and conditions in a paper health log; and*

(c) *Documenting medication administration on a paper form.*

B. An operator shall ensure and document that, *not more than 30 calendar days* before working at the camp, each staff member or volunteer:

(1)—(3) (text unchanged)

C. (text unchanged)

.23 Health Personnel.

An operator shall ensure that:

A. (text unchanged)

B. Two adults with cardiopulmonary resuscitation certification by a national organization with a training program in cardiopulmonary resuscitation are on duty [in a camp] at all times;

C. *If a camp has campers participating in a trip and campers remaining at camp, an adult with cardiopulmonary resuscitation certification by a national organization with a training program in cardiopulmonary resuscitation is on duty:*

(1) *With the trip; and*

(2) *At the camp;*

[C.] D. The cardiopulmonary resuscitation certification by the national organization is appropriate to the age of campers and staff members; [and]

[D.] E. Two adults with first aid certification by a national organization with a training program in first aid are on duty [in a camp] at all times; *and*

F. *If a camp has campers participating in a trip and campers remaining at camp, an adult with first aid certification by a national organization with a training program in first aid is on duty:*

(1) *With the trip; and*

(2) *At the camp.*

.24 Health Log.

An operator shall ensure that:

A. A camp staff member records in the camp health log, [or a camper's personal health record,] for all injuries, illnesses, medication errors, and reportable diseases and conditions as delineated in COMAR 10.06.01, the:

(1) (text unchanged)

(2) Name of [camper] *individual*;

(3)—(4) (text unchanged)

(5) Name of *the individual* administering care or initials of the individual administering care if a list of names and initials is provided at the front of the health log.

B. The camp health log [or camper's personal health record] is:

(1)—(4) (text unchanged)

(5) Retained for a period of [5] 3 years;

C. Each entry in the camp health log [or camper's personal health record] is:

(1)—(2) (text unchanged)

D. The camp health log is a [bound]:

(1) *Bound* volume, such as a composition notebook [or a spiral];

(2) *Spiral* book with sequentially numbered pages; or

(3) *Dedicated paper record per individual.*

.25 Required Reports.

[An] For all campers, assistant counselors, counselors, and instructors, an operator shall ensure that:

A. An injury or illness that results in death or that requires resuscitation or admission to a hospital is reported:

(1) Immediately to the health supervisor and [the camper's], *in the case of a minor, to the minor's parent or guardian*;

(2)—(3) (text unchanged)

B. An injury [or illness that requires care by a physician, dentist, or nurse and results in the camper being treated at a medical facility, having a laboratory analysis performed, or undergoing an x-ray,] *that is treated at an off-site medical facility and that results in a positive diagnosis through clinical examination, laboratory test, or X-ray* is reported:

(1) Immediately to the health supervisor and [the camper's], *in the case of a minor, to the minor's parent or guardian*; and

(2) (text unchanged)

C. (text unchanged)

D. When a camp health supervisor is only available for consultation and not on duty at the camp, [a camp counselor, adult staff member, or adult volunteer reports to] the [camper's] *minor's parent or guardian[,] is notified* as soon as possible and before the end of the camp day, verbally or in writing, *of:*

(1) (text unchanged)

(2) An accident with no apparent injury, such as:

(a)—(b) (text unchanged)

(c) Impact from sports equipment; [and]

E. An outbreak of an illness or a condition that is required to be reported [under COMAR 10.06.01, is reported as specified in] *pursuant to COMAR 10.06.01 and:*

(1) Immediately to the health supervisor and [the camper's] *in the case of a minor, to the minor's parent or guardian*;

(2) (text unchanged)

(3) To the Department within 1 week of the incident on a form that meets the requirements of Regulation .26 of this chapter[.];

F. *A medication error is reported:*

(1) *Immediately to the health supervisor and, in the case of a minor, to the minor's parent or guardian; and*

(2) *To the Department within 4 weeks of the end of camp on a form that meets the requirements of Regulation .26 of this chapter; and*

G. *A camp health supervisor and camp director shall:*

(1) *Annually review all health log records and identify opportunities to reduce incidents, accidents, injuries, and medication errors; and*

(2) *Make available to the Department for review written documentation of the findings of the review of health log records.*

.26 Report Form.

An operator shall ensure that:

[A.] (proposed for repeal)

A. *Any reportable condition described in Regulation .25 of this chapter is reported to the Department on a form prescribed by the Department;*

B.—D. (text unchanged)

.27 Camper's Health Record.

An operator shall ensure that each camper has on file at the time of admission to a youth camp a written personal health record that includes:

A.—B. (text unchanged)

C. The name and phone number of a parent or legal guardian and at least one additional person to contact in an emergency situation; *and*

[D.] — [F.] (proposed for repeal)

D. For a camper who currently resides:

(1) Within the United States, a United States territory, or the District of Columbia, documentation of:

- (a) The camper's residence; and*
- (b) Immunization exemptions because of a parental or guardian objection or medical contraindication; or*

(2) Outside the United States, a United States territory, or the District of Columbia, documentation of:

- (a) The camper's residence; and*
- (b) Record of vaccination or immunity on a form prescribed by Department.*

.28 Electronic Health Records.

A. An electronic health record may be used in place of the following paper records:

- (1) A health log;*
- (2) A camper health record;*
- (3) A staff or volunteer health record;*
- (4) A medication administration authorization form;*
- (5) A medication administration form;*
- (6) A medication disposition form; or*
- (7) When an operator uses standing orders for medication administration, a parent or guardian consent form.*

B. The camp operator shall ensure that the electronic health record is:

- (1) Capturing the same required information as the paper record being replaced;*
- (2) Password protected;*
- (3) Accessed only by authorized staff members;*
- (4) Permanent and will not be deleted;*
- (5) Capable of tracking staff member use of the system and producing an auditable record;*
- (6) Maintained in a confidential manner;*
- (7) Available at all times for review by the Department upon request; and*
- (8) Retained for a period of 3 years.*

C. If the electronic health record is unavailable for any reason, the camp operator shall:

- (1) Provide a paper health log that meets the requirements of Regulation .24 of this chapter;*
- (2) Record all injuries, illnesses, medication errors, and reportable diseases and conditions as defined in COMAR 10.06.01 in the paper health log until access to the electronic health record is restored;*
- (3) Transcribe all information recorded in the paper health log into the electronic health record once access to the electronic health record is restored;*
- (4) Annotate the paper health log to indicate that transcription has occurred;*
- (5) Retain the paper health log according to the time frame specified in Regulation .24 of this chapter; and*
- (6) Provide an alternative means to access the electronic health record.*

.29 Staff Member's or Volunteer's Health Record.

An operator shall ensure that each staff member or volunteer has on file at the time of employment or volunteering at a youth camp a written personal health record that includes:

A.—C. (text unchanged)

[D.] (proposed for repeal)

D. For a staff member or volunteer who currently resides:

(1) Within the United States, a United States territory, or the District of Columbia, documentation of:

- (a) The staff member's or volunteer's residence; and*
- (b) Immunization exemptions because of a parental or guardian objection or medical contraindication; or*

(2) Outside the United States, a United States territory, or the District of Columbia, documentation of:

- (a) The staff member's or volunteer's residence; and*
- (b) Record of vaccination or immunity on a form prescribed by Department.*

.30 Exclusion During Vaccine-Preventable Disease Outbreaks.

During an outbreak of a vaccine-preventable disease at a camp, the camp operator shall exclude:

A. A camper who does not have documented vaccination or immunity to the relevant vaccine-preventable disease from attending the camp; and

B. An individual who does not have documented vaccination or immunity to the relevant vaccine-preventable disease from working or volunteering at the camp.

.31 Exclusion for Acute Illness and Communicable Disease.

A. An operator shall ensure that camp staff members:

- (1) (text unchanged)*
- (2) [Promptly arrange] Arrange for first aid or medical treatment upon observing a sign or symptom of acute illness;*
- (3)—(4) (text unchanged)*
- (5) Upon observing a sign or symptom of acute illness:*
 - (a) Report an illness in accordance with Regulation [.25] .25E of this chapter; and*
 - (b) (text unchanged)*

B. When an acute illness is reported to the health supervisor, the health supervisor shall:

- (1) (text unchanged)*
- (2) Report the situation to the local health department in accordance with Regulation [.25] .25E of this chapter.*

C.—D. (text unchanged)

.33 Nonprescription and Prescription Medications.

A. When a staff member administers a nonprescription or prescription medication, an operator shall ensure that a nonprescription or prescription medication is only administered by a licensed or certified professional:

- (1) Who is authorized to practice in Maryland; and*
- (2) Whose scope of practice includes medication administration.*

B. When a camper self-administers medication, an operator shall ensure that the:

- (1) Parent or guardian provides written authorization for the camper to self-administer the medication;*
- (2) Child's physician or the authorized prescriber provides written authorization for the camper to self-administer the medication;*
- (3) Health supervisor designates an adult staff member or volunteer to supervise; and*
- (4) Designated adult staff member or volunteer supervises the self-administration.*

C. When a staff member administers a nonprescription or prescription medication or a camper self-administers a nonprescription or prescription medication, an operator shall ensure that:

(1) Except for a camp using standing orders as described in §E, before administration of a nonprescription or prescription medication, written authorization is provided on a medication administration authorization form that includes:

- (a) The name of the camp;*
- (b) The physical address of the camp;*
- (c) The written prescriptive order for the medication that includes:*
 - (i) The child's name;*
 - (ii) The child's date of birth;*

(iii) The condition for which the medication is being administered;

(iv) Whether the medication is an emergency medication or not;

(v) The name of the medication;

(vi) The dose of the medication;

(vii) The route of administration for the medication;

(viii) The time or frequency of administration for the medication;

(ix) If PRN, the frequency and for what symptoms the medication should be administered;

(x) The known side effects of the medication specific to the camper;

(xi) The date medication administration shall begin;

(xii) The date medication administration shall end, not to exceed 1 year from the beginning date;

(xiii) The authorized prescriber's name;

(xiv) The authorized prescriber's title;

(xv) The authorized prescriber's telephone number;

(xvi) The authorized prescriber's fax number;

(xvii) The authorized prescriber's address;

(xviii) The authorized prescriber's signature; and

(xviii) The date the form is signed by the authorized prescriber;

(d) A statement saying, "I request the authorized youth camp operator or staff to administer the medication or supervise the camper in self-administration if authorized as prescribed by the above authorized prescriber. I certify that I have legal authority to consent to medical treatment for the child named above, including the administration of medication at the facility. I understand that at the end of the authorized period, an adult must pick up the medication, otherwise it will be discarded. I authorize camp personnel to communicate with the authorized prescriber as allowed by HIPAA";

(e) The parent's or guardian's signature;

(f) The date the parent or guardian signed the form;

(g) The parent's or guardian's primary phone number;

(h) The parent's or guardian's alternative phone number;

(i) If a camp allows a camper to self-administer medication, authorization to self-administer nonprescription and prescription medication that includes:

(i) A statement saying, "I authorize self-administration of the above listed medication for the child named above under the supervision of a designated staff member or volunteer";

(ii) The signature of the authorized prescriber and the date the form is signed under the statement in §C(1)(i)(i) of this regulation; and

(iii) The signature of the parent or guardian and the date the form is signed under the statement in §C(1)(i)(i) of this regulation; and

(j) If a camp allows a camper to self-carry emergency medication, authorization to self-carry emergency medication that includes whether the:

(i) Authorized prescriber allows the child to self-carry emergency medication; and

(ii) Parent or guardian authorizes the child to self-carry emergency medication;

(2) Except for a primitive camp, emergency medication or while a medication is being administered, medication is kept in a locked storage compartment;

(3) A prescription medication is kept in the original container bearing a pharmacy label that shows the:

- (a) Prescription number;
- (b) Date filled;
- (c) Authorized prescriber's name;

(d) Name of the medication;

(e) Directions for use; and

(f) Patient's name;

(4) A nonprescription medication is kept in the original container that includes the directions for use;

(5) Medication is given to the camper from the original container;

(6) The directions provided in the prescriptive order for the medication found on the medication administration authorization form or the standing order are followed;

(7) The staff member administering the medication to a camper or supervising a camper who is self-administering medication knows the side and toxic effects of the medication;

(8) Medication is kept in a secure manner;

(9) Emergency medications are handled according to §D of this regulation;

(10) Except for emergency medication that the camper is authorized to self-carry, in a primitive camp, keep medication inaccessible to the camper;

(11) The medication is kept under storage conditions specified by the manufacturer of the medication;

(12) The staff member documents medication administration on a medication administration form, which shall be retained for 3 years, that includes the:

(a) Child's name;

(b) Child's date of birth;

(c) Medication name;

(d) Dosage;

(e) Route;

(f) Time or times to administer;

(g) Amount of medication administered;

(h) Date and time of administration; and

(i) Name of the individual who administered the medication to the child or that the child self-administered the medication;

(13) A staff member documents the final disposition of the medication on a medication disposition form that includes:

(a) If the medication is returned to the parent or guardian the:

(i) Child's name;

(ii) Child's date of birth;

(iii) Name of the medication;

(iv) Final disposition of the medication;

(v) Name of the person to whom the medication was returned; and

(vi) Signature of the camp staff member who returned the medication; and

(b) If the medication is not retrieved by the parent or guardian within 1 week of the child leaving camp, the:

(i) Child's name;

(ii) Child's date of birth;

(iii) Name of the medication;

(iv) Final disposition of the medication;

(v) Signature of the person responsible for destroying the medication;

(vi) Signature of the person witnessing the destruction of the medication; and

(vii) Dates each person signed the form; and

(14) Medication is returned to the parent or guardian or destroyed:

(a) At the end of the camping session; or

(b) When it is no longer needed.

D. An operator shall ensure that:

(1) Emergency medication is:

(a) Carried by the camper needing the medication, by a staff member or volunteer directly supervising the camper, or stored at a designated location in a locked compartment;

(b) Kept in a secure manner;

(c) Administered according to the plan of action developed for the camper and the prescriptive order for the medication; and

(d) Administered by the camper if authorized to self-administer or by an individual trained by a health supervisor; and

(2) When a camper self-carries an emergency medication, the parent or guardian and a licensed or authorized prescriber have provided written consent for the camper to self-carry the emergency medication.

E. When a staff member administers a nonprescription or prescription medication and an operator uses standing orders from a licensed or certified professional authorized to prescribe medication, in place of the medication administration authorization form required in §C of this regulation, an operator shall obtain written permission from the child's parent or guardian to administer the medication.

.34 Emergency Procedures.

A. An operator shall prepare and implement a written emergency plan that includes procedures for the camp staff members to:

(1)—(5) (text unchanged)

(6) Notify the camper's parent or guardian; [and]

(7) Ensure camper safety until the camper's parent, guardian, or parent's or guardian's designee picks up the camper[.];

(8) Monitor for adverse weather conditions; and

(9) Meet the requirements of §B(4)—(7) of this regulation.

B. An operator shall ensure that:

(1) [Before] Not more than 30 calendar days before working at the camp, each staff member or volunteer:

(a)—(c) (text unchanged)

(2) Documentation is kept on file that[, before working at the camp,] each staff member or volunteer received the training required in §B(1) of this regulation;

(3) (text unchanged)

(4) A telephone or alternate means of communication is provided to:

(a) Summon [promptly] emergency fire and rescue services; and

(b) (text unchanged)

(5)—(7) (text unchanged)

.35 Child Abuse Prevention and Reporting.

An operator shall ensure that [child]:

A. Child abuse allegations or incidents are reported as prescribed in Family Law Article, §§5-704 and 5-705, Annotated Code of Maryland[.];

B. A written child abuse prevention and reporting program is prepared and implemented at the camp that includes procedures for:

(1) Educating staff members and volunteers;

(2) Reporting child abuse both internally and externally;

(3) Screening staff members and volunteers prior to working at camp;

(4) Reinforcing the camp's policies and procedures during camp operation;

(5) Evaluating the facilities and grounds;

(6) Supervising campers;

(7) Educating on appropriate touching;

(8) Responding to inappropriate behaviors by staff, volunteers, parents, and campers;

(9) Communicating with staff members, volunteers, parents, the Department, and the media;

(10) Supporting an alleged victim; and

(11) Interacting with an alleged perpetrator;

C. Not more than 30 calendar days before working at the camp, each staff member or volunteer:

(1) Is trained in the child abuse prevention and reporting program required in §B of this regulation;

(2) Demonstrates knowledge of the child abuse prevention and reporting procedures; and

(3) Is provided with the opportunity to discuss the procedures and have any questions answered by a supervisor; and

D. Documentation is kept on file that each staff member or volunteer received the training required in §C of this regulation.

.36 Water Supply.

A.—B. (text unchanged)

C. An operator may provide written documentation from the building owner that there are no outstanding water supply and plumbing violations for a building used or to be used as a youth camp facility that is:

(1) Owned by the State or a local government and used by the public for more than 170 calendar days per year; or

(2) Owned and operated as a nonpublic school and used as a school for more than 170 calendar days per year.

D. (text unchanged)

.37 Sewage Disposal.

A.—B. (text unchanged)

C. An operator may provide written documentation from the building owner that there are no outstanding sewage disposal and plumbing violations for a building used or to be used as a youth camp facility that is:

(1) Owned by the State or a local government and used by the public more than 170 calendar days per year; or

(2) Owned and operated as a nonpublic school and used as a school for more than 170 calendar days per year.

D. (text unchanged)

.38 Toilet Facilities.

A. Except as provided in §C of this regulation, an operator shall ensure that:

(1)—(3) (text unchanged)

(4) If separate toilet facilities for boys and girls are in the same building, the facilities:

(a) (text unchanged)

(b) Have self-closing doors or another means that [afford] affords privacy;

(5)—(8) (text unchanged)

B.—C. (text unchanged)

.42 Food Service.

A. An operator shall ensure that:

(1) Except as provided in §B of this regulation, a camp complies with all applicable food service statutes and regulations as set forth at Health-General Article, Title 21, Annotated Code of Maryland, and COMAR 10.15.03; [and]

(2) A parent or guardian is notified in writing of the camp's policy on storage of a lunch brought from home [or provided by the camp that contains potentially hazardous food, as defined in COMAR 10.15.03, is kept refrigerated at a temperature of 45°F or below.]; and

(3) If a camp permits potentially hazardous food, as defined in COMAR 10.15.03, in a lunch brought from home, the lunch is kept refrigerated at a temperature of 41°F or below.

B. Primitive Camp. An operator of a primitive camp shall ensure that:

(1)—(7) (text unchanged)

(8) Food storage is provided that:

(a)—(c) (text unchanged)

(d) Maintains cold foods at or below [45] 41°F;

(e) Maintains hot foods at or above [140] 135°F; and

(f) (text unchanged)

(9)—(10) (text unchanged)

.46 Fire and Other Hazards.

A. (text unchanged)

B. An operator may provide written documentation from the building owner that there are no outstanding electrical and fire safety code violations for a building used or to be used as a youth camp facility that is:

(1) Owned by the State or a local government and used by the public for more than 170 *calendar* days per year; or

(2) Owned and operated as a nonpublic school and used as a school for more than 170 *calendar* days per year.

C.—D. (text unchanged)

.47 Specialized Activities: Aquatic Programs.

A. For a camp that offers an aquatic program, an operator shall ensure that:

(1) (text unchanged)

(2) A safety plan is developed and implemented [according]:

(a) *According to Regulation .52 of this chapter; and*

(b) *That includes procedures for:*

(i) *Evaluating and classifying a camper's swimming ability and other appropriate aquatic skills before a camper participates in water activities;*

(ii) *Assigning a camper to areas, equipment, facilities, and activities appropriate for the camper's abilities;*

(iii) *Maintaining water activity equipment and facilities in good working condition;*

(iv) *A safety system to account quickly for all campers during the water activity;*

(v) *Supervision ratios in §C of this regulation;*

(vi) *When natural swimming areas are used, meeting the requirements in §E(2) of this regulation; and*

(vii) *When watercraft activities occur, meeting the requirements of §F of this regulation.*

[(3) Before participating in water activities, a camper is:

(a) Evaluated and classified as to:

(i) Swimming ability; and

(ii) Other appropriate aquatic skills; and

(b) Assigned to areas, equipment, facilities, and activities appropriate with the camper's abilities;

(4) Water activity equipment and facilities are maintained in good working condition; and

(5) A safety system is in effect to account quickly for all campers during the water activity.]

B. (text unchanged)

C. Swimming. An operator shall ensure that:

(1)—(2) (text unchanged)

(3) [One] A *watcher, who is a staff member or volunteer who is 16 years old or older[, or an adult volunteer, who] and is not the individual required in §C(1) or (2) of this regulation, is on duty at pool side observing the campers for each group of 25 campers or a fraction of 25 campers in the water;*

(4)—(6) (text unchanged)

D.—F. (text unchanged)

.48 Specialized Activities: Marksmanship Using Rifles and Air Guns.

A.—B. (text unchanged)

C. [Procedures.] For a camp that offers a riflery or an air gun activity, or both, an operator shall ensure that:

(1) (text unchanged)

[(2) A safety plan is developed and implemented according to Regulation .52 of this chapter;]

[(3)] (2)—[(6)] (5) (text unchanged)

D. (text unchanged)

E. Procedures. An operator shall ensure that a safety plan is developed and implemented:

(1) *According to Regulation .52 of this chapter; and*

(2) *That includes procedures for meeting the requirements of §§A—D of this regulation.*

.49 Specialized Activities: Archery.

A. (text unchanged)

B. [Procedures.] An operator shall ensure that:

[(1) A safety plan is developed and implemented according to Regulation .52 of this chapter;]

[(2)] (1)—[(5)] (4) (text unchanged)

C. (text unchanged)

D. Procedures. An operator shall ensure that a safety plan is developed and implemented:

(1) *According to Regulation .52 of this chapter; and*

(2) *That includes procedures for meeting the requirements of §§A—C of this regulation.*

.50 Specialized Activities: Horseback Riding.

A. [Procedures.] For a camp that offers horseback riding, an operator shall ensure that:

[(1) A safety plan is developed and implemented according to Regulation .52 of this chapter;]

[(2)] (1)—[(5)] (4) (text unchanged)

B. Staff Members. For a camp that offers horseback riding, an operator shall ensure that:

[(1) One adult staff member, adult volunteer, counselor, or assistant counselor is on duty and supervising the campers for each group of ten riders or fraction of ten riders at each:

(a) Horseback riding activity; and

(b) Trail excursion; and]

(1) *During the horseback riding activity, a director is present at the camp or, when the activity occurs off the camp premises, at the activity site;*

(2) An instructor is present at each:

(a) (text unchanged)

(b) Trail excursion[.]; and

(3) *One adult staff member, adult volunteer, counselor, or assistant counselor is on duty and supervising the campers for each group of ten riders or a fraction of ten riders at each:*

(a) Horseback riding activity; and

(b) Trail excursion.

C. Procedures. An operator shall ensure that a safety plan is developed and implemented:

(1) *According to Regulation .52 of this chapter; and*

(2) *That includes procedures for meeting the requirements of §§A and B of this regulation.*

.51 Other Specialized Activities.

A. An operator shall ensure that a *specialized activity* safety plan is developed and implemented according to [Regulation .52 of this chapter] §C of this regulation for a camp that offers a specialized activity or program of:

(1)—(11) (text unchanged)

B. (text unchanged)

C. Procedures. An operator shall ensure that a safety plan is developed and implemented:

(1) *According to Regulation .52 of this chapter; and*

(2) *That includes procedures for meeting the requirements of §B of this regulation.*

.52 Specialized Activity and Camp Trip Safety.

A. (text unchanged)

B. Camp Trip.

(1) Staff Members. An operator shall ensure that on a camp trip:

- (a) A director is present; [and]
- (b) One adult staff member [or], adult volunteer, *counselor*, or *assistant counselor* is on duty and supervising the campers for each group of ten campers or a fraction of ten campers[.];
- (c) *An adult with cardiopulmonary resuscitation certification from a national organization is on duty; and*
- (d) *An adult with first aid certification from a national organization is on duty.*

(2) (text unchanged)

C. Specialized Activity and Camp Trip Safety Training. An operator shall ensure that:

(1) [Before] *Not more than 30 calendar days before* working at the camp's specialized activity or participating in a trip, each staff member or volunteer:

(a)—(c) (text unchanged)

(2) (text unchanged)

D. (text unchanged)

.53 Transportation.

A. When a camper, staff member, or volunteer is transported, an operator shall ensure that:

(1)—(2) (text unchanged)

(3) [Before] *Not more than 30 calendar days before* the camp uses transportation, each staff member or volunteer involved in the transportation and each transportation service provider or driver:

(a)—(c) (text unchanged)

(4)—(9) (text unchanged)

B.—C. (text unchanged)

.54 Supervision of Campers During Routine Activities.

During a routine activity, an operator shall ensure that:

A.—D. (text unchanged)

E. When a camper who is 3-1/2 to 5 years old is grouped together with older campers, supervision is provided as required in §B of this regulation; [and]

F. When a camper who is 6 to 10 years old is grouped together with older campers, supervision is provided as required in §C of this regulation; *and*

G. *An assistant counselor under the direction of an adult may supervise, for up to 30 minutes, no more than five campers without an adult supervisor present.*

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

Subtitle 30 COMMISSION ON KIDNEY DISEASE

Notice of Proposed Action

[15-015-P]

The Chairman of the Maryland Commission on Kidney Disease proposes to:

(1) Amend Regulations **.02**, **.03**, and **.11** under **COMAR 10.30.01 General Regulations**;

(2) Amend Regulations **.02—04**, adopt new Regulation **.05**, and recodify existing Regulations **.05** and **.06** to be Regulations **.06** and **.07** under **COMAR 10.30.02 Physical and Medical Standards**.

This action was considered at a public meeting held on October 23, 2014, notice of which was given on the Commission on Kidney Disease's website at <http://dhmh.maryland.gov/mdckd/SitePages/Home.aspx> pursuant to

State Government Article, §10-506(c)(1), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Define certain terms;
- (2) Establish standards for kidney dialysis facilities that perform nocturnal hemodialysis, including the qualifications for and responsibilities of the medical director, charge nurse, nurse manager, and social worker;
- (3) Require kidney dialysis facilities to have an emergency plan that includes certain information;
- (4) Require certain individuals to have access to the emergency plan;
- (5) Require dialysis facilities to have access to power generators in the event of an emergency;
- (6) Require certain physicians working at a transplant center to meet certain standards;
- (7) Require that freestanding dialysis facilities comply with a certain quality assurance program; and
- (8) Provide that a monitoring individual in a freestanding dialysis facility may be a nurse practitioner.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

10.30.01 General Regulations

Authority: Health-General Article, §§13-301—13-316 and 16-204, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(14) (text unchanged)

(15) "*In-center hemodialysis*" means a hemodialysis treatment that:

- (a) *Lasts 3 to 5 hours;*
- (b) *Is performed on a routine basis, usually three times a week, to treat a chronic condition; and*
- (c) *Is provided in a kidney dialysis facility center during daytime hours.*

(16) "*In-center nocturnal hemodialysis*" means a hemodialysis treatment that:

- (a) *Lasts 6 to 9 hours;*
- (b) *Is performed on a routine basis, usually three times a week, to treat a chronic condition; and*
- (c) *Is provided in a kidney dialysis facility.*

[(15)] (17)—[(16)] (18) (text unchanged)

.03 Categories of Dialysis.

A.—F. (text unchanged)

G. *Nocturnal Hemodialysis.* Nocturnal hemodialysis may be provided in the dialysis facilities defined and described in this subtitle.

.11 Miscellaneous Items.

A.—B. (text unchanged)

C. *Emergency Management.*

(1) A kidney dialysis facility shall have an emergency plan.

(2) An emergency plan shall include policies and procedures that will be followed before, during, and after an emergency to address:

(a) The safe management of individuals who are receiving services at the kidney dialysis facility when an emergency occurs;

(b) Notification of patients, families, staff, and licensing authorities regarding actions that will be taken concerning the provision of dialysis services to the individuals served by the kidney dialysis facility;

(c) Staff coverage, organization, and assignment of responsibilities; and

(d) The continuity of operations, including procedures to secure access to essential goods, equipment, and dialysis services.

(3) This regulation does not prohibit a kidney dialysis facility from applying for and receiving reimbursement:

(a) Under any applicable insurance policy; or

(b) From any State or federal funds that may be available due to a declared State or federal emergency.

(4) A kidney dialysis facility is solely responsible for any financial obligation arising from voluntary or mandatory activation of any aspect of the emergency plan developed by the kidney dialysis center under this regulation.

(5) For purposes of coordinating local emergency planning efforts, a kidney dialysis facility shall provide access to the emergency plan developed under this regulation to local organizations for emergency management.

(6) A dialysis provider shall provide to the Commission a 24/7 live operational contact phone number.

(7) *Information Regarding the Status of Generators.* A kidney dialysis center shall have:

(a) An on-site generator;

(b) The capacity to hook up a generator; or

(c) A contract with a company who will provide a generator in the event of an emergency, if there is no on-site generator.

(8) If the center has no plan to use the services of a generator, the center shall provide to the Commission a copy of the center's emergency plan that will demonstrate that all measures possible are in place to avoid disruption of dialysis services to patients.

10.30.02 Physical and Medical Standards

Authority: Health-General Article, §§13-301—13-316 and 16-204, Annotated Code of Maryland

.02 Transplant Centers.

A.—B. (text unchanged)

C. *Staffing.*

(1) Director of Transplantation Center. The renal transplantation center shall be under the general supervision of [a]:

(a) A UNOS qualified transplantation surgeon (42 CFR §405.2102) [or] and a qualified transplant nephrology physician director; or

(b) Another physician meeting UNOS criteria as a physician director for kidney transplantation (42 CFR §405.2102).

(2) The director shall be responsible for planning, organizing, conducting and directing the transplant center and devoting sufficient

time to carry out these responsibilities, which include but are not limited to:

(a) (text unchanged)

(b) Ensuring that tissue typing and organ procurement services are available *through a UNOS associated OPO and an ASHI certified laboratory; [and]*

(c) Ensuring that transplantation surgery is performed by, or under the direct supervision of, a UNOS qualified transplant surgeon[.]; and

[(3)] (d) [The] *Ensuring that the* transplant center shall have [a] *an adequate number of* clinical transplant [coordinator] coordinators to ensure the continuity of care of patients and living donors during the:

[(a)] (i)—[(b)] (ii) (text unchanged)

[(4)] (3)—[(8)] (7) (text unchanged)

D. *Additional Transplant Program Requirements.*

(1) Sufficient skilled [surgical assistants] *personnel* shall be available to provide 24-hour-a-day coverage for the transplantation service.

(2) A transplantation team shall exist in a certified transplant center consisting of:

(a) (text unchanged)

(b) The director's assistant; and

(c) [A nephrologist associated with the affiliated dialysis program;] A UNOS certified transplant surgeon, if not the transplant center director, and a UNOS certified physician director (a transplant nephrologist or physician meeting UNOS criteria to be a physician director for a kidney transplant program).

[(d)] An individual with immunological training; and

(e) A nurse from the nursing unit providing daily care for the transplant patients.]

E. *Physical and Medical Standards.* The transplant center shall:

[(1)] Have available kidney preservation methodologies;]

[(2)] (1)—[(3)] (2) (text unchanged)

F.—H. (text unchanged)

I. *Administration.*

(1)—(10) (text unchanged)

[(11)] The transplant center shall make nutritional assessments and diet counseling services furnished by a qualified dietitian, available to all transplant patients and living donors.]

[(12)] (11) The transplant center shall develop, implement, and maintain a written comprehensive data driven Quality Assessment and Performance Improvement (QAPI) program designed to monitor and evaluate performance of all transplantation services. The QAPI program shall include, *but not be limited to:*

(a)—(d) (text unchanged)

[(e)] Techniques for organ recovery;]

[(f)] (e)—[(i)] (h) (text unchanged)

[(13)] (12)—[(16)] (15) (text unchanged)

J. (text unchanged)

.03 Freestanding Dialysis Facilities — General.

A. (text unchanged)

B. *Physical Standards.* The freestanding dialysis facility shall:

(1)—(6) (text unchanged)

(7) Utilize water of sufficient purity, according to current Association for the Advancement of Medical Instrumentation's recommendations which are incorporated by reference in Regulation .01B(4) and (5) of this chapter to prevent bacterial or endotoxin contamination or toxic accumulation of trace elements in patients undergoing long-term dialysis; [and]

(8) Comply with medical records, patient care policies, sanitation standards, and fire and life safety standards as defined in Regulation .01B of this chapter and this subtitle[.]; and

(9) *Comply with the quality assurance program as identified in Regulation .04B(3)(s) of this chapter and provide:*

(a) *Summarized format documentation, upon request, of the facility's quality assurance program; and*

(b) *Written documentation of the facility's meeting attendance, goals, outcomes, and action plans, including evaluation and revision of the plans, as appropriate.*

C.—F. (text unchanged)

.04 Freestanding Dialysis Facilities — Staffing.

A.—C. (text unchanged)

D. Direct Patient Care Providers.

(1) (text unchanged)

(2) A monitoring individual shall:

(a) Be trained in dialysis procedures and may be a:

(i)—(ii) (text unchanged)

(iii) Nurse practitioner;

[(iii)] (iv)—[(v)] (vi) (text unchanged)

(b) (text unchanged)

(3) (text unchanged)

E.—H. (text unchanged)

.05 Nocturnal Hemodialysis Programs.

A. Nephrologist or Physician.

(1) *The director of a freestanding dialysis facility shall be a nephrologist or a physician with at least 1 year of experience in chronic hemodialysis.*

(2) *A freestanding dialysis facility shall have at least one additional nephrologist or physician trained in dialysis techniques to provide adequate continuous coverage.*

B. Medical Director.

(1) *A freestanding dialysis facility shall appoint a medical director.*

(2) *The medical director shall be a physician who is board eligible or board certified by the American Board of Internal Medicine or the American Board of Pediatrics.*

(3) *The medical director shall:*

(a) *Assure that the facility has documented selection criteria for the nocturnal dialysis patient;*

(b) *Determine the patient's appropriateness for nocturnal hemodialysis by considering and documenting the patient's:*

(i) *Overall medical condition, including whether the patient is hemodynamically stable;*

(ii) *Expectations for care;*

(iii) *Response to in-center, daytime hemodialysis; and*

(iv) *Availability of transportation;*

(c) *Document the patient's appropriateness for nocturnal hemodialysis in the patient's medical record, including assessments and plans of care;*

(d) *Assure that an order from a physician, nurse practitioner, or physician assistant for nocturnal hemodialysis is written;*

(e) *Assure that only patients accepted into a nocturnal hemodialysis program shall dialyze on a nocturnal dialysis shift;*

(f) *Assure that quality medical care and technical expertise are provided in the freestanding dialysis facility;*

(g) *Supervise and be responsible for the overall medical, technical, and administrative functions of the freestanding dialysis facility including creation and enforcement of the freestanding dialysis facility's standards of care and basic operating procedures;*

(h) *Coordinate the comprehensive renal health care team to assure quality of care;*

(i) *Assure there are written policies which address a long term patient care plan to select the appropriate end-stage renal disease modality;*

(j) *Assure that there are written policies outlining the freestanding dialysis facility's programs for in-center hemodialysis, home hemodialysis, and peritoneal dialysis modalities as applicable to that facility;*

(k) *Assure that the end-stage renal disease patient has appropriate consultation with a renal dietitian, renal social worker, and other individuals as needed;*

(l) *Assure the appropriate execution of the dialysis orders and day-to-day patient care policy by the nursing and technical staff;*

(m) *Assure attending physician education and compliance with the freestanding dialysis facility policies on patient care and technical aspects;*

(n) *Participate in the selection of available treatment modalities and dialysis supplies to be offered by the freestanding dialysis facility and advise attending physicians;*

(o) *Approve policies and procedures ensuring the adequate training of nurses and technicians in dialysis science and techniques;*

(p) *Supervise the development of a dialysis water standards policy, including implementation, monitoring, and enforcement;*

(q) *Supervise the development of a freestanding dialysis facility-specific policy on the adequacy of dialysis, which complies with State and federal guidelines;*

(r) *Supervise the development of a freestanding dialysis facility-specific policy on the administration of epogen and intradialytically administered medications;*

(s) *Assure that there are written policies regarding patient medical records, physical environment, fire safety, and emergency preparedness of the freestanding dialysis facility;*

(t) *Assure that there are written policies regarding patient care and facility personnel organization;*

(u) *Assure that there are written policies regarding patient education;*

(v) *Assure that there are written policies regarding medical staff bylaws and physician credentialing;*

(w) *Assure that there are written freestanding dialysis facility-specific policies for:*

(i) *Dialyzer reuse or reprocessing;*

(ii) *Anemia management;*

(iii) *Adequacy of dialysis measures;*

(iv) *Dialysis water standards;*

(v) *Immunization guidelines for Hepatitis B, influenza, and pneumococcal vaccines;*

(vi) *Use of I.V. Vitamin D analogues; and*

(vii) *Monitoring parameters associated with the development of renal osteodystrophy;*

(x) *Assure quality improvement programs to monitor the policies listed in §B(3)(o)—(s) of this regulation and actively participate in the facility's quality improvement program;*

(y) *Assure attending physicians comply with State and federal mandates applicable to the freestanding dialysis facility;*

(z) *Assure attending physicians round on their patients at least monthly and document such on the patient's progress notes; and*

(aa) *Establish documented practice goals within the freestanding dialysis facility, which should exceed minimal requirements to assure optimal patient care.*

C. Nursing Services.

(1) *Nurse Manager. The facility shall have a nurse manager responsible for nursing services in the facility who:*

(a) *Is a full-time employee of the facility;*

(b) *Is a registered nurse;*

(c) *Has at least:*

(i) *12 months of experience in clinical nursing; and*

(ii) *An additional 6 months of experience in providing nursing care to patients on maintenance dialysis; and*

(d) Participates in the facility's Quality Assessment and Performance Improvement Program.

(2) Charge Nurse. The charge nurse responsible for each shift shall:

(a) Be a registered nurse;

(b) Be on duty in the treatment area at all times when patients are being treated, except for while on breaks when the charge nurse shall be readily available; and

(c) Have at least 12 months of experience in providing nursing care, including 6 months of experience in providing nursing care to patients on maintenance dialysis.

D. Direct Patient Care Providers.

(1) Staffing Ratio.

(a) Nocturnal Hemodialysis. When nocturnal hemodialysis is performed, the monitoring individual-to-patient ratio at each center for in-center nocturnal hemodialysis:

(i) Shall be a minimum of one staff member to five participants; and

(ii) May be sufficient to meet the needs of the patients.

(b) The center shall establish provisions for back-up staff coverage during unexpected illnesses, vacations, and holidays.

(c) The charge nurse may not be included in the staffing ratio except when there are nine or fewer patients.

(2) A monitoring individual shall:

(a) Be trained in dialysis procedures and may be a:

(i) Physician;

(ii) Physician assistant;

(iii) Nurse practitioner;

(iv) Registered nurse;

(v) Licensed practical nurse; or

(vi) Certified nursing assistant—dialysis technician; and

(b) Provide direct patient care during treatment, which shall include, at a minimum:

(i) Initiation of treatment;

(ii) Termination of treatment; and

(iii) Monitoring vital signs.

(3) The Commission shall decide if this minimum standard may be too low for a particular freestanding dialysis facility.

E. Technical assistance by qualified personnel shall be available for the repair and maintenance of equipment.

F. The freestanding dialysis facility shall have sufficient social service and dietetic staffing by licensed and trained professionals available to meet the needs of the dialysis patients.

G. Psychiatric services may be obtained by referral to a licensed psychiatrist.

H. Social Worker.

(1) The social worker shall conduct comprehensive psychosocial assessment within 30 days of the patient initiating treatment at the dialysis facility.

(2) Annual Psychosocial Update.

(a) A comprehensive annual psychosocial update shall be conducted annually or more often if indicated.

(b) The annual psychosocial update shall include, at a minimum, the following issues:

(i) Review of treatment options;

(ii) Vocational rehabilitation;

(iii) Adjustment to illness issues;

(iv) Patient behaviors that may warrant discharge; and

(v) Any changes in the patient's relationships, living situation, and living wills.

(c) The annual psychosocial update may be included as quarterly documentation for psychosocially stable patients.

(3) The social worker shall document progress notes:

(a) At least quarterly for stable patients; and

(b) At least monthly or more frequently for unstable patients, including but not limited to, patients experiencing:

(i) Adult Protective Services or Child Protective Services involvement;

(ii) Housing crisis or change;

(iii) Change in support system if patient is a vulnerable adult or child;

(iv) Violent or abusive behaviors or events;

(v) Emotional or psychological crisis including suicidal tendencies or emotional distress;

(vi) Death or major illness in the family;

(vii) Financial crisis interfering with the patient's ability to secure food, transportation, or medication;

(viii) Extended or frequent hospitalizations;

(ix) Marked deterioration in health status or in functional status; or

(x) Situations that would warrant social work intervention.

(4) The social worker's progress notes shall contain, at a minimum:

(a) Documentation of the patient's adjustment to dialysis;

(b) Patient behaviors that may warrant discharge;

(c) Any referrals made to outside agencies; and

(d) Follow-up of psychosocial issues identified in previous social work notes or the assessment or update.

(5) The social worker shall:

(a) Recommend changes in treatment based on the patient's psychosocial needs;

(b) Provide case work and group work services to patients and their families in dealing with the special problems associated with end-stage renal disease;

(c) Identify community agencies and other resources and assist patients and families in accessing and utilizing them; and

(d) Participate in continuous quality improvement activities and patient care planning.

LUIS GIMENEZ, M.D.

Chairman

Maryland Commission on Kidney Disease

Subtitle 47 ALCOHOL AND DRUG ABUSE ADMINISTRATION

10.47.07 Prescription Drug Monitoring Program

Authority: Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland

Notice of Proposed Action

[15-016-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulation .03, adopt new Regulation .04, amend and recodify existing Regulations .04 and .08 to be Regulations .05 and .09, respectively, and recodify existing Regulations .05—.07 to be Regulations .06—.08 under COMAR 10.47.07 Prescription Drug Monitoring Program.

Statement of Purpose

The purpose of this action is to establish authority for the review of prescription drug monitoring data for indications of possible misuse or abuse of a monitored prescription drug and allow reporting of possible misuse or abuse to prescribers and dispensers registered with the program; require a Technical Advisory Committee to review prescription drug monitoring data prior to being released to the prescriber or dispenser of a monitored prescription drug; remove

language not required in statute; specify when data can be shared for the purpose of individual investigations; and include additional fatality review teams can receive redisclosed data.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.03 Dispenser Reporting.

A. For each monitored prescription drug dispensed, the dispenser shall report the following prescription monitoring data to the Department:

- (1) (text unchanged)
 - (2) Identifying information for the patient, including:
 - (a)—(c) (text unchanged)
 - (d) [Gender] Sex;
 - (e) Telephone number;
 - [(e)] (f) (text unchanged)
 - [(f)] (g) A patient identification number, which may include:
 - (i) (text unchanged)
 - [(ii)] A residential telephone number;
 - [(iii)] (ii)—[(viii)] (vii) (text unchanged)
 - (3)—(4) (text unchanged)
- B.—G. (text unchanged)

.04 Review of Prescription Monitoring Data.

The Program may review prescription monitoring data for indications of possible misuse or abuse of a monitored prescription drug.

[.04].05 Disclosure of Prescription Monitoring Data.

A. (text unchanged)

B. Disclosure of Prescription Monitoring Data to a Prescriber, a Dispenser, or an Authorized Licensed Health Care Practitioner.

- (1)—(4) (text unchanged)

(5) *If the Program's review of prescription monitoring data under Regulation .04 of this chapter indicates possible misuse or abuse of a monitored prescription drug, the Program may report the possible misuse or abuse to the prescriber or dispenser of the monitored prescription drug in a manner and form determined by the Program.*

C.—G. (text unchanged)

H. Upon request, the Program may disclose prescription monitoring data to the Office of the Chief Medical Examiner, the Maryland Medical Assistance Program, the Office of the Inspector General of the Department, the Office of Health Care Quality, and the Division of Drug Control provided that the request:

- (1)—(3) (text unchanged)

(4) [Includes an attestation that the request was] *Is approved by the Secretary.*

I. (text unchanged)

J. Technical Advisory Committee Review.

(1) Before the Program discloses prescription monitoring data under [COMAR 10.47.07.04C—E, G and H] §§C—E, G, and H of this regulation, the Technical Advisory Committee shall:

- (a)—(b) (text unchanged)

(2) *Notwithstanding §J(1) of this regulation, the Program may disclose prescription monitoring data to the authorized administrator of another state's prescription drug monitoring program for disclosure to a prescriber, a dispenser, a licensed health care practitioner authorized by a prescriber or a dispenser, or a patient in a manner consistent with §§B(1)—(4) and F of this regulation.*

(3) *Before the Program discloses prescription monitoring data to a prescriber or dispenser under §B(5) of this regulation, the Technical Advisory Committee shall:*

(a) *Review any prescription monitoring data upon which the Program's report to a prescriber or dispenser is based; and*

(b) *Within 10 business days of submission of the data to the Technical Advisory Committee for review, submit to the Program:*

(i) *Clinical guidance regarding indications of possible misuse or abuse; and*

(ii) *Interpretation of the prescription monitoring data that indicates possible misuse or abuse.*

[(2)] (4) If the Technical Advisory Committee has not provided clinical guidance and interpretation in accordance with §J(1) or (3) of this regulation within 10 business days of submission of the request or data to the Technical Advisory Committee for review, the Department may:

(a) Proceed as if the Technical Advisory Committee does not have clinical guidance or interpretation to provide regarding the request or data at issue; and

(b) Respond to the original request for disclosure under §§C—E, G, and H of this regulation, or report potential misuse or abuse of a monitored prescription drug to a prescriber or dispenser under §B(5) of this regulation.

- [(3)] (5)—[(4)] (6) (text unchanged)

[.08].09 General Provisions.

A.—C. (text unchanged)

D. Redislosure of Prescription Monitoring Data.

(1) Prescription monitoring data received under Health-General Article, §21-2A-06, Annotated Code of Maryland, and Regulation .04 of this chapter may be redisclosed only:

- (a) (text unchanged)

(b) *For entities to which the Program has disclosed data in accordance with Regulation .05C—E and H of this chapter, to another agency cooperating with or providing support for the original data recipient's existing, bona fide, individual investigation;*

- [(b)] (c) (text unchanged)

[(c) To a medical review committee established under Health-Occupations Article, §1-401(b)(3), Annotated Code of Maryland, for the purpose of reviewing information on fatal drug and alcohol overdoses and preventing overdose deaths.]

(d) *To a local drug overdose fatality review team established under Health-General Article, Title 5, Subtitle 9, Annotated Code of Maryland.*

- (2) (text unchanged)

E.—F. (text unchanged)

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

Subtitle 47 ALCOHOL AND DRUG ABUSE ADMINISTRATION

10.47.08 Overdose Response Program

Authority: Health-General Article, §13–3101, Annotated Code of Maryland

Notice of Proposed Action

[15-017-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02—.05, .08, and .10 under COMAR 10.47.08 Overdose Response Program.

Statement of Purpose

The purpose of this action is to:

- (1) Codify existing reporting requirements from public and private training entities authorized by the Department under the program;
- (2) Add additional demographic information collected by the entities;
- (3) Change terminology to reflect training language;
- (4) Include additional information on certificates issued to trainees;
- (5) Make technical changes to reflect current practice; and
- (6) Other minor editorial corrections.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.reg@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(4) “Educational training program” means initial educational instruction in overdose [identification] *recognition* and response and the administration of naloxone.

(5)—(9) (text unchanged)

(10) “Refresher training program” means continuing educational instruction in overdose [identification] *recognition* and response and the administration of naloxone.

.03 Authorization of a Private or Public Entity.

A. Application for Authorization. A private or public entity that seeks to conduct educational training and refresher training programs and to issue and renew certificates under Health-General Article, Title 13, Subtitle 31, Annotated Code of Maryland, shall submit to the Department:

(1) A completed application form containing all identifying information for the private or public entity that is required by the Department, including:

(a)—(d) (text unchanged)

(e) Entity email address; [and]

(f) Name of *Entity Director*; and

(g) *If applicable, name of Training Program Director*;

(2)—(7) (text unchanged)

B.—C. (text unchanged)

D. Notification of Significant Change of Information. An authorized private or public entity shall notify the Department *in writing* of any significant change in the information that was submitted in the application for authorization under §A(1)—(6) within 30 days of such change.

E.—G. (text unchanged)

.04 Educational Training Programs and Refresher Training Programs.

A. Educational Training Programs.

(1) (text unchanged)

(2) An educational training program shall [contain] *include* a core curriculum provided by the Department for use by all authorized private and public entities. The core curriculum shall include training in:

(a)—(g) (text unchanged)

(3)—(4) (text unchanged)

(5) An educational training program shall be conducted by:

(a)—(b) (text unchanged)

(c) An employee or volunteer of an authorized private or public entity that maintains a written agreement with a supervisory physician or supervisory nurse practitioner that includes:

(i) (text unchanged)

(ii) Information as to how the employee or volunteer providing the information will be trained and evaluated *by the supervisory physician or nurse practitioner*;

(iii)—(iv) (text unchanged)

B. (text unchanged)

.05 [Certificate] *Certificates*.

A.—B. (text unchanged)

[B.] C. Certificate Format. The authorized private or public entity shall issue a certificate in a format provided by the Department that shall include:

(1)—(5) (text unchanged)

(6) The date of expiration; [and]

(7) *The telephone number for the Maryland Poison Center*; and
[(7)] (8) (text unchanged)

[C.] D. (text unchanged)

[D.] E. Certificate Renewal. An authorized private or public entity shall issue a renewal certificate to a certificate holder who has:

(1) Submitted to [the] *an* authorized private or public entity, not later than 90 days before the date of expiration of the certificate, a completed certificate renewal application form provided by the Department, along with any fee required by the Department [, and] ;

(2) Successfully completed a refresher training program conducted by an authorized private or public entity that meets the requirements of Regulation .04B of this chapter, or demonstrated proficiency to the authorized private or public entity issuing the certificate, by means of an assessment that documents, on a form provided by the Department, the certificate holder’s knowledge and skills necessary for:

(a) [Identifying] *Recognizing* an opioid overdose;

(b)—(c) (text unchanged)

[E.] F. Certificate Replacement.

(1) (text unchanged)

(2) A replacement certificate issued under [§E(1)] §F(1) of this regulation shall have the same format and contain the same information as that set forth in the original certificate.

.08 Suspension and Revocation of the Certificate of a Certificate Holder.

- A.—B. (text unchanged)
- C. Notification [of] to Certificate Holder.
(1)—(3) (text unchanged)
- D.—G. (text unchanged)

.10 Record Maintenance and Reporting.

- A. (text unchanged)
- B. A private or public entity authorized by the Department shall maintain records [regarding information] , *including*:

(1) *Information* for each certificate holder who has been issued a certificate by the [authorized] private or public entity *authorized by the Department*, including:

- [(1) Name] (a) *Full name*;
- [(2)] (b)—[(3)] (c) (text unchanged)
- [(4)] (d) Demographic information, including:
 - [(a)] (i) [Gender] *Ethnicity*; [and]
 - [(b)] (ii) *Race*; and
 - (iii) *Sex*; and

[(5)] (e) The specific status determination for eligibility to receive a certificate under Regulation .05B(2) of this chapter; and

[(6)] (2) *Information about each certificate issued by the private or public entity authorized by the Department, including:*

(i) *Full name of the individual to whom the certificate was issued;*

(ii) Certificate serial number;

[(7)] (iii)—[(8)] (iv) (text unchanged)

C. Reporting Information to the Department. A private or public entity authorized by the Department shall report to the Department:

(1) Information on program operations, including:

(a)—(b) (text unchanged)

(c) For private or public entities [dispensing] *authorized by the Department that dispense naloxone to certificate holders directly or by means of a voucher for redemption at a pharmacy:*

(i)—(iii) (text unchanged)

(d) Number and location of naloxone administrations and overdose reversals to the extent this information is reported by certificate holders to the [authorized] private or public entity *authorized by the Department*;

(2) [Information] *Demographic information* on certificate holders, including the aggregate number of certificate holders by:

- [(a) Race;
- (b) Gender; and
- (c) Age; and]
- (a) *Sex*;
- (b) *Ethnicity*;
- (c) *Race*;
- (d) *Age*; and

(e) *The specific status determination for eligibility to receive a certificate under Regulation .05B(2) of this chapter; and*

(3) (text unchanged)

D. *Information under §C of this regulation shall be reported by the private or public entity authorized by the Department on a monthly basis in a format specified by the Department.*

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

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

10.54.03 Retail Food and Pharmacy Vendors

Authority: Health-General Article, §§2-104(b), 18-107(a), and 18-108, Annotated Code of Maryland

Notice of Proposed Action

[15-002]

The Secretary of health and Mental Hygiene proposes to amend Regulations **.04**, **.13**, and **.14** under **COMAR 10.54.03 Retail Food and Pharmacy Vendors**.

Statement of Purpose

The purpose of this action is to refine the requirements for pharmacy vendors to receive authorization from the State agency, revise certain WIC-authorized foods, and amend certain amounts of minimum required stock.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to dhmh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.04 Authorization Requirements.

A.—D. (text unchanged)

E. In order to receive authorization from the State agency as a pharmacy vendor only, a pharmacy shall:

(1) Adhere to the requirements set forth in [§C(1), (3), and (5)—(10)] §C(1), (3), (5)—(6), and (8)—(10) of this regulation;

(2)—(3) (text unchanged)

F.—G. (text unchanged)

H. A [previously authorized] vendor *who has been* [currently] disqualified may not apply for authorization during the period of disqualification.

I.—K. (text unchanged)

.13 WIC-Authorized Foods.

A food store or food store/pharmacy combination vendor shall redeem food instruments for the following foods:

A. (text unchanged)

B. Dry cereal, 18-ounce box or larger for cold cereal, 11.8-ounce box or larger for hot cereal, in the following brands:

(1) General Mills cereals, limited to:

- (a) Cheerios, plain[; and] *and multigrain*;
- (b) (text unchanged)

- (c) *Corn Chex, gluten free; and*
- (d) *Rice Chex, gluten free.*
- (2) Kellogg's cereals, limited to:
 - (a)—(b) (text unchanged)
 - (c) Frosted Mini Wheats Original, Bite Size, and Big Bites;
 - (d)—(f) (text unchanged)
- (3) B&G Foods Cream of Wheat *Original flavor*:
 - (a)—(b) (text unchanged)
 - (c) Instant [Original Flavor];
- (4) Post cereals, limited to:
 - (a)—(d) (text unchanged)
 - (e) Honey Bunches of Oats [(honey roasted, almond, cinnamon bunches, vanilla bunches)] (*Honey Roasted, Almond, Cinnamon Bunches, Vanilla Bunches*);
- (5) Quaker cereals, limited to:
 - (a) (text unchanged)
 - (b) Instant Grits, [original] *Original flavor*;
 - (c) Instant Oatmeal, [original] *Original flavor*;
 - (d) (text unchanged)
 - (e) Life *Original flavor*;
- (6) Malt-O-Meal cereals, limited to:
 - (a) (text unchanged)
 - (b) Oat Blenders Honey [and] & Almonds;
 - (c) Creamy Hot Wheat Cereal; and
- C.—D. (text unchanged)
- E. Beans, store brand when available:
 - (1) (text unchanged)
 - (2) Unflavored beans, lentils, or peas in [14-ounce] *15-ounce to 16-ounce* water packed cans; and
 - (3) (text unchanged)
- F.—I. (text unchanged)
- J. Unsweetened 100-percent juice in 64-ounce containers in the following varieties and brands:
 - (1)—(4) (text unchanged)
 - (5) Grape (*red, purple, or white*):
 - (a)—(i) (text unchanged)
 - (6)—(8) (text unchanged)
- K. Frozen concentrate 100-percent juice in the following brands and varieties in size prescribed on the food instrument:
 - (1)—(2) (text unchanged)
 - (3) Apple:
 - (a) Old Orchard (*with green tear strip*);
 - (b)—(j) (text unchanged)
 - (4) (text unchanged)
 - (5) Grape:
 - (a)—(b) (text unchanged)
 - (c) Welch's (*with yellow tear strip*);
- L. Fluid milk of the following varieties in gallons, store brand when available and in container size shown on check:
 - (1) (text unchanged)
 - (2) 1-percent; [and]
 - (3) 2-percent; and
 - [(3)] (4) (text unchanged)
- M. The following kinds of milk as prescribed on a food instrument, store brand when available:
 - (1) (text unchanged)
 - (2) Powdered [(nonfat, whole, or dry)];
 - (3) Evaporated [(whole or nonfat)];
 - (4)—(5) (text unchanged)
- N.—O. (text unchanged)
- P. 100-percent whole [wheat] *grain* bread or [rolls in] *rolls*, 1-pound or 15-ounce to 16-ounce packages, *in the following brands*:
 - [(1) Store brand when available; and
 - (2) Label shall read:
 - (a) "100% Whole Wheat Bread"; or

- (b) "100% Whole Wheat Rolls";]
- (1) Bread:
 - (a) Acme 100% Whole Wheat Bread;
 - (b) Arnold Stone Ground 100% Whole Wheat;
 - (c) Bimbo 100% Whole Wheat Bread;
 - (d) Food Lion 100% Whole Wheat Sliced Bread;
 - (e) Giant 100% Whole Wheat Bread;
 - (f) Giant Eagle 100% Whole Wheat Bread;
 - (g) Giant Stone Ground 100% Whole Wheat Bread;
 - (h) Great Value 100% Whole Wheat Round Top Bread;
 - (i) Harris Teeter 100% Whole Wheat Bread;
 - (j) Mars 100% Whole Wheat Bread;
 - (k) Nature's Own 100% Whole Wheat 100% Whole Grain Bread Sugar Free;
 - (l) Pepperidge Farm Jewish Rye Bread Whole Grain Seeded;
 - (m) Pepperidge Farm Stone Ground 100% Whole Wheat Bread;
 - (n) Roman Meal Round Top Bread;
 - (o) Roman Meal Sungrain 100% Whole Wheat Bread;
 - (p) Safeway Kitchens 100% Whole Wheat Bread;
 - (q) Safeway 100% Whole Wheat Bread;
 - (r) Sara Lee 100% Whole Wheat Bread;
 - (s) Schmidt Old Tyme 100% Whole Wheat Whole Grain Bread;
 - (t) Shopper's 100% Whole Wheat Bread;
 - (u) ShopRite 100% Whole Wheat Bread;
 - (v) Shurfine 100% Whole Wheat Bread;
 - (w) Sterns Whole Wheat Bread;
 - (x) Weight Watchers 100% Whole Wheat Bread;
 - (y) Wonder 100% Whole Wheat Bread;
- (2) Rolls:
 - (a) Giant 100% Whole Wheat Hamburger Rolls;
 - (b) Giant 100% Whole Wheat Hot Dog Rolls;
 - (c) Nature's Own 100% Whole Wheat Sandwich Rolls;
 - (d) Schmidt Old Tyme Whole Grain 100% Whole Wheat Sandwich Rolls;
 - (e) Schmidt Old Tyme 100% Whole Grain White Wheat Sandwich Rolls;
 - (f) Schmidt Old Tyme Whole Grain 100% Whole Wheat Hot Dog Rolls;
 - (g) Schmidt Old Tyme 100% Whole Grain White Wheat Flour Long Rolls;
 - (h) Sterns 100% Whole Wheat Rolls;
- Q. (text unchanged)
- R. Soft corn or whole wheat tortillas in 16-ounce packages in the following varieties:
 - (1)—(3) (text unchanged)
 - (4) ChiChi's White Corn [or Whole Wheat];
 - (5) Don Pancho White Corn [or Whole Wheat];
 - (6) (text unchanged)
 - (7) La Banderita [White] Corn [or Whole Wheat];
 - (8)—(9) (text unchanged)
- S. Soy beverages if prescribed on a food instrument, in the brand and size shown on the check, the following brands and varieties:
 - (1) 8th Continent, half [gallons] *gallons*, original, plain, refrigerated;
 - (2) [8th Continent, quarts, original, plain, shelf-stable; and
 - (3)] Pacific Natural Foods Ultra Soy Brands, quarts, plain, shelf-stable; and
 - (3) Silk, half gallons, original, plain, refrigerated; and
- T. Tofu, if printed on a food instrument, in the following brands and varieties, and in 12-ounce to 16-ounce containers:
 - (1) (text unchanged)

(2) House, *firm*, extra firm, medium firm (regular), [cubed,] and soft (silken); and

(3) Nasoya, extra firm, firm, *cubed*, soft, silken, lite firm, and lite silken.

.14 Minimum Required Stock.

A. A food store or food store/pharmacy combination vendor shall maintain in the store during regular business hours the following minimum stock:

(1)—(5) (text unchanged)

(6) Infant fruits [and vegetables in 32 3.5-ounce to 4-ounce containers]:

(a) Two varieties [of fruit];

(b) [Two varieties of vegetables;] *16 3.5-ounce to 4-ounce containers; and*

(c) Plain or a combination of fruit [or vegetable] ingredients;

(7) *Infant vegetables:*

(a) *Two varieties;*

(b) *16 3.5-ounce to 4-ounce containers; and*

(c) *Plain or a combination of vegetable ingredients;*

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

[(8)] (9) Dry cereal:

[(a)] Two varieties;

(b) Six boxes corn,] (a) *Corn*, wheat, oats, or rice[:];

(i) *Six boxes; and*

(ii) *Two varieties; and*

[(c)] Six boxes whole] (b) *Whole* grain wheat or oats[: and];

(i) *Six boxes; and*

(ii) *Two varieties; and*

[(d)] (c) At least one hot cereal;

[(9)] (10)—[(10)] (11) (text unchanged)

[(11)] (12) Dry and water-packed canned beans:

(a) (text unchanged)

(b) 12 [14-ounce] *15-ounce* to 16-ounce cans in three varieties;

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

[(13)] (14) Vegetables and fruits in two varieties and a total value of \$32:

(a) Fresh, [whole] *whole* or cut;

(b)—(c) (text unchanged)

[(14)] (15) 100-percent whole [wheat] *grain* bread and rolls, brown rice, soft corn tortillas, or whole wheat tortillas in two varieties and a total of 4 pounds:

(a) 15-ounce to 16-ounce packages for [bread] *rolls*;

(b) 16-ounce packages for [rolls] *bread*;

(c)—(d) (text unchanged)

[(15)] (16) (text unchanged)

B. (text unchanged)

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

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 11 OFFICE OF THE SECRETARY

12.11.06 [Payment] *Performance of Duty-Related Death Benefits*

Authority: Public Safety Article, §1-202; Correctional Services Article, §2-109; and State Government Article, §9-943; Annotated Code of Maryland

Notice of Proposed Action

[15-003-P]

The Secretary of Public Safety and Correctional Services proposes to amend Regulations .01 and .02, adopt new Regulations .03—.05 and .07, and amend and recodify existing Regulations .03 and .04 to be Regulations .06 and .08, respectively, under COMAR 12.11.06 **Performance of Duty-Related Death Benefits**.

Statement of Purpose

The purpose of this action is to update exiting procedures to reflect current practices; correct style and formatting issues; incorporate new policies and procedures for administrative processing of requests for payment of military death benefits enacted by 2007 amendments to Public Safety Article, §1-202, Annotated Code of Maryland; and incorporate new policy and procedures for administrative processing requests for payment of funeral expenses for line of duty death under Public Safety Article, §1-202, Annotated Code of Maryland that were authorized by statute, but not addressed in COMAR.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Karen Murphy, Executive Director Human Resources Services Division, Maryland Department of Public Safety and Correctional Services, 6776 Reisterstown Road, Baltimore, MD 21215-2341, or call 410-585-3408, or fax to 410-764-4348. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 [Death Benefit] *Benefits*.

[The Secretary may award a death benefit under certain circumstances to a surviving spouse, children, dependent parents, or the estate of a law enforcement officer, sheriff or deputy sheriff, correctional officer, volunteer or career firefighter or rescue squad member, or any State fire marshal who died in the performance of duty.]

A. Death Benefit Eligibility — General.

(1) The Secretary, under Public Safety Article, §1-202, Annotated Code of Maryland, may award a death benefit to the surviving spouse, child, dependent parent, or estate of an individual who, after January 1, 2006, died as a result of the performance of duty as a:

- (a) Law enforcement officer;
- (b) Correctional officer;
- (c) Volunteer or career firefighter or rescue squad member;
- (d) State Fire Marshal or Deputy State Fire Marshal;
- (e) Public safety aviation employee; or
- (f) Subject to limitations in State Government Article, §1-202(j), Annotated Code of Maryland, hazardous material response team employee.

(2) The Secretary, under Public Safety Article, §1-202, Annotated Code of Maryland, may award a death benefit to the surviving spouse, child, dependent parent, or estate of Maryland resident who, after January 1, 2006, was a member of the United States military serving in the Afghanistan or Iraq conflict and died in the performance of duties:

- (a) During active military service in the Afghanistan or Iraq conflict; or
- (b) As a result of an injury sustained during active military service in the Afghanistan or Iraq conflict.

(3) A death benefit awarded under this chapter is subject to deductions for taxes debt or penalty owed by a decedent to a federal, state, or local government agency.

B. Funeral Expenses Eligibility — General. The Secretary, under Public Safety Article, §1-202, Annotated Code of Maryland, may award reasonable funeral expenses to the surviving spouse, child, parent, or estate of an individual specified under §A(1) of this regulation.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (2) (text unchanged)

(3) “Dependent parent” has the meaning stated under §152 of the Internal Revenue Code of the United States.

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

(5) “Individual serving in the Afghanistan or Iraq conflict” has the meaning stated in Public Safety Article, §1-202, Annotated Code of Maryland.

[(4)] (6) (text unchanged)

[(5)] (7) Performance of Duties.

(a) “Performance of duties” has, in the case of an individual under §§A(1)(c) — (f) under Regulation .01 of this chapter, the meaning stated in Public Safety Article, §1-202, Annotated Code of Maryland.

(b) “Performance of duties” means, in the case of an individual under §§A(1)(a) and (b) under Regulation .01 of this chapter, the individual was:

- (i) Actively participating in an official law enforcement or correctional responsibility;
- (ii) Going to or from an official law enforcement or correctional responsibility; or
- (iii) Performing other duties necessary to the performance of an official law enforcement or correctional responsibility.

(c) “Performance of duties” means, in the case of an individual under §§A(2) under Regulation .01 of this chapter, the individual was actively participating in an official United States military responsibility in Afghanistan or Iraq.

[(6)](8) — [(7)](9) (text unchanged)

.03 Benefit Payment Priority.

A. Death Benefit. When a death benefit is authorized, payment shall be made in the following priority order:

- (1) Full payment to the surviving spouse;
- (2) If there is no surviving spouse, full payment divided equally among surviving children;
- (3) If there is no surviving child, full payment to a surviving dependent parent; or
- (4) If there is no surviving dependent parent, full payment to the estate of the decedent.

B. Funeral Expenses. When funeral expenses are authorized, payment shall be made in the following priority order:

- (1) Full payment to the surviving spouse;
- (2) If there is no surviving spouse, full payment to the surviving child;
- (3) If there are no surviving child, full payment to a surviving parent; or
- (4) If there is no surviving parent, full payment to the estate of the decedent.

.04 Notification of Benefits.

A. For the purpose of informing individuals who may be entitled to benefits under this chapter, the Department of Public Safety and Correctional Services (Department) shall work with the Maryland Department of Veteran Affairs, other State and local government agencies and private agencies the Department determines to be appropriate, to communicate the availability of, eligibility criteria for, and application process for a benefit under this chapter.

B. The Department, with the approval of the Secretary, may establish an agreement with the Maryland Department of Veteran Affairs or other State or local government agency for the purpose of communicating the availability of, eligibility criteria for, and application process for a benefit under this chapter.

C. The Executive Director, Human Resources Services Division for the Department of Public Safety and Correctional Services (Executive Director), or a designee, shall take reasonable steps to notify a potential recipient of the death benefit under this chapter:

- (1) When the Executive Director receives information concerning the death of an eligible decedent; and
- (2) After 1 year from the date of death of an eligible decedent, if no application for the death benefit for the eligible decedent is received.

.05 Benefits Coordinator.

A. The Executive Director, or a designee, shall ensure that statutory and regulatory requirements for administration of benefits under this chapter are met.

B. The Executive Director shall:

- (1) Create and maintain forms necessary to apply for, process a request for, and award a benefit under this chapter;
- (2) To the degree possible, establish a network to identify and notify a surviving spouse, child, dependent parent, or estate potentially eligible to receive a benefit under this chapter;
- (3) Accept a request for, process a request for, and award to an eligible recipient a benefit under this chapter according to statutory and regulatory requirements; and
- (4) Establish and maintain records related to a request for, processing a request for, and awarding a benefit according to an approved retention schedule.

[.03].06 Applying for [Benefits] Death Benefit.

A. [An] Except for provisions under §B of this regulation, an individual [or agency] applying for the death [benefits] benefit under this chapter shall apply to the Executive Director in writing on forms

approved by the Executive Director and provide the Executive Director with:

(1) If the [beneficiary] *survivor* is the [surviving] spouse of a decedent eligible for the death benefit:

(a) A copy of the [employee's] *decedent's* death certificate;

(b) A copy of the [employee's] *decedent's* and [beneficiary's] *survivor's* marriage certificate;

(c) A copy of the [investigative] report documenting the circumstances of the [employee's] *decedent's* death;

(d) An official written statement from the agency *employing the decedent* that the [employee was killed or] *decedent* died in the [line] *performance of duty*; [and]

(e) *If applicable, a copy of the autopsy report; and*

[(e)] (f) The name, address, and Social Security number of the [beneficiary] *survivor eligible to receive the death benefit payment*;

(2) If the [beneficiaries are natural or adopted] surviving [children, or children born out of wedlock who are 18 years old or younger] *child or a legal guardian or authorized representative for the surviving child is applying*:

(a) The items under §A(1)(a) and (c)—[(d)] (e) of this regulation; and

(b) A copy of the birth certificate [or certificates] of the *surviving child* [or children];

(3) If the [beneficiaries are natural or adopted children, or children born out of wedlock who are older than 18 years old who are] *surviving child is mentally or physically incapable of* [supporting themselves] *personal support or a legal guardian or authorized representative for the child is applying*:

(a) (text unchanged)

(b) A statement from a physician concerning the disability of the *surviving child* [or children]; or

(4) If the [beneficiary is the] surviving dependent parent [or parents] *is applying*:

(a) The items under §A(1)(a) and (c)—[(e)] (f) of this regulation;

(b) (text unchanged)

(c) A copy of the decedent's most recent federal or State income tax return showing dependency of the parent [or parents].

B. Except for provisions under §A of this regulation, an individual or agency applying for a death benefit for a Maryland individual serving in the Afghanistan or Iraq conflict under this chapter shall provide:

(1) *The appropriate information required under §A(1), A(2), A(3), or A(4) of this regulation; and*

(2) *An official report from the U. S. military verifying the decedent died while in the performance of duties:*

(a) *During the Afghanistan or Iraq conflict while on active U. S. military service in Afghanistan or Iraq; or*

(b) *From an injury sustained while on active U. S. military service in Afghanistan or Iraq during the Afghanistan or Iraq conflict.*

[B.] C. — [C.] D. (text unchanged)

E. An application for the death benefit under this regulation shall be submitted to the Executive Director within 3 years of the death of the decedent's death.

.07 Applying for Funeral Expenses.

A. An individual applying for funeral expenses under this chapter shall apply to the Executive Director in writing on forms approved by the Executive Director and provide the Executive Director with:

(1) *Documentation that may include requirements for information established under Regulation .06 of this chapter to verify that the individual applying for funeral expenses under this chapter is eligible for the benefit; and*

(2) *A detailed summary of funeral expenses for a decedent representing the total cost of the funeral with invoices supporting the funeral expenses.*

B. An individual applying for funeral expenses under this chapter shall forward the required information to the Executive Director.

[.04] .08 Appeal.

A. An aggrieved individual may appeal [the Secretary's] a decision concerning a benefit under this chapter.

B. An appeal [is governed by] of an action under this chapter shall be in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

GREGG L. HERSHBERGER

Secretary of Public Safety and Correctional Services

Title 13A STATE BOARD OF EDUCATION

Subtitle 14 CHILD AND FAMILY DAY CARE

13A.14.06 Child Care Subsidy Program

Authority: Family Law Article, §§5-550, [5-551] 5-561, and [5-573] 5-570, Annotated Code of Maryland

Agency Note: Federal Regulatory Reference—[45 CFR 98, 99] *Child Care and Development Fund 45 CFR 98.50*

Notice of Proposed Action

[14-394-P]

The State Superintendent of Schools proposes to amend Regulations **.02—.05**, repeal existing Regulation **.06** and adopt new Regulation **.06**, adopt new Regulations **.07, .10, .13**, and **.14**, repeal existing Regulation **.12**, and amend and recodify existing Regulations **.07, .08, .09, .10**, and **.11** to be Regulations **.08, .09, .11, .12**, and **.15**, respectively, under **COMAR 13A.14.06 Child Care Subsidy Program**.

Statement of Purpose

The purpose of this action is to enable delivery of program serves by non-State vendors; require participation the Maryland EXCELS; require criminal background checks for informal child care providers; and Establish that the delivery of all subsidy program operations shall occur on a contractual basis; and increase the subsidy payment rates for child care providers by 2.5 percent.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed amendments will increase State costs by an estimated \$3,262,303 over the first 12 months following the amendments' effective date.

Revenue

(R+/R-)

Expenditure

(E+/E-) Magnitude

II. Types of Economic Impact.

A. On issuing agency:

(1) Criminal background checks for informal providers

(E+)

Indeterminate

(2) Flat rate deduction for self-employed	(E-)	\$41,784
(3) Increase formal subsidy provider rates	(E+)	\$1,883,056
(4) Increase informal subsidy provider rates	(E+)	\$111,211
(5) Increase the number of children in Tiered Reimbursement	(E+)	\$1,309,910
B. On other State agencies:		
(1) Birth certificate copies for subsidy applicants	(R+)	Indeterminate
(2) Criminal background checks for informal providers	(R+)	\$301,022
C. On local governments:		
	NONE	
	Benefit (+)	
	Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Flat rate deduction for self-employed	(-)	Indeterminate
(2) Increase formal subsidy provider rates	(+)	\$1,883,056
(3) Increase the number of children in Tiered Reimbursement	(+)	\$1,309,910
E. On other industries or trade groups:		
(1) Criminal background checks for informal providers	(-)	\$301,022
(2) Flat rate deduction for self-employed	(-)	Indeterminate
F. Direct and indirect effects on public:		
(1) Birth certificate copies for subsidy applicants	(-)	Indeterminate
(2) Criminal background checks for informal providers	(-)	Indeterminate
(3) Flat rate deduction for self-employed	(-)	\$19,939
(4) Increase formal subsidy provider rates	(+)	\$1,883,056
(5) Increase informal subsidy provider rates	(+)	\$111,211
(6) Increase the number of children in Tiered Reimbursement	(+)	Indeterminate

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

A(1). Some proportion of current informal providers will likely decline to undergo criminal background checks on themselves and on other members of their households. As a result, the total number of informal providers served by the subsidy program may well decline, and the requirements for care would of necessity be served by formal (and more expensive) providers. The extent of this effect is unknown, however, and the fiscal impact cannot be quantified at this time.

A(2). The State has lower costs because self-employed income cases pay higher child care copayments.

Number of cases reporting self-employment income, SFY 2013: 95.

Average weekly subsidy cost per case: \$43.77.

Total annual cost: \$216,217.

Estimated average weekly subsidy after flat rate deduction: \$35.29.

Estimated total annual cost: \$174,342.

Total estimated cost decrease: \$41,874.

A(3). The State has higher costs because subsidy rates will increase while copayments will remain the same.

Projected number of children receiving formal care, SFY 2015: 16,813.

Average cost per child: \$4,489.

Total annual cost: \$75,473,557.

Estimated average cost per child after 2.5% increase: \$4,602.

Estimated total annual cost: \$77,356,613.

Total estimated cost increase: \$1,899,869.

A(4). The State has higher costs because subsidy rates will increase while copayments will remain the same.

Projected number of children receiving informal care, SFY 2015: 2,293.

Average cost per child: \$1,879.

Total annual cost: \$4,308,547.

Estimated average cost per child after 2.5% increase: \$1,927.50.

Estimated total annual cost: \$4,417,465.

Total estimated cost increase: \$111,211.

A(5). The State has higher costs because more children will be in providers at higher tiers of the EXCELS Tiered Reimbursement system.

Average number of children in Tiered Reimbursement, SFY 2014: 665.

Percent of such children in Tiered Reimbursement, SFY 2014: 3.6%.

Average annual cost per child: \$1,026.

Total annual cost: \$682,290.

Estimated children receiving subsidy, SFY 2015: 19,760.

Estimated percent of total subsidy children in Tiered Reimbursement: 7.2%.

Estimated average number of children in Tiered Reimbursement, SFY 2015: 1,423.

Estimated average annual cost per child: \$1,400.

Estimated total annual cost: \$1,992,200.

Total estimated cost increase: \$1,309,910.

B(1). Some parents will have to procure birth certificates in order to satisfy this requirement, but there is no way to determine how many parents will need to do so.

B(2). Estimated % of informal providers requiring CBC's in first year: 85%.

Number of informal providers, SFY 2013: 2,170.

Cost of CBC including fingerprinting: \$60.00.

Total people per household who require CBC's: 1.72.

Estimated total annual cost: \$190,352.

D(1). Since private payment is less certain and less timely than State payment, formal providers will likely experience some adverse consequences of this change. However, there is no reliable information about the magnitude of those consequences.

D(2). See A(3) above.

D(3). See A(5) above.

E(1). See B(2) above.

E(2). Because private payment is less certain and less timely than State payment, informal providers likely experience some adverse consequences of this change. However, there is no reliable information about the magnitude of such consequences.

F(1). Some parents will need to obtain a birth certificate copy to satisfy the proposed requirement regarding proof of identity.

However, it is not possible to determine how many parents will need to do this.

F(2). There may be a decrease in the availability of informal care to support parents' need for child care. However, the size of the effect cannot be determined.

F(3). Estimated number of cases reporting self-employment income: 95.

Flat rate income deduction: 30%.

Estimated average weekly copay: \$14.96.

Estimated total annual cost to parents: \$46,514.

Estimated average weekly copay after flat rate deduction: \$23.32.

Estimated total annual cost to parents: \$66,453.

Total estimated cost increase: \$19,939.

F(4). The rate increase may result in the provider charging lower additional copay (considering not the official, State assigned copay, but rather the additional charges levied by some providers to compensate for the shortfall between the State subsidy and copay and market rates). However, there aren't sufficient data at present to determine the extent of this possible effect.

F(5). See A(4) above.

F(6). Research increasingly shows that quality child care in children under age 5 affects later performance in school and life. The tiered reimbursement system was structured to increase these effects, and thus may well have fiscal impacts, but it is impossible to quantify such impacts at present.

Economic Impact on Small Businesses

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

(1) Requiring birth certificates or passports for Child Care Subsidy (CCS) Program applications

Intended Beneficiaries

The proposed regulation will benefit the Child Care Subsidy program by increasing the accuracy of identification of children for whom care is being subsidized, thus improving the internal consistency of program data. The primary beneficiaries of this improvement will be program managers and staff in the Child Care Subsidy program.

Intended Beneficiaries: Households

Little effect on the general public is expected.

Intended Beneficiaries: Businesses

There will be little or no effect on small businesses.

Other Direct or Indirect Impacts: Adverse

There is some increase in paperwork necessary for application for subsidy, and some members of the public may have to procure copies of birth certificates from public agencies, at a cost of \$24.00 to DHMH, Vital Records. However, there is no data to indicate the extent to which copies will be needed.

Other Direct or Indirect Impacts: Positive

Child Care Subsidy data will be more easily and reliably linked to other administrative data for research purposes.

Long-Term Impacts

No long-term effects on Maryland small businesses are anticipated which may differ from, compound, mitigate, or offset the initial effects described above.

Estimates of Economic Impact

(a) Cost of providing goods and services: Depending on the requests for copies, DHMH may experience some increased costs. These costs are expected to be minimal.

(b) Effect on the work force: None.

(c) Capital investment, taxation, competition, and economic development: None.

(d) Consumer choice: None.

(2) Requiring Criminal Background Checks for Informal Providers

Intended Beneficiaries

This requirement is primarily intended to protect children by requiring better guarantees that State funds are not being used to subsidize potentially dangerous care.

Intended Beneficiaries: Households

Parents will benefit from greater certainty about the quality of care among informal providers, which may improve work performance and reduce absences. To the extent that transfers to formal care occur as the result of declines among informal providers, children may benefit from improved care and better school readiness.

Intended Beneficiaries: Businesses

Business may also benefit from the improved work performance of their employee parents.

Other Direct or Indirect Impacts: Adverse

Some informal providers will no doubt decline to participate, and thus will lose subsidy income. All informal providers receiving subsidies in the future will experience slightly higher costs as a result of the criminal background check requirement.

Other Direct or Indirect Impacts: Positive

The regulation's economic benefit to Maryland business is noted above. It is also believed the regulation will have some indirect positive effect, but there is no data available to allow quantification of this effect.

Long-Term Impacts

No long-term effects on Maryland small businesses are anticipated which may differ from, compound, mitigate, or offset the initial effects described above.

Estimates of Economic Impact

(a) Cost of providing goods and services: Informal providers will experience increased costs of doing business as shown above in Section II, E(3).

(b) Effect on the work force: As noted above, there may be improvements in work performance among parents with children at informal providers.

(c) Capital investment, taxation, competition, and economic development: Formal providers may benefit from increased demand to the extent that informal providers decline to procure the needed background checks. Formal providers can be expected to be greater sources than informal providers of capital investment, tax revenues and economic development.

(d) Consumer choice: A smaller, though higher quality range of providers will be available for those who need child care subsidies.

(3) Flat Rate Deduction For Self-Employed

Intended Beneficiaries

The proposed regulation will benefit the Child Care Subsidy program by reducing labor costs of eligibility determination, and by freeing up funds to be redeployed among other eligible families. It will also eliminate one source of error in such determinations, thus improving effective application of eligibility policies.

Intended Beneficiaries: Households

Parents in households with self-employed income will be treated equally and in a timelier manner in income determination.

Intended Beneficiaries: Businesses

Business may suffer a small adverse effect in less certainty and reliability of payment from those self-employed parents whose eligibility income rises.

Other Direct or Indirect Impacts: Adverse
None

Other Direct or Indirect Impacts: Positive
None

Long-Term Impacts

No long-term effects on Maryland small businesses are anticipated which may differ from, compound, mitigate, or offset the initial effects described above.

Estimates of Economic Impact

- (a) Cost of providing goods and services: Uncertain but minimal.
- (b) Effect on the work force: None
- (c) Capital investment, taxation, competition, and economic development: None
- (d) Consumer choice: None

(4)—(5) Increase Formal and Informal Child Care Subsidy Provider Rates

Intended Beneficiaries

The proposed regulation will benefit both child care businesses (providers) offering child care subsidy services and households (families) eligible to receive those services. The benefits will result from: (1) increasing child care subsidy formal provider rates to the 41st percentile of January 2007 market rates to support parental choice by maintaining state child care subsidy rates at competitive levels, as specified above; (2) increasing child care subsidy informal provider rates by 2.5% to support informal care as an economically viable occupation.

Intended Beneficiaries: Households

Increasing both child care subsidy formal and informal provider payment rates will reduce the overall amount of out-of-pocket costs to families who would otherwise be responsible to pay additional fees to cover the difference between the actual cost of care and the state subsidy. Increasing child care subsidy provider payment rates will also improve eligible families' access to child care by offering them a wider choice among potential providers.

Intended Beneficiaries: Businesses

The proposed regulation will benefit Maryland's regulated child care industry, which is composed almost entirely of small businesses. The regulation will increase provider revenue by increasing the reimbursement rate for any Child Care Subsidy Program children currently in care, making it more economically feasible for providers to take in Child Care Subsidy Program children, and it may decrease the risk associated with co-payment collections.

Other Direct or Indirect Impacts: Adverse

Since the proposed regulation does not require any action to be taken by child care providers, it will not involve any compliance-related costs or additional expenses for those providers. No adverse effects, direct or indirect, are anticipated.

Other Direct or Indirect Impacts: Positive

The regulation's economic benefit to the child care industry is noted above. Providers may use some portion of this benefit to improve or expand their child care operations (for example, increase staff wages, hire more staff, purchase additional equipment, expand the child care facility, etc.). To the extent that this occurs, the regulation will have some indirect positive effect. There is no data available to allow quantification of this effect.

Long-Term Impacts

No long-term effects on Maryland small businesses are anticipated which may differ from, compound, mitigate, or offset the initial effects described above.

Estimates of Economic Impact

(a) Cost of providing goods and services: The proposed regulation will raise the State cost of child care subsidy services by \$1,886,994 for formal providers and \$107,714 for informal providers in SFY 2015 beginning January 2015. The regulation should have no other effect on the cost of providing goods and services.

(b) Effect on the work force: As noted above, the proposed regulation may have some indirect positive effect on child care industry employment and/or compensation.

(c) Capital investment, taxation, competition, and economic development: As noted above, there may be some indirect effect on capital investment by some child care businesses wishing to expand their operations. There may also be some effect (unquantifiable) on the tax position of those child care businesses that realize an actual increase in revenues as a result of the provider rate increase.

(d) Consumer choice: As noted above, consumer choice is expected to be affected positively by maintaining or improving accessibility to child care subsidy services.

(6) Increase the Number of Children in Tiered Reimbursement

Intended Beneficiaries

The proposed regulation will benefit customers of the Child Care Subsidy program by increasing the average quality of care received from child care providers, in terms of both health and safety and education. It will also benefit the providers themselves by providing additional income with which to meet the cost of improving standards of care.

Intended Beneficiaries: Households

Both parents and children will benefit from the improved quality of care made possible by additional payments.

Intended Beneficiaries: Businesses

Child Care Providers, all of which are small businesses, will experience increased income.

Other Direct or Indirect Impacts: Adverse
None.

Other Direct or Indirect Impacts: Positive
None.

Long-Term Impacts

No long-term effects on Maryland small businesses are anticipated which may differ from, compound, mitigate, or offset the initial effects described above.

Estimates of Economic Impact

(a) Cost of providing goods and services: Additional revenues per child will offset the cost of increasing quality of care.

(b) Effect on the work force: Potential small positive improvement in average wages of the workforce because of improved standards and the ability to hire or retain personnel with higher educational qualifications.

(c) Capital investment, taxation, competition, and economic development: There are potential impacts in all of these, as follows: capital investment, because EXCELS is expected to lead to a shift from in-home care to group care, which will require additional commercial space; taxation, because of increased income in the childcare workforce; competition, because the EXCELS program, as enhanced by the Tiered Reimbursement regulations referenced here, will give the public an additional means of judging the quality of

child care providers; economic development, because of beneficial influences of additional health, safety and educational quality care provided to low income children.

(d) Consumer choice: Uncertain.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Betsy Blair, Manager, Child Care Subsidy Program, Maryland State Board of Education, Division of Early Childhood Development, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-7845 (TTY 410-333-6442), or email to elizabeth.blair@maryland.gov, or fax to 410-333-6226. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

[(5)] (5) “Adult with a regular presence when the child is in care” means an adult who is frequently present in the home of the informal child care provider during the hours that child care is provided.

(6) “Adult with physical custody of a child” means an adult, other than the child’s parent, who has custody of a minor child residing in the same household, as evidenced by:

(a) A court order;

(b) Written authorization from a parent, if the parent is not residing in the same household; or

(c) Other documentation acceptable to the local department.]

[(5)] “Adverse action” means the denial, termination, suspension, or reduction of:

(a) Services to a customer; or

(b) Payment to a provider.

[(7)] (6) “Appellant” means [an applicant] a customer, recipient, or other individual who is:

(a)—(b) (text unchanged)

[(8)] “Applicant” means the child’s parent, guardian, or caretaker who applies for Child Care Subsidy (CCS) services.]

[(9)] (7) “Approved activity” means a pursuit in which [an applicant or] a customer is participating that is approved by the [local department] CCS Program for a TCA family, or by an individual who is:

(a)—(b) (text unchanged)

(c) [Participating in a work experience activity] Engaged in volunteer work;

(d) (text unchanged)

(e) Working; or

[(f)] Participating in a work activity; or]

[(g)] (f) [Participating in a community service activity] Performing community service.

[(10)] (8) (text unchanged)

(9) “Birth certificate” means an official record, issued by an authorized governmental unit, of an individual’s full name, gender, parentage, and date, place, and time of birth.

[(11)] “Block grant” means the Child Care and Development Block Grant established under §5082 of the Omnibus Budget Reconciliation Act of 1990, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193.]

[(12)] (10) “Case management” means the process of determining or redetermining eligibility for [applicants and] customers, including collecting verifications.

[(13)] (11) (text unchanged)

[(14)] (12) “Child care” means care in a [State-recognized] setting that is approved, licensed, or license-exempt under Maryland law by an individual other than the parent, stepparent, guardian, or caretaker for less than a 24-hour day and for which compensation is paid.

[(15)] (13) (text unchanged)

[(16)] (14) “Child Care Subsidy (CCS) Program” means the system of providing financial assistance for child care [for] to an eligible family, under which the contractor pays to the provider all or part of the payment on behalf of the family.

[(17)] (15) “Child Care Subsidy (CCS) Branch” means the unit [of the Division of Early Childhood Development, in the Maryland State Department of Education,] within the Division that regulates and administers Maryland’s CCS voucher system for [TCA and income-eligible] eligible families.

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

[(19)] (17) “Contractor” means the entity designated by [MSDE to process payments to child care providers and to handle tasks related to provider payment processing.] the Division to:

(a) Take applications for CCS Program services;

(c) Issue child care subsidy vouchers to eligible customers;

(c) Process payments to child care providers and handle tasks related to provider payment processing; and

(d) Handle all aspects of case management, including hearings and appeals, consumer education, and overpayments.

[(20)] (18) “Copayment” means that portion of the financial cost of child care services assigned by [a local department] the contractor to a family and paid on a unit basis by the family to the provider.

[(21)] “Credentialing Branch” means the unit in the Division of Early Childhood Development in the Maryland State Department of Education that ensures that child care providers have access to quality training opportunities and that they are recognized for achieving quality improvements.]

[(22)] (19) “Customer” means an individual [who is eligible for and receiving services through the CCS Program.] or family that:

(a) Applies for initial or continuing CCS Program services; or

(b) Currently receives CCS Program services.

[(23)] “Department of Human Resources” means the agency that determines eligibility for CCS applicants and customers and handles case management related duties.

(23-1) “Division of Special Investigations” means the unit of the Office of the Inspector General in the Department of Human Resources or the contractor that provides investigative resources in the investigation of suspected fraud in Child Care Subsidy applications, redeterminations, and open cases.]

(20) “Division” means the Division of Early Childhood Development, which is housed within the Maryland State Department of Education.

[(24)] (21)—[(26)] (23) (text unchanged)

[(27)] “Family income” means the combined monthly gross income, as defined in §B(40) of this regulation, of all family members.]

[(28)] (24) “Family Investment Program (FIP)” means an assistance program of the Maryland Department of Human Resources [to] for families with children encompassing services, work experience, or temporary cash assistance (TCA).

[(29)] (25) (text unchanged)

[(30)] (26) “Family size” means the number of individuals residing in the same household as a family as defined in [§B(25)] §B(21) of this regulation.

[(31)] (27) “Good cause” means [there are] circumstances in which the [applicant’s] customer’s cooperation with the child support requirement may not be in the best interest of the child.

(28) *Gross Income.*

(a) “Gross income” means the sum of earnings, prior to adjustments such as, but not limited to, pretax benefits and rental property depreciation, that are received by an individual for compensation of services rendered on a regular or recurrent basis.

(b) “Gross income” includes, but is not limited to:

- (i) Wages, salary, and, as specified at Regulation .03F(8)(a) of this chapter, income from self-employment;
- (ii) Commissions, tips, and bonuses;
- (iii) Dividends and interest;
- (iv) Social Security benefits, including disability and survivors benefits;
- (v) Pensions and annuities;
- (vi) Estate income;
- (vii) Military entitlements, bonuses, and allowances;
- (viii) Rental income;
- (ix) Unemployment and Workers’ Compensation; and
- (x) Alimony and child support.

(c) “Gross income” does not include:

- (i) Temporary Cash Assistance payments;
- (ii) Supplemental Security Income payments;
- (iii) \$5,000 of a family’s annual gross income per child for an adult with physical custody of a child as defined at §B(40) of this regulation;
- (iv) \$5,000 of a family’s annual gross income per child when the minor parent attends public school full-time;
- (v) Money received from sales of property, such as stocks, bonds, a house, or a car, unless the individual was engaged in the business of selling the property, in which case the net proceeds would be counted as income from self-employment;
- (vi) Withdrawals of bank deposits;
- (vii) Money borrowed;
- (viii) Tax refunds;
- (ix) Gifts;
- (x) Lump sum inheritances or insurance payments;
- (xi) Subsidized adoption, subsidized guardianship, and foster care payments;
- (xii) Value of food stamps or supplemental assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act as amended;
- (xiii) Earnings of a child younger than 15 years old or a child younger than 18 years old who is attending a public school;
- (xiv) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;
- (xv) A grant or loan to an undergraduate student for educational purposes made or insured under a program administered by the Commissioner of Education under the Higher Education Act;
- (xvi) Any stipends, compensation, or expenses received for volunteer service from programs existing or pending under the Domestic Volunteer Service Act of 1973 sponsored by ACTION;
- (xvii) Any payment received under the Community Service Trust Act of 1973;
- (xviii) Earnings received by a youth in a program under the Workforce Investment Act;
- (xix) Energy grants and allowances received from P.L. 96-126 through the Maryland Energy Assistance Program;
- (xx) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (xxi) Child support payments made by a noncustodial parent for a child not residing in the customer’s household;
- (xxii) \$2,500 of child support state and federal tax intercepts and arrearage payments;

(xxiii) Veterans Administration payments to children with birth defects born to female Vietnam veterans;

(xxiv) Educational assistance income used for an educational activity that is approved by the Maryland Higher Education Commission or is part of the FIP Independence Plan;

(xxv) Payments made to correct underpayments to recipients; and

(xxvi) Census earnings made by temporary census workers.

(29) “Identified as responsible for child abuse or neglect” means being determined by a local department of social services to be responsible for indicated child abuse or neglect, under circumstances specified in the Family Law Article, §5-714, Annotated Code of Maryland, or awaiting the local department’s appeal hearing after the determination.

[(32)] (30) (text unchanged)

[(33)] (31) “Informal child care” means child care that:

(a) [Is self-arranged and nonregulated] Does not require the child care provider to be licensed or regulated under Maryland law; and

(b) [Requires child care providers to submit a signed affirmation of compliance with child care health and safety standards and to agree to a Child Protective Services record check, but does not require these providers to be licensed or regulated under State law] Is limited to:

- (i) Relative care;
- (ii) In-home care; and
- (iii) Babysitting.

[(34)] “Hearing” means a contested case hearing as defined in State Government Article, §10-202(d), Annotated Code of Maryland.]

[(35)] (32) (text unchanged)

[(36)] (33) “Intentional program violation” means an intentional false or misleading statement or misrepresentation, concealment, or withholding of facts for the purposes of establishing or maintaining the [applicant, recipient] customer’s, recipient’s, or provider’s eligibility for CCS payments or for increasing or preventing a reduction of the amount of assistance.

[(37)] “Local department” means a local department of social services in a county or Baltimore City, and the Montgomery County Department of Health and Human Services.

(38) “Local director” means the director of the local department of social services in a county or Baltimore City, and the Montgomery County Department of Health and Human Services.

(39) “Maryland State Department of Education” means the agency that provides leadership, support, and accountability for effective systems of public school, including the Division of Early Childhood Education.

(40) *Monthly Gross Income.*

(a) “Monthly gross income” means the sum of monthly income, including pretax benefits, received by an individual.

(b) “Monthly gross income” includes, but is not limited to:

- (i) Wages, salary, and net income from self-employment;
- (ii) Commissions, tips, and bonuses;
- (iii) Dividends and interest;
- (iv) Social Security benefits, including disability and survivors benefits;
- (v) Pensions and annuities;
- (vi) Estate income;
- (vii) Unemployment and Workers’ Compensation; and
- (viii) Alimony and child support.

(c) “Monthly gross income” does not include:

- (i) Temporary Cash Assistance payments;
- (ii) Supplemental Security Income payments;

(iii) \$5,000 of a family's annual gross income per child for adults with physical custody of a child as defined in §B(6) of this regulation;

(iv) \$5,000 of a family's annual gross income per child when the minor parent attends public school full-time;

(v) Money received from sales of property, such as stocks, bonds, a house, or a car, unless the individual was engaged in the business of selling the property, in which case the net proceeds would be counted as income from self-employment;

(vi) Withdrawals of bank deposits;

(vii) Money borrowed;

(viii) Tax refunds;

(ix) Gifts;

(x) Lump sum inheritances or insurance payments;

(xi) Subsidized adoption, subsidized guardianship, and foster care payments;

(xii) Value of food stamps or supplemental assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act as amended;

(xiii) Earnings of a child younger than 15 years old or a child younger than 18 years old who is attending a public school;

(xiv) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(xv) A grant or loan to an undergraduate student for educational purposes made or insured under a program administered by the Commissioner of Education under the Higher Education Act;

(xvi) Home produce for household consumption;

(xvii) Any stipends, compensation, or expenses received for volunteer service from programs existing or pending under the Domestic Volunteer Service Act of 1973 sponsored by ACTION;

(xviii) Any payment received under the Community Service Trust Act of 1973;

(xix) Earnings received by a youth in a program under the Workforce Investment Act;

(xx) Energy grants and allowances received from P.L. 96-126 through the Maryland Energy Assistance Program;

(xxi) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(xxii) Child support payments made by a noncustodial parent for a child not residing in the applicant's household;

(xxiii) \$2,500 of child support state and federal tax intercepts and arrearage payments;

(xxiv) Veterans Administration payments to children with birth defects born to female Vietnam veterans;

(xxv) Educational assistance income that is used for an approved educational activity or is part of the FIP Independence Plan; and

(xxvi) Payments made to correct underpayments to recipients.]

(34) "Local jurisdiction" means:

(a) One of Maryland's 23 counties; or

(b) Baltimore City.

(35) "Maryland EXCELS" means the State's tiered quality rating and improvement system for early care and education programs.

(36) "MSDE" means the Maryland State Department of Education.

(37) "Non-traditional hours" means:

(a) One hour or more between 7:00 p.m. and 6:00 a.m., Monday through Friday; or

(b) Any period of one hour or more on a Saturday or a Sunday.

[41] (38) "Office of Administrative Hearings (OAH)" means the [unit within the Executive Branch established by State Government Article, §9-1602, Annotated Code of Maryland] *administrative unit of Maryland government which is responsible for processing requests for hearings, for scheduling and conducting hearings, and for rendering decisions pursuant to State Government Article, §9-1601 et seq., Annotated Code of Maryland.*

[(42)] (39) (text unchanged)

(40) "Parent" means the biological or adoptive parent or the legal guardian or custodian of a child, who applies for the child to receive CCS Program services.

(41) "Physical custody of a child" means custody of a minor child by an adult other than the child's parent in whose household the child resides, as evidenced by:

(a) A court order;

(b) Written authorization from a parent, if the parent is not residing in the same household; or

(c) Other documentation acceptable to the contractor.

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

[(44)] (43) "Provider" means [an individual who is 18 years old or older and who]:

(a) [Is responsible for the operation of a family child care home or child care center; or] *A family child care home;*

(b) [Provides informal child care.] *A child care center; or*

(c) *An individual approved by the CCS Branch to provide informal child care.*

[(45)] (44) "Public assistance" means Supplemental Security Income (SSI) received pursuant to Title XVI of the Social Security Act or cash benefits received through any program administered by the Family Investment Administration or successor administration.

[(46)] "Public school" means an approved academic or vocational program carried out in an elementary school, junior high school, middle school, high school, program for special students, or General Educational Diploma tutoring program.]

(45) "Qualified alien" means a citizen of a foreign country who does not hold dual U.S. citizenship, is not a naturalized U.S. citizen, and:

(a) *Has been lawfully admitted for permanent residence in the U.S.;*

(b) *Has been granted asylum in the U.S.;*

(c) *Is a refugee in the U.S.;*

(d) *Has been granted conditional entry into the U.S.;*

(e) *Has been temporarily paroled into the U.S. for limited reasons;*

(f) *Is under a suspended deportation order from the U.S.;* or

(g) *Has been battered or subjected to extreme cruelty by a parent or family member in the U.S. and who has:*

(i) *Been approved, or has petitioned, for status as a child of a U.S. citizen;*

(ii) *Been classified as the child of a lawfully admitted alien; or*

(iii) *Had a deportation order suspended with an adjustment of status.*

[(47)] (46)—[(50)] (49) (text unchanged)

(50) "Self-employment" means generating one's income directly from customers, clients, or other organizations as opposed to being an employee of a business or another individual.

[(51)] (51)—[(52)] (52) (text unchanged)

(53) "Successfully passed" means, when used in connection with:

(a) *A criminal background check, that an individual:*

(i) *Has not received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at Regulation .06D(6)(b)(i)—(xi) of this chapter; or*

(ii) *If having received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime not listed at Regulation .06D(6)(b)(i)–(xi) of this chapter, has been assessed by the contractor as suitable to serve as an informal child care provider; or*

(b) *A review of records of abuse and neglect of children or adults, that an individual has been assessed by the contractor as being suitable to serve as an informal child care provider.*

[(53)] (53) “Superintendent’s delegation” means the Superintendent’s delegation of hearing authority made pursuant to State Government Article, §10-205, Annotated Code of Maryland.]

[(54)] (54) (text unchanged)

[(55)] (55) “Tiered reimbursement” means weekly payments that:

(a) Exceed the payment rates specified in Regulation [.09B—D].11B—D of this chapter;

(b) Are paid to a child care center or a family child care provider that [meets training and program quality requirements pursuant to COMAR 13A.14.09.09] *is participating in Maryland EXCELS at certain quality rating levels; and*

(c) (text unchanged)

[(56)] (56) Training.

(a) “Training” means any type of instructional program, except for post-college graduate programs, that is approved by the [local department] *Division.*

(b) “Training” includes an [undergraduate college, a vocational program, a publicly funded training program, or volunteer activity designed to lead to employment of the participant] *accredited undergraduate college, an accredited vocational program, or a publicly funded training program.*

[(57)] (57) (text unchanged)

[(58)] (58) “Underpayment” means a payment received by a [recipient or] provider that is less than the allowable amount owed the [recipient or] provider as determined by this chapter.

[(59)] (59) (text unchanged)

[(60)] (60) “Voluntary closure” means the period of time a child care provider is closed that:

(a) (text unchanged)

(b) [Excludes the holidays listed in Regulation .09G(7) of this chapter.] *For child care centers and family child care homes, excludes:*

(i) *Christmas Day;*

(ii) *New Year’s Day;*

(iii) *Memorial Day;*

(iv) *Independence Day;*

(v) *Labor Day; and*

(vi) *Thanksgiving Day.*

[(61)] (61) “Voucher” means a [coupon] *certificate* given to a customer by the [local department] *contractor* for use in purchasing child care from a provider.

[(62)] (62) (text unchanged)

.03 Eligibility.

[A. Except for services sought for a foster care child, a Maryland resident is eligible for CCS services when the:

(1) Resident meets need and income requirements specified in §§C and D of this regulation; and

(2) Child for whom services are sought meets the requirements of §B of this regulation.]

A. *To be eligible for the CCS Program, a customer shall:*

(1) *Be a resident of the State of Maryland;*

(2) *Meet the need requirement set forth at §E of this regulation; and*

(3) *Meet the income requirement set forth at §F of this regulation of this chapter.*

B. Citizenship Status. [A child receiving CCS services shall be a] *To receive CCS Program services, a child shall be a:*

(1) (text unchanged)

(2) [Qualified alien:

(a) Who is lawfully admitted for permanent residence in the U.S.;

(b) Who is granted asylum;

(c) Who is granted conditional entry;

(d) Who is temporarily paroled into the U.S. for limited reasons;

(e) Whose deportation is being withheld; or

(f) Who is a refugee; or

(3) Qualified alien who has been battered or subjected to extreme cruelty by a parent or household member in the U.S. and who has:

(a) Been approved for or has petitioned for status as a child of a U.S. citizen;

(b) Been classified as the child of a lawfully admitted alien; or

(c) Had deportation suspended with an adjustment of status.] *Qualified alien, as defined in Regulation .02B(44) of this chapter.*

C. [Identity. At initial application, the applicant shall provide proof of identity for each member of the CCS eligibility unit.] *Proof of Identity.*

(1) *At the time of initial application for CCS Program services, a customer shall submit to the contractor acceptable proof of identity for each family member;*

(2) *Acceptable proof of identity is limited to:*

(a) *A valid U.S. passport;*

(b) *A birth certificate;*

(c) *Documentation of birth abroad issued by the U.S. Department of State;*

(d) *Documentation issued by an agency of the U.S. government that certifies the applicant as:*

(i) *A naturalized U.S. citizen;*

(ii) *A permanent resident alien;*

(iii) *The holder of a current non-immigrant work visa;*

(e) *A valid, unexpired foreign passport with a current U.S. visa affixed and accompanied by documentation of the applicant’s most recent entry into the U.S.;*

(f) *Any other document designated by an agency of the U.S. government, and established by notice in the Federal Register, as acceptable for certifying proof of identity;*

(g) *A valid driver’s license, issued by Maryland or by another state; or*

(h) *A Maryland State Motor Vehicle Administration photo identification card.*

(3) *Services shall be denied for a child for whom care is requested if acceptable proof of identity for that child is not provided.*

(4) *Proof of identity shall be maintained by the contractor in the customer’s CCS Program case record.*

D. Child Immunizations.

(1) *Before a child may begin receiving CCS Program services, the:*

(a) *Child shall have had immunizations appropriate for the child’s age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene (DHMH); and*

(b) *Child’s immunization status shall have been documented on an immunization certificate form provided by DHMH.*

(2) *Exemption from Immunization.*

(a) *Section §D(1) of this regulation does not apply if a child's:*

(i) *Documented medical condition contraindicates immunization; or*

(ii) *Parent objects to the immunization on religious grounds.*

(b) *If the child's parent objects to a child's immunization or medical examination, or both, on religious grounds, the contractor shall require the parent to:*

(i) *Provide a written health history of the child; and*

(ii) *Sign a statement indicating that to the best of the person's knowledge and belief, the child is in satisfactory health and free from any communicable disease.*

(3) *The immunization requirement is met when the customer submits to the contractor a written declaration, on a form supplied or approved by the CCS Branch, affirming that the child attends a:*

(a) *Registered family child care home, licensed child care center, letter of compliance facility, or large family child care home where the child's immunization records are maintained in accordance with applicable COMAR requirements; or*

(b) *Full-day program at a public or nonpublic school where the child's immunization records are maintained.*

[D.] *E. Need. The need requirement is met:*

(1) *When the child's parent, caretaker, or legal guardian is not available or capable to care for the child, no other acceptable child care plan can be arranged, and one or more of the priority situations exist according to Regulation [.07A] .08A of this chapter;*

(2) *By [an applicant or] a customer who meets the requirements specified in Regulation [.07A(1)] .08A(1) of this chapter:*

(a)—(d) *(text unchanged)*

(3) *By a customer who meets the requirements specified in Regulation [.07A(2)] .08A(2) and (3) of this chapter:*

(a)—(b) *(text unchanged)*

[E.] *F. Income.*

[1] *Except when TCA is received only for a child, the income requirement is met by:*

(a) *A family that:*

(i) *Has applied for, or receives, TCA; and*

(ii) *Has an annual gross income not exceeding the maximum income for family size as specified in Regulation .05H of this chapter; or*

(b) *An individual who is a recipient of SSI.]*

[(2)] *(1) An applicant shall meet the income eligibility requirements [as defined in Regulations .02B and .05H] set forth at §H of this chapter, except for the following who are exempt:*

(a) *TCA [applicants or] customers; or*

(b) *(text unchanged)*

[F. For purposes of determining parental copayments and subsidies, a family's income shall be determined by the definition of monthly gross income in Regulation .02B of this chapter, and changed to an annual amount by multiplying the:

(1) *Average:*

(a) *Weekly income by 52;*

(b) *Every other week income by 26;*

(c) *Monthly income by 12; or*

(d) *Twice monthly income by 24; or*

(2) *Monthly income by the number of months worked by an individual for less than 12 months.]*

(2) *Except when TCA is received only for a child, the income requirement is met by a family that:*

(a) *Receives TCA; and*

(b) *Has an annual gross income not exceeding the maximum income for family size as specified in the income eligibility scale set forth at §H of this regulation.*

(3) *For purposes of determining parental copayments and subsidy amounts, a family's annual or annualized gross income, as defined at Regulation .02B(30) of this chapter, shall be used.*

(4) *Annualization of gross income shall be performed by multiplying:*

(a) *Weekly income by 52;*

(b) *Bi-weekly income by 26;*

(c) *Twice monthly income by 24;*

(d) *Monthly income by 12; or*

(e) *Quarterly gross income by 4.*

(5) *A customer applying for CCS Program services shall provide acceptable documentation to the contractor of all current income, whether derived from employment or another source, that is received on a regular or a recurring basis by:*

(a) *The customer; and*

(b) *Each family member.*

(6) *Acceptable documentation of employment earnings received, including cash earnings, is limited to:*

(a) *The most recent 4 weeks of pay stubs indicating gross income from each employer, if the stubs indicate the individual's pay frequency or schedule;*

(b) *A statement from each employer, signed and dated by the employer or bearing the employer's official business stamp, that indicates the:*

(i) *Employer's name, address, and telephone number;*

(ii) *Employer's type of business;*

(iii) *Gross earnings for the most recent pay period;*

(iv) *Pay frequency or schedule; and*

(v) *If available, total gross earnings to date;*

(c) *The individual's most recent federal income tax return, if filed within the past 12 months;*

(d) *Payment receipts for services rendered, where the type of employment, such as but not limited to restaurant waitress, beautician, or taxicab driver, may not generate an earnings statement or a pay stub; or*

(e) *If none of the types of documentation listed at §F(6) of this regulation is able to be produced, a signed and dated statement from the customer attesting to current gross earnings, the frequency or schedule of those earnings, and the type of employment.*

(7) *The customer shall submit to the contractor the applicable income documentation described at §F(6) of this regulation:*

(a) *Within 30 calendar days of applying for CCS Program services; and*

(b) *After approval for CCS Program services, at least annually for the duration of those services.*

(8) *Special Income Calculation.*

(a) *Self-Employment.*

(i) *For income eligibility determination purposes, a flat 30% is subtracted from the annual gross taxable self-employment income amount for business-related expenses.*

(ii) *A salary drawn by the customer from a business owned wholly or in part by the customer shall not be applied toward calculation of the customer's gross income.*

(b) *Military Service Pay.*

(i) *Paid rental and mortgage fees shall be deducted from the allowance and only the excess amount shall be counted as gross income.*

(ii) *If a military spouse is absent from the home solely due to military deployment, the spouse's gross income shall be counted as a part of the family gross income.*

(c) *Child Support.*

(i) *The customer's three most recent consecutive months of support payments shall be counted as gross income.*

(ii) *If a customer has received child support for less than three months, an average of the payments received to date will be used to determine gross income.*

(iii) *Payments that are made directly to a vendor on a regular basis on behalf of the customer shall be counted as gross income.*

(iv) *If in-kind support is received, the customer shall apply a fair market value to the item or service and count that value as gross income.*

G. [An applicant or customer shall pursue child support services for each child receiving CCS services pursuant to Regulation .04 of this chapter.

H. Immunization.

(1) A child receiving CCS services shall be immunized appropriate to the child's age.

(2) The requirement in §G(1) of this regulation does not apply if a child's:

(a) Documented medical condition contraindicates immunization; or

(b) Parent, guardian or caretaker objects to the immunization on religious grounds.

(3) The immunization is met when a written declaration is submitted to the local department, at least annually, by the applicant affirming that the child attends a:

(a) Family child care home or a child care center where immunization records are maintained pursuant to COMAR 13A.15.03.02A(3), 13A.16.03.04G, or 13A.17.03.04G as applicable; or

(b) Full-day program at a public or nonpublic school where immunization records are maintained.

(4) Except as provided in §G(2) and (3)(b) of this regulation, evidence of immunizations for children using informal child care shall be submitted:

(a) On a form supplied by or approved by the CCS branch; and

(b) To the local department within 60 days of applying for child care services.

(5) At least annually, the local department shall, for each child, require evidence of compliance with the immunization schedule included on the form supplied or approved by the CCS Branch.

I. For continued eligibility for CCS services] *To maintain eligibility for CCS Program services*, a family or individual shall report to the local department within 10 days of its occurrence any change in:

(1)—(6) (text unchanged)

H. *Income Eligibility Scale.*

Family Size	Gross Income	Copayment Level
1	\$ 0—6,797	A
	6,797—8,496	B
	8,496—9,346	C
	9,346—10,195	D
	10,195—11,045	E
	11,045—11,895	F
	11,895—12,745	G
	12,745—14,656	H
	14,656—16,568	I
	16,568—18,565	J
2	\$ 0—8,889	A
	8,889—11,111	B
	11,111—12,222	C
	12,222—13,332	D

	13,332—14,444	E
	14,444—15,555	F
	15,555—16,666	G
	16,666—19,166	H
	19,166—21,666	I
	21,666—24,277	J
3	\$ 0—10,980	A
	10,980—13,725	B
	13,725—15,098	C
	15,098—16,470	D
	16,470—17,842	E
	17,842—19,215	F
	19,215—20,588	G
	20,588—23,676	H
	23,676—26,764	I
	26,764—29,990	J
4	\$ 0—13,072	A
	13,072—16,339	B
	16,339—17,974	C
	17,974—19,607	D
	19,607—21,241	E
	21,241—22,875	F
	22,875—24,509	G
	24,509—28,185	H
	28,185—31,861	I
	31,861—35,702	J
5	\$ 0—15,163	A
	15,163—18,954	B
	18,954—20,849	C
	20,849—22,744	D
	22,744—24,639	E
	24,639—26,535	F
	26,535—28,431	G
	28,431—32,695	H
	32,695—36,959	I
	36,959—41,414	J
6	\$ 0—17,255	A
	17,255—21,568	B
	21,568—23,725	C
	23,725—25,881	D
	25,881—28,038	E
	28,038—30,195	F
	30,195—32,352	G
	32,352—37,205	H
	37,205—42,057	I
	42,057—47,127	J
7	\$ 0—17,647	A
	17,647—22,058	B
	22,058—24,264	C
	24,264—26,469	D
	26,469—28,675	E
	28,675—30,881	F
	30,881—33,088	G
	33,088—38,050	H
	38,050—43,013	I
	43,013—48,198	J
8	\$ 0—18,039	A
	18,039—22,548	B
	22,548—24,803	C
	24,803—27,057	D
	27,057—29,312	E
	29,312—31,568	F

	31,568—33,823	G
	33,823—38,896	H
	38,896—43,969	I
	43,969—49,269	J
9	\$ 0—18,431	A
	18,431—23,038	B
	23,038—25,343	C
	25,343—27,645	D
	27,645—29,950	E
	29,950—32,254	F
	32,254—34,558	G
	34,558—39,741	H
	39,741—44,924	I
	44,924—50,340	J
10	\$ 0—18,823	A
	18,823—23,528	B
	23,528—25,882	C
	25,882—28,234	D
	28,234—30,587	E
	30,587—32,940	F
	32,940—35,294	G
	35,294—40,587	H
	40,587—45,880	I
	45,880—51,411	J

.04 Pursuit of Child Support Obligations.

A. [An applicant] A customer who has the care of a child eligible for child support services pursuant to COMAR 07.07.02.02B(4) shall pursue the establishment and enforcement of support obligations on behalf of the child as required by the [local CCS case manager] contractor.

B. If the [applicant] customer is pursuing or receiving regular child support payments for the child, the [applicant] customer shall furnish documentation verifying this action to the [local CCS case manager] contractor at the time of application for child care services.

C. Local Child Support Enforcement (CSE) Agency.

(1) If the [applicant] customer is not pursuing or receiving regular child support payments for the child and cannot claim good cause for refusing to pursue child support pursuant to §E of this regulation, the [local CCS case manager] contractor shall refer the applicant to the local CSE agency.

(2) The local CSE agency shall provide documentation of the:

(a) Application for CSE services to the [applicant] customer;

and

(b) (text unchanged)

(3) The [applicant] customer shall submit documentation of CSE services for each child for whom care is requested to the [local CCS case manager] contractor within 60 days of applying for child care services.

(4) [An applicant] A customer who fails to comply with §C(3) of this regulation is not eligible for CCS services.

D. Unless excused for good cause, the [applicant] customer shall cooperate with the local CSE agency in:

(1)—(3) (text unchanged)

E. Refusal to Cooperate.

(1) Good cause circumstances are those when:

(a) (text unchanged)

(b) Cooperation may result in serious physical or emotional harm to the [applicant] customer with whom the child is living, which may reduce the capacity of the [applicant] customer to care adequately for the child;

(c) The child for whom support is sought was conceived as a result of incest or [forcible] rape;

(d) (text unchanged)

(e) The [applicant] customer is being assisted by a public or licensed private social agency to resolve the issue of keeping or relinquishing the child for adoption, and the discussions have not extended beyond 3 months.

(2) When the [local CCS case manager] contractor refers the [applicant] customer to the local CSE agency, the [local CCS case manager] contractor shall inform the [applicant] customer in writing of the [applicant's] customer's right to claim good cause for refusing to cooperate with the local CSE agency.

F. Determination of Good Cause.

(1) The [local CCS case manager] contractor is responsible for determining the existence of good cause.

(2) The [applicant] customer shall provide the [local CCS case manager] contractor with:

(a) Verified or verifiable evidence that specifies and corroborates circumstances that the [applicant] customer believes is sufficient good cause for not cooperating; and

(b) (text unchanged)

(3) The [applicant] customer shall supply corroborative evidence within 30 days of making the claim for good cause.

[(4)] The local CCS case manager shall allow up to 30 additional days, with supervisory approval, for the applicant to make the claim when the unit determines difficulty in obtaining the corroborative evidence.

(5) Allegations by the applicant are not considered adequate information except in the case of anticipated physical harm.]

[(6)] (4) The [local CCS case manager] contractor shall determine good cause based on:

(a) A review of the evidence submitted by the [applicant] customer; and

(b) The findings of any investigation of the claim that the [local department] contractor chooses to make.

[(7)] (5) The [local CCS case manager] contractor may determine good cause without further investigation if the following acceptable documentation indicates that harm may result:

(a) A birth certificate or medical or law enforcement record indicating that the child was conceived as a result of incest or [forcible] rape;

(b) (text unchanged)

(c) A court, medical, criminal, child protective services, psychological, social services, or law enforcement record indicating that the putative father or absent parent might inflict physical or emotional harm on the child or the [applicant] customer;

(d) A medical record indicating the emotional health history and the present emotional health status of the child or the [applicant] customer;

(e) A written statement from a mental health professional indicating a diagnosis or prognosis of the emotional health of the child or the [applicant] customer;

(f) A written statement from a public or licensed private social agency that the [applicant] customer is being assisted by the agency to resolve the issue of keeping or relinquishing the child for adoption and the discussions have not extended beyond 3 months; or

(g) Sworn statements from individuals other than the [applicant] customer with knowledge of the circumstances that provide the basis for a good cause claim.

[(8)] (6) The [local CCS case manager] contractor shall inform the [applicant] customer in writing of the final determination.

[(9)] (7) Upon making a final determination, and if the [applicant] customer is receiving services from the CSE agency, the [local CCS case manager] contractor shall promptly inform the local CSE agency whether or not there is good cause for refusal to cooperate.

[(10)] (8) The [local CCS case manager] *contractor* shall deny CCS services to the [applicant] *customer* if a claim of good cause cannot be substantiated as required in this section.

[(11)] (9) The [local CCS case manager] *contractor* may not deny, delay, or terminate child care subsidy services pending determination of good cause if the [applicant] *customer* has met the requirements of §F(2) of this regulation.

G. Review of Determination of Good Cause.

(1) The [local CCS case manager] *contractor* shall review, at a minimum during redetermination of eligibility, all cases in which a finding of good cause was made based on a circumstance that is subject to change.

(2) If the [local CCS case manager] *contractor* determines that the circumstance providing the basis for determination of good cause no longer exists, the [case manager] *contractor* shall require the [applicant] *customer* to pursue the establishment and enforcement of child support obligations.

H. [An applicant] *A customer* transitioning off of TCA who does not have a child support order or who is not receiving child support shall cooperate with the [local CCS case manager] *contractor* and the local CSE agency to continue, establish, or re-establish child support services.

I. [An applicant] *A customer* who has the care of a child eligible for child support services and refuses to cooperate with the local CSE agency and the [local CCS case manager] *contractor* on behalf of the child is ineligible for CCS services unless [good cause for the refusal is either claimed or determined to exist.] :

(1) *The customer claims good cause for the refusal; and*

(2) *Documentation supporting good cause for the refusal is under review, or is determined to exist.*

.05 Application Process.

A. [An applicant] *A customer* shall apply to the [local department] *contractor* for CCS Program services.

B. [To apply for CCS services, an applicant shall submit to the local department:

(1) A signed application; and

(2) Within 30 calendar days after receipt of the signed application, all requested documentation.] *In order to be approved to receive CCS Program services, a customer shall submit a complete application to the contractor by fax or mail, which shall consist of:*

(a) *A completed, signed, and dated CCS Program services application form approved by the Division;*

(b) *Verification of employment earnings;*

(c) *If applicable, verification of training or school attendance with days and hours of the activity; and*

(d) *If applicable, verification of child support payments or an application to agree to pursue child support.*

C. The [local department] *contractor* shall decide to accept or deny the application within:

(1) (text unchanged)

(2) 35 calendar days from the date of receipt of the signed application, if all verifications are:

(a) (text unchanged)

(b) Not received by the [local department] *contractor*.

D. The [applicant] *customer* is eligible from the date a signed application is received if the [local department] *contractor* determines that the customer is eligible for services.

E. Program Freeze.

(1) The [local department] shall inform an applicant] *contractor* shall inform a customer that a program freeze exists and that a child care placement cannot be made immediately when the:

(a)—(b) (text unchanged)

(2) The [local department] *contractor* shall maintain a list of all eligible [applicants] *customers* by date of application and in accordance with the service priorities established under Regulation [.07A] .08A of this chapter.

F. Denial. The [local department] *contractor* shall deny the application if the *customer*:

(1) [The applicant is ineligible pursuant to] *Fails to meet all applicable eligibility requirements set forth at Regulation .03 of this chapter;*

(2) [The customer was] *Was* terminated from CCS Program services [by the local department within the last 12 months for failure to pay the copayment unless a plan for payment of fees still owed is arranged to the satisfaction of the provider to whom the fee is due] *for failure to pay the required copayment or inability to provide proof of payment;*

(3) [The applicant fails] *Fails* to provide the required documentation within 30 days of initiating an application; [or]

(4) [The applicant is] *Is* disqualified for CCS payment pursuant to Regulation .14M of this chapter and the disqualification period has not ended[.] ; *or*

(5) *Fails to provide acceptable proof of identity for a child for whom CCS Program services are requested.*

G. Notice. The [local department] *contractor* shall send a written denial notice to the [applicant] *customer* that includes:

(1)—(3) (text unchanged)

(4) [The] *An* explanation of the [applicant's right to and method of requesting a fair hearing] *customer's hearing and appeal rights.*

[H.] (proposed for repeal)

[I. The case manager shall give a voucher to the eligible applicant to present to the provider when child care is selected.]

.06 Provider Requirements.

A. *Subsidized child care services may be provided only by:*

(1) *A family child care home;*

(2) *A child care center; or*

(3) *An individual approved by the CCS Branch to provide informal child care.*

B. *Maryland EXCELS Participation.*

(1) *Effective June 29, 2015, the operator of a child care center or a family child care home may not receive CCS Program reimbursement for child care services provided on or after that date unless the operator has applied on or before that date to participate in Maryland EXCELS.*

(2) *Within 12 months of acceptance into Maryland EXCELS, the operator of a child care center or a family child care home shall request Maryland EXCELS to publish the program's quality rating in order to remain eligible for continued CCS Program reimbursement.*

(3) *An informal child care provider is not eligible to participate in the Maryland EXCELS program.*

C. *Tiered Reimbursement.*

(1) *Eligibility for tiered reimbursement payments is limited to a child care center or a family child care home that has a published Maryland EXCELS quality rating level of 3, 4, or 5.*

(2) *An informal child care provider is not eligible for tiered reimbursement payments.*

(3) *An eligible provider shall be paid a tiered reimbursement amount for each CCS Program child in care that is:*

(a) *In addition to the child's subsidy payment; and*

(b) *Reflective of the applicable percentage specified at §C(4) of this regulation.*

(4) A tiered reimbursement payment amount is determined by multiplying the child's subsidy amount by the applicable percentage specified for the provider's Maryland EXCELS level:

	EXCELS Level 3	EXCELS Level 4	EXCELS Level 5
<i>Family Child Care Home</i>			
<i>Child younger than 24 months old</i>	11 percent	22 percent	29 percent
<i>Child 24 months old or older</i>	10 percent	21 percent	28 percent
<i>Child Care Center</i>			
<i>Child younger than 24 months old</i>	22 percent	37 percent	44 percent
<i>Child 24 months old or older</i>	10 percent	19 percent	26 percent

(5) A provider's tiered reimbursement payments become effective for the first service period following the provider's publication at Maryland EXCELS at quality level rating 3, 4, or 5.

D. Informal Child Care.

(1) The customer may choose to use an approved informal child care provider.

(2) The contractor shall provide payment for the following informal child care arrangements:

- (a) Relative care;
- (b) In-home care; and
- (c) Babysitting.

(3) In addition to submitting a CCS Program services application, the customer shall submit to the contractor a signed statement, on a form provided by the contractor, that specifies:

- (a) Where the informal care is to be provided;
- (b) The relationship of the child to the informal child care provider; and
- (c) The names and ages of each child who will receive informal child care.

(4) Unless approved as an informal child care provider before April 1, 2015, each individual who provides informal child care shall be a Maryland resident.

(5) An informal child care provider and each individual 18 years old or older who is a resident in the home shall apply for a fingerprint-supported State and federal criminal background check.

(6) Criminal Background Check Review.

(a) An individual who wishes to serve as an informal child care provider and each individual 18 years old or older who is a resident in the home shall apply for a fingerprint-supported State and federal criminal background check.

(b) The CCS Branch may not approve an individual to serve as an informal child care provider if the individual or a resident in the home who is 18 years old or older has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

- (i) A crime involving a child, cruelty to animals, domestic violence, or a weapons or firearms violation of federal or State law;
- (ii) A sex offense;
- (iii) A violent crime classified as a felony;
- (iv) Abduction or kidnapping;
- (v) Abuse of a child or an adult;
- (vi) Confinement of an unattended child;
- (vii) Manufacturing, distributing, or dispensing a controlled dangerous substance;
- (viii) Perjury;
- (ix) Pornography;

- (x) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or
- (xi) Reckless endangerment.

(7) Child Abuse and Neglect Record Review.

(a) The contractor shall conduct a child abuse and neglect record review for each individual who:

- (i) Applies to serve as an informal provider; or
- (ii) Resides in the informal care home and is 18 years old or older.

(b) At least once every 2 years that an informal provider continues to provide care, the contractor shall conduct a new child abuse and neglect record review for:

- (i) The provider; and
- (ii) Each resident of the home who is 18 years old or older;

(c) The individual applying to serve, or serving, as an informal provider shall submit to the contractor a signed, dated, and notarized consent form that authorizes the CCS Branch to conduct a review of child abuse and neglect records for information about:

- (i) The individual; and
- (ii) Each resident in the informal child care home who is 18 years old or older.

(d) If a child abuse and neglect record review finds that the subject of the review may have been responsible for abuse or neglect, the contractor shall make a request to the local department of social services for the details of the finding.

(8) Informal Care Home Child Capacity.

(a) Unless approved otherwise by the CCS Branch, an informal child care home may not contain more than:

- (i) Six children present in care at the same time; or
- (ii) Two children younger than 2 years old in care at the same time.

(b) In determining the maximum child care capacity of an informal care home, the contractor shall count a resident in the home who is younger than 6 years old as a child in care.

(9) An individual is approved to serve as an informal child care provider as of the date on which the contractor is in possession of documentation showing that the individual and each resident in the home who is 18 years old or older has successfully passed a:

- (a) Criminal background check; and
- (b) Review of records of abuse and neglect of children or adults.

(10) Payment to an approved informal provider is effective on the date that the individual is approved to serve as an informal child care provider.

(11) The contractor may not approve payment:

(a) If an informal child care provider or a resident in the home who is 18 years old or older has not successfully passed a:

- (i) Criminal background check; or
- (ii) Review of records of abuse and neglect of children or adults; or

(b) For any day on which the provider is determined to be out of compliance with the child capacity requirements set forth at §D(8) of this regulation.

(12) Disapproval of payment to an informal provider pursuant to §D(11)(a) of this regulation shall be effective as of the day on which the contractor receives information that the provider or a resident in the home who is 18 years old or older has not successfully passed a criminal history background check or a review of records of abuse and neglect of children or adults.

(13) If payment is disapproved, the contractor shall provide written notification of that disapproval to the:

- (a) Provider; and
- (b) Parent of each child in care.

(14) *An individual providing, or applying to provide, informal child care services does not have hearing and appeal rights under the CCS Program except in the case of an intentional program violation.*

.07 Child Care Vouchers.

A. Use of Voucher.

(1) *A CCS Program voucher may be used only with:*

- (a) *A child care center;*
- (b) *A family child care home; or*
- (c) *An approved informal child care provider.*

(2) *An informal child care voucher may be used only for informal child care.*

B. Voucher Issuance.

(1) *A contractor shall:*

(a) *Issue a voucher to an eligible customer that is:*

- (i) *Effective from the date a signed and dated application is received and all required verifications have been approved; and*
- (ii) *Related to the schedule and duration of the applicant's activity; and*

(b) *Provide access to information and referral services to assist the customer in finding appropriate child care.*

(2) *Except for a voucher issued pursuant to Regulation .09A(3) of this chapter, or unless a voucher becomes void pursuant to §B(3) of this regulation, each voucher is valid for a maximum of 12 months from the voucher's issue date if the voucher is returned to the contractor within 60 days of its issue date.*

(3) *A child care voucher is void if:*

- (a) *It is not signed by the child care provider and the customer;*
- (b) *Placement is not made; or*
- (c) *It is not returned to the contractor within 60 days of its issue date.*

(4) *The contractor shall issue to a customer a notification of the expiration of a voucher at least 15 days before the expiration date to allow for application and review of the customer's eligibility for a new voucher.*

(5) *A new voucher may be issued if a customer moves to another local jurisdiction in Maryland and the contractor determines that the customer is still eligible for CCS Program services.*

[.07].08 Service Groups.

A. Except that primary consideration within [each] a service priority shall be given to a family requiring CCS Program services for a child with a disability or evidence of homelessness, provision of CCS Program services to a family [is subject to the following priorities, determined by the Office of Child Care, CCS Branch] shall be made according to established service priorities, which are:

(1) [Individuals who] *Priority 1, the highest service priority, which includes individuals who are receiving TCA and are:*

[(a) Have applied for TCA and are:

- (i) *Job searching; or*
- (ii) *Participating in a job readiness activity; or*

(b) *Are receiving TCA and are participating in an approved activity;]*

(a) *Job searching;*

(b) *Participating in a job readiness activity that has been verified by FIA; or*

(c) *Participating in an approved activity for at least 20 hours per week;*

(2) [Individuals who are working and] *Priority 2, which includes individuals who are participating in an approved activity and are in compliance with TCA program requirements when their case closed and:*

(a)—(b) (text unchanged)

(c) *Whose family income is less than or equal to the amounts listed for copayment levels A through J in Regulation [.05H] .03H of this chapter, for the family's size; and*

(3) [Individuals who are working, enrolled in public school, or enrolled in training and] *Priority 3, the lowest service priority, which includes individuals who are participating in an approved activity and:*

(a) (text unchanged)

(b) *Whose family income is less than or equal to the amounts listed for copayment levels A through J in Regulation [.05H] .03H of this chapter, for the applicant's family size.*

B. If the CCS Program is reduced because of insufficient funds:

(1) The order of the priorities[, as established jointly by the local department and the CCS Branch, is] *shall be applied in reverse for terminating services; and*

(2) [Service to individuals pursuant to §A(3) of this regulation shall be terminated beginning with copayment level J and, if necessary, terminating in reverse order to level A] *Within each service priority, services shall be terminated beginning with customers meeting income eligibility level J criteria, as set forth at Regulation .03H of this chapter, and, if necessary, proceeding in reverse order to income eligibility level A.*

[.08].09 Redetermination [and Termination].

A. Unless a family with an open case is placed on program freeze status due to insufficient program funds, a [local department] contractor shall make a determination of child care need for a family:

(1) *When there are significant changes in the family situation that may affect program eligibility, such as the reportable events set forth at Regulation .03G of this chapter;*

(2) (text unchanged)

(3) *Within 10 calendar days of the completion of [the] an Early Head Start or Head Start Program year if the child:*

- (a) *Is enrolled in Early Head Start or Head Start; and*
- (b) *Receives CCS Program services.*

B. [The local department shall terminate CCS payments if the:

(1) *Family is no longer eligible on the basis of need;*

(2) *Family is no longer eligible on the basis of income;*

(3) *Local department determines that the parent regularly violates the requirements of the provider;*

(4) *Family fails to pay the copayment, recorded on the voucher, when it is due;*

(5) *Program is reduced because of insufficient funds or is oversubscribed, and services for the child are terminated according to Regulation .07B of this chapter;*

(6) *Family commits welfare fraud as defined in Criminal Law Article, §§8-501—8-504, Annotated Code of Maryland, and cited in the terms of agreement of the child care subsidy voucher;*

(7) *Family fails to provide documentation required by the local department to redetermine eligibility;*

(8) *Family who has the care of a child eligible for child support services refuses to cooperate with the State in pursuing child support obligations, unless good cause for the refusal is either claimed or determined to exist pursuant to Regulation .04 of this chapter;*

(9) *Family fails to report any change, as specified in Regulation .03H of this chapter, that results in the receipt of benefits for which the applicant is not eligible;*

(10) *Family fails to provide a signed affirmation, including required documentation, pursuant to Regulation .06C(2)(c) of this chapter;*

(11) *Family fails to verify immunizations appropriate to the child's age pursuant to Regulation .03G of this chapter for each child receiving services; or*

(12) Family or the provider has been disqualified pursuant to Regulation .12P of this chapter and the disqualification period has not ended.

C. Notification of Termination.

(1) The local department shall notify the parent and provider in writing at least 5 working days before termination of child care services or reduction of child care benefits or services pursuant to Regulation .09G(6) of this chapter. The notice shall include:

- (a) The action to be taken;
- (b) The reason for the action;
- (c) The regulation supporting the action; and

(d) An explanation of the parent's right to request a fair hearing and the method of obtaining a fair hearing.

(2) If a voucher is written for less than 5 working days, the notification period does not apply and the local department shall provide notification as soon as practicable.] *At redetermination, if a family with a child enrolled in Early Head Start or Head Start has an income that is overscale, the family shall continue in the CCS Program at income level J for the remainder of the Early Head Start or Head Start program year.*

.10 Termination.

A. The contractor shall terminate CCS Program payments if the:

(1) Program is reduced because of insufficient funds or is oversubscribed;

(2) Contractor determines that the parent violates the requirements of the CCS Program; or

(3) Customer:

(a) Fails to submit a complete application as specified at Regulation .05B of this chapter;

(b) Is no longer eligible on the basis of need or of income;

(c) Fails to pay the copayment, recorded on the voucher, when it is due;

(d) Commits welfare fraud as defined in the Criminal Law Article, §§8-501—8-504, Annotated Code of Maryland, and cited in the terms of agreement of the child care subsidy voucher;

(e) Fails to provide documentation required by the contractor to re-determine eligibility;

(f) Having care of a child eligible for child support services, refuses to cooperate with the State in pursuing child support obligations unless good cause is determined to exist;

(g) Fails to report any change, as specified in Regulation .03G of this chapter, that results in the receipt of benefits for which the applicant is not eligible;

(h) Fails to verify immunizations appropriate to the child's age pursuant to Regulation .03D of this chapter for each child receiving services; or

(i) Has been disqualified pursuant to Regulation .14O of this chapter, and the disqualification period has not ended.

B. Notification of Termination.

(1) Except for parents and providers who do not return the signed voucher to the contractor within 60 days, the contractor shall send a written notice to the parent and the provider at least 5 calendar days before termination of child care services or reduction of child care benefits that specifies the:

- (a) Action to be taken;
- (b) Reason for the action;
- (c) Regulatory basis for the action; and
- (d) Parent's hearing and appeal rights.

(2) If a voucher is written for less than 5 calendar days, the notification period does not apply.

[.09] .11 Payments for Child Care Services.

A. (text unchanged)

B. Rate of Payment and Cost Guidelines — Family Child Care Home.

(1)—(2) (text unchanged)

(3) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following regional weekly rates:

(a) Rate for a child 24 months old or older:

- (i) Region U—[\$91.35] \$93.63;
- (ii) Region V—[\$81.08] \$83.11;
- (iii) Region W—[\$113.14] \$115.97;
- (iv) Region X—[\$143.83] \$147.43;
- (v) Region Y—[\$113.09] \$115.91;
- (vi) Region Z—[\$83.38] \$85.46; and
- (vii) Region BC—[\$103.76] \$106.35; or

(b) Rate for a child younger than 24 months old:

- (i) Region U—[\$120] \$123.00;
- (ii) Region V—[\$97.89] \$100.34;
- (iii) Region W—[\$152.89] \$156.71;
- (iv) Region X—[\$180] \$184.50;
- (v) Region Y—[\$145] \$148.63;
- (vi) Region Z—[\$95] \$97.38; and
- (vii) Region BC—[\$137.64] \$141.08.

C. Rate of Payment and Cost Guidelines — Child Care Center and Large Family Child Care Home.

(1) (text unchanged)

(2) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following regional weekly rates:

(a) Rate for a child 24 months old or older:

- (i) Region U—[\$105.60] \$108.24;
- (ii) Region V—[\$89.02] \$91.25;
- (iii) Region W—[\$122.92] \$126.00;
- (iv) Region X—[\$162.87] \$166.95;
- (v) Region Y—[\$125.06] \$128.18;
- (vi) Region Z—[\$85.65] \$87.79; and
- (vii) Region BC—[\$109.42] \$112.16; or

(b) Rate for a child younger than 24 months old:

- (i) Region U—[\$168.21] \$172.42;
- (ii) Region V—[\$143.21] \$146.79;
- (iii) Region W—[\$195] \$199.88;
- (iv) Region X—[\$255] \$261.38;
- (v) Region Y—[\$203.21] \$208.29;
- (vi) Region Z—[\$110] \$112.75; and
- (vii) Region BC—[\$183.21] \$187.79.

D. The informal child care weekly service unit rates specified in this section are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following jurisdictional weekly rates:

(1) Rate for a child 24 months old or older:

- (a) Allegany County—[\$52.44] \$53.76;
- (b) Anne Arundel County—[\$55.43] \$56.81;
- (c) Baltimore County—[\$58.91] \$60.38;
- (d) Calvert County—[\$55.43] \$56.81;
- (e) Caroline County—[\$40.51] \$41.53;
- (f) Carroll County—[\$55.43] \$56.81;
- (g) Cecil County—[\$52.44] \$53.76;
- (h) Charles County—[\$55.43] \$56.81;
- (i) Dorchester County—[\$40.51] \$41.53;
- (j) Frederick County—[\$58.91] \$60.38;
- (k) Garrett County—[\$52.69] \$54.01;
- (l) Harford County—[\$58.91] \$60.38;

- (m) Howard County—[\$74.07] \$75.92;
- (n) Kent County—[\$40.51] \$41.53;
- (o) Montgomery County—[\$74.07] \$75.92;
- (p) Prince George's County—[\$55.43] \$56.81;
- (q) Queen Anne's County—[\$45.73] \$46.88;
- (r) St. Mary's County—[\$52.44] \$53.76;
- (s) Somerset County—[\$40.51] \$41.53;
- (t) Talbot County—[\$45.73] \$46.88;
- (u) Washington County—[\$52.69] \$54.01;
- (v) Wicomico County—[\$40.51] \$41.53;
- (w) Worcester County—[\$43.00] \$44.07; and
- (x) Baltimore City—[\$53.44] \$54.77; or
- (2) Rate for a child younger than 24 months old:
 - (a) Allegany County—[\$61.39] \$62.93;
 - (b) Anne Arundel County—[\$70.09] \$71.84;
 - (c) Baltimore County—[\$70.09] \$71.84;
 - (d) Calvert County—[\$70.09] \$71.84;
 - (e) Caroline County—[\$45.73] \$46.88;
 - (f) Carroll County—[\$71.33] \$73.12;
 - (g) Cecil County—[\$53.94] \$55.28;
 - (h) Charles County—[\$70.09] \$71.84;
 - (i) Dorchester County—[\$45.73] \$46.88;
 - (j) Frederick County—[\$70.09] \$71.84;
 - (k) Garrett County—[\$61.39] \$62.93;
 - (l) Harford County—[\$70.09] \$71.84;
 - (m) Howard County—[\$88.73] \$90.95;
 - (n) Kent County—[\$45.73] \$46.88;
 - (o) Montgomery County—[\$88.73] \$90.95;
 - (p) Prince George's County—[\$70.09] \$71.84;
 - (q) Queen Anne's County—[\$53.94] \$55.28;
 - (r) St. Mary's County—[\$61.39] \$62.93;
 - (s) Somerset County—[\$45.73] \$46.88;
 - (t) Talbot County—[\$53.94] \$55.28;
 - (u) Washington County—[\$53.94] \$55.28;
 - (v) Wicomico County—[\$45.73] \$46.88;
 - (w) Worcester County—[\$45.73] \$46.88; and
 - (x) Baltimore City—[\$67.36] \$69.04.

[E. Unless permission is given by the local director for more than six children, local departments may approve payment for informal child care when the total number of children in the provider's care is six or less:

- (1) Including not more than two children younger than 24 months old; and
- (2) Counting the provider's own children younger than 6 years old among the six children.]

[F.] E. Additional Costs.

(1) A payment rate schedule is established for children attending public or nonpublic elementary or middle schools for the full school day who receive child care services. The payment rate schedule is:

- (a)—(c) (text unchanged)
- (d) Applied to an uninterrupted 10-week school vacation when:

(i) (text unchanged)

(ii) The care is authorized by the [local department] contractor for three units of service a day.

(2) (text unchanged)

(3) The [local department] contractor shall approve additional costs that exceed the payment rates specified in §§B—D of this regulation when child care is provided during nontraditional hours. Nontraditional hours are:

(a)—(b) (text unchanged)

(4) (text unchanged)

(5) For a child with a disability, the payment rates specified in §§B and C of this regulation apply, except if the service provider

offers documentation to the [local department] contractor that the cost of caring for the child with a disability exceeds the reasonable accommodation definition[, in which case:

(a) The local department shall approve the additional cost not to exceed the annual allocated amount up to 15 percent above the rates set out in §§B and C of this regulation; or

(b) If the requested cost exceeds 15 percent, the local department shall submit a recommendation to the CCS Branch for approval of a higher payment not to exceed the annual allocated amount].

[(6) Tiered Reimbursement.

(a) The local department shall approve a payment amount, in addition to the child's subsidy, to a family child care provider or child care center that:

(i) Submits an application to the Office of Child Care, Credentialing Branch; and

(ii) Is certified by the Office of Child Care as meeting the requirements for receiving tiered reimbursement.

(b) A family child care provider or a child care center meeting the credentialing requirements in COMAR 13A.14.09.04 shall be paid a weekly differential payment amount for each CCS child in care that is:

(i) Effective the first service period following approval;

(ii) In addition to a child's subsidy payment; and

(iii) In accordance with the following percentages, which are multiplied by the child's subsidy amount at each level:

	Level 2	Level 3	Level 4
Family Child Care			
Child younger than 24 months old	11 percent	22 percent	29 percent
Child 24 months old or older	10 percent	21 percent	28 percent
Center Child Care			
Child younger than 24 months old	22 percent	37 percent	44 percent
Child 24 months old or older	10 percent	19 percent	26 percent]

(6) The State may assist with one-time only or ongoing accommodation costs for materials or personnel if:

(a) The provider submits to the contractor a completed special disability rate request form, supplied by the contractor, that describes the need for the special accommodation; and

(b) The accommodation does not create a significant difficulty or expense.

(7) Upon receipt of a special disability rate request form that meets the requirements of §E(6)(a) of this regulation, the contractor shall:

(a) Approve the additional cost not to exceed the annual allocated amount up to 15 percent above the rates set out in §§B and C of this regulation; or

(b) If the requested cost exceeds 15 percent, submit a recommendation to the CCS Branch for approval of a higher payment not to exceed the annual allocated amount.

[G.] F. Payment Policy.

(1) The contractor shall process payment for the provider for CCS Program services through a completed invoice or other means approved by the CCS Branch.

(2) (text unchanged)

(3)—(4) (text unchanged)

(5) A provider may not be paid for more than:

(a) (text unchanged)

(b) In accordance with Regulation [.09D] .11D of this chapter, the amount allowed for informal child care.

(6) Except for vouchers written for less than 5 [working] calendar days in accordance with Regulation [.08C(2)] .07B(2) of this chapter, and subject to [§G(12)(f)] §F(12)(a)(vi) of this regulation, the contractor shall pay for a 5 [working] calendar day termination notification period to a provider of:

(a)—(b) (text unchanged)

(7) *If a voucher signed by the parent and the provider is not received by the contractor within 60 calendar days of issuance, the provider may not be paid:*

(a) *Without attendance records signed by the provider and parent; or*

(b) *For the first 60 calendar days of the voucher.*

[(7)] (8) Except that holidays are included in the payment schedule pursuant to [§F(1)] §E(1) and (2) of this regulation and not paid separately, family child care providers and center child care providers are paid for six holidays including Christmas, New Year's Day, Memorial Day, Independence Day, Labor Day, and Thanksgiving Day, according to the:

(a)—(b) (text unchanged)

[(8)] (9) Family child care and center child care providers shall be paid for those days when the services are closed for:

(a) (text unchanged)

(b) Voluntary closure days [under Regulation .02B] , as defined at Regulation .02B of this chapter, when:

(i)—(iii) (text unchanged)

[(9)] (10) Family child care and center child care providers are paid for the time a child is absent up to 60 calendar days per calendar year, except that in the case of illness or injury of the child, documented by a health practitioner, the contractor may authorize additional absences.

[(10)] (11) Payment may not be made to an informal child care provider for any holiday or for any child absence, except that for eligible customers, payments shall be made for:

(a) Holidays that are documented as worked by the provider; and

(b) Voluntary closure days under Regulation .02B of this chapter and §G(8)(b) of this regulation] *a Christmas Day, New Year's Day, Memorial Day, Independence Day, Labor Day, or Thanksgiving Day if the provider submits verification of child attendance in care.*

[(11)] The local department shall deny payment to an informal provider if:

(a) The local department has documented information indicating a risk to the health and safety of the child in that placement;

(b) An evaluation of child abuse and neglect records indicates behavior harmful to children by an:

(i) Informal child care provider; or

(ii) Adult with a regular presence when the child is in care as defined in Regulation .02B of this chapter; or

(c) The local department has not received a signed release of information form consenting to a review of child abuse and neglect records, pursuant to Regulation .06C(2) of this chapter; or

(d) The informal provider has been disqualified pursuant to Regulation .12 of this chapter and the disqualification period has not ended.]

(12) Payment, including that for the termination notification period, may not be made to a [formal or an informal] provider [who] if:

(a) *The provider:*

[(a)] (i)—[(c)] (iii) (text unchanged)

[(d)] (iv) Fails to give 5 calendar days written notice of service termination to the parent;

[(e)] (v) Has been disqualified pursuant to Regulation [.12] .14M of this chapter and the disqualification period has not ended; [or]

[(f)] (vi) Has committed an intentional program violation[.];

[(13)] Payment, including that for a termination notification period, may not be made to a formal provider who:]

[(a)] (vii) If required to be licensed or registered, is not licensed or registered; [or]

[(b)] (viii) Has had a child care license or registration suspended or revoked[.];

(ix) *If required to submit an affirmation of compliance with health and safety standards, has not submitted the affirmation;*

(x) *Has not submitted a signed release of information form consenting to a review of child abuse and neglect records;*

(xi) *Has not applied for a criminal background check;*

(xii) *Has a criminal history that includes a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at Regulation .06D(6) of this chapter; or*

(b) *The contractor has documented information indicating that the provider, a resident in the informal child care home, or the informal child care home itself presents a risk to the health or safety of a child in care.*

[(14)] Payment, including that for a termination notification period, may not be made to an informal provider who is required to submit an affirmation of compliance with health and safety standards and has not submitted the affirmation.]

[(15)] (13) (text unchanged)

(14) *Effective June 29, 2015, payment may not be made to a family child care home or a child care center unless the home or center is participating, or has applied for participation in, Maryland EXCELS and a quality rating has been assigned and published by Maryland EXCELS.*

(15) *An informal child care provider may not require or request a parent to pay a fee that is in addition to the copayment required by the State.*

[H.] G. Method of Payment.

[(1)] Payment to a provider is made jointly by the contractor and the family of the child.]

[(2)] (1) State Payment.

[(a)] The contractor shall pay a provider upon approval of an invoice and, if requested, an attendance sheet submitted within 60 days of the end date of the last service period.

(b) The amount of the invoice shall match the authorized service units listed on the voucher. Payment may not be made for any units in excess of those authorized by the voucher.]

(a) *The contractor shall pay a provider upon approval of an invoice submitted within 60 calendar days of the end date of the last service period.*

(b) *The amount of the invoice shall match the authorized service units listed on the voucher.*

(c) *Payment may not be made for any units in excess of those authorized by the voucher.*

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

[(4)](3) An invoice adjustment may be made within [60 days] 12 months after the end of the month in which services were provided.

[I.] H. Payment Irregularities.

[(1)] The local department or the contractor shall attempt to recover any overpayment to recipients or service providers.

(2) Recovery shall be made by repayment or by reduction of continuing child care benefits.

(3) If an overpayment is recovered incrementally, it shall be recovered at a monthly rate of:

(a) 10 percent of the overpayment for cases not involving fraud; or

(b) 20 percent of the overpayment for cases involving fraud.

(4) The local department or the contractor shall promptly correct any underpayment to recipients and service providers.]

(1) *Overpayments are collected from:*

(a) *Customers when they fail to report a timely change;*

(b) *Providers when they fail to correctly report information;*

(c) *A customer or provider who benefits from an erroneous service reimbursement made by the contractor.*

(2) *Calculation of Overpayments.* A provider or a customer overpayment, whether it occurs due to incorrect or incomplete information at application, or to a change in the customer's or provider's circumstances that was unreported or reported late, shall:

(a) *Be counted from the beginning of the service period; and*

(b) *Include each subsequent service period in which the incorrect subsidy reimbursement is identified.*

(3) *The contractor shall calculate the amount of an overpayment to a customer or a provider by determining the:*

(a) *Correct amount to be paid;*

(b) *Amount of the incorrect payment; and*

(c) *Difference between the correct and incorrect payment amounts.*

(4) *Notification.*

(a) *In the event of an overpayment to a customer or a provider, the contractor shall notify the recipient of the overpayment within 30 calendar days after the discovery of the overpayment.*

(b) *If, 30 calendar days after the overpayment notification specified at §H(4)(a) of this regulation was sent, there is no response from the overpayment recipient, the contractor shall promptly send a second overpayment notification to the recipient.*

(c) *If, 30 calendar days after the second overpayment notification specified at §H(4)(b) of this regulation was sent, there is no response from the overpayment recipient, the contractor shall promptly send a third overpayment notification to the recipient.*

(5) *Recovery from a customer or a provider of an overpayment amount shall be made by:*

(a) *Repayment of the full amount by the customer or the provider, as applicable; or*

(b) *If the overpayment amount was paid to the provider, reduction of continuing child care payments.*

(6) *If a customer or a provider does not pay the repayment of an overpayment amount as directed by the contractor, the contractor shall request that the State take action to collect that amount.*

(7) *If an overpayment is recovered incrementally, it shall be recovered at a monthly rate of:*

(a) *10 percent of the overpayment for cases not involving fraud; or*

(b) *20 percent of the overpayment for cases involving fraud.*

(8) *The contractor shall promptly correct any underpayment to a recipient or a service provider.*

[.10] .12 Copayments.

A. Parental Copayments.

(1) An individual or family who uses CCS Program services shall contribute financially to the cost of those services, except for the following, who are exempt:

(a) TCA applicants or recipients pursuant to Regulation [.07A(1)] .08A(1) of this chapter;

(b)—(c) (text unchanged)

(2) Except for additional vouchers issued for voluntary closure days, parental copayments are paid to a provider based on the provider's payment schedule and shall include a minimum

copayment, as listed on the child care voucher and in accordance with Regulation [.09G(2)] .11A(2) of this chapter.

(3) (text unchanged)

(4) Parental copayments are determined on the basis of family size and income as set forth in Regulation [.05H] .03H of this chapter.

B. Regional Weekly Copayment Tables.

(1) (text unchanged)

(2) Copayments for a Child 24 Months Old and Older in Family Child Care or Center Care.

(a)—(b) (text unchanged)

(c) A copayment is not assessed for subsequent children in a family who are:

(i) (text unchanged)

(ii) Receiving [POC] CCS Program services.

(3) Copayments for a Child Younger than 24 Months Old in Family Child Care or Center Care.

(a)—(b) (text unchanged)

(c) A copayment is not assessed for subsequent children in a family who are:

(i) (text unchanged)

(ii) Receiving [POC] CCS Program services.

C. A family using informal care shall pay a copayment amount which is equal to the amount produced by multiplying the appropriate percentage from the following table by the informal care weekly rate in the jurisdiction where the child resides:

(1)—(2) (text unchanged)

(3) A copayment is not assessed for subsequent children in a family who are:

(a) (text unchanged)

(b) Receiving [POC] CCS Program services.

D. Determination of Weekly Copayments.

(1) In Regulation [.05H] .03H of this chapter, the [local department] contractor shall find the family size and income to identify the corresponding copayment level letter, and:

(a) (text unchanged)

(b) Determine the weekly copayment for informal child care by multiplying the appropriate regional weekly copayment percentage by the appropriate weekly informal rate, which may not exceed the rates listed in §C of this regulation by the appropriate weekly informal rate, which may not exceed the rates listed in Regulation [.09D] .11D of this chapter.

(2) (text unchanged)

.13 Confidentiality.

A. Except under certain circumstances established by law, information provided by a family in applying for a federal, State, or local jurisdiction assistance program is protected from disclosure under the:

(1) Food Stamp Act of 1977, as amended; and

(2) Human Services Article, §1-202, Annotated Code of Maryland.

B. A family has the right to review its case file after providing a written request to the CCS Branch.

C. Information obtained from families applying for assistance may be released, without written consent, to an individual directly connected with the administration or enforcement of the CCS Program.

D. Except when a release of information is completed by the family and is on file in the customer's record, a contractor may not share family information with a provider.

E. A victim of domestic violence whose address is protected under Maryland law or policy may use substitute address information to apply for services.

.14 Intentional Program Violations.

A. Notice of intentional program violation disqualification penalties shall be posted in clear and prominent lettering on the:

(1) CCS Program application form used by a customer to apply for child care subsidy; and

(2) Terms of agreement completed by a provider when a child is enrolled for CCS Program services.

B. If the contractor receives information that a customer or a provider may have committed an intentional program violation, the contractor may:

(1) Refer the information to the Division's fraud investigator, who shall:

(a) Conduct an investigation of the suspected intentional program violators;

(b) Prepare a report on the completed investigation showing the methods used to obtain information;

(c) Make the report available to the Division; or

(d) Refer the customer or the provider to the local State's Attorney if the alleged facts in the case meet the guidelines established by the State's Attorney for prosecution;

(2) Allow a customer or a provider to waive the customer's or the provider's right to an administrative disqualification hearing; or

(3) Refer the customer or the provider, as applicable, to the Office of Administrative Hearings (OAH) for an administrative disqualification hearing.

C. Supervisory Review. Before providing advanced written notification that a customer or a provider may waive the customer's or provider's right to an administrative disqualification hearing, the contractor shall ensure that a supervisor:

(1) Reviews the evidence against the customer or the provider; and

(2) Determines whether the evidence warrants scheduling of a disqualification hearing.

D. Waiver Hearing. When the contractor decides to allow a customer or a provider to waive the customer's or the provider's right to an administrative disqualification hearing, the contractor shall notify the customer or the provider in writing. The notice shall include:

(1) A summary of the charge against the customer or the provider and the evidence to support it;

(2) Information regarding the administrative disqualification hearing including:

(a) A statement that the customer or the provider may waive the right to an administrative disqualification hearing;

(b) The date the contractor will refer the case to the OAH for a hearing if the contractor has not received the signed waiver, which is not later than 20 calendar days after the mailing of the notice;

(c) The requirement that the customer or the provider shall sign the waiver;

(d) A statement that the customer or the provider has the right to remain silent and that anything the individual says or signs concerning the charge may be used in future administrative or judicial proceedings; and

(e) A statement that signing the waiver will result in disqualification and reduce or terminate services for the customer or the provider;

(3) An opportunity for the customer or the provider to admit to the facts presented by the CCS Branch;

(4) A statement that the disqualified customer or provider is responsible for repayment of any overpayment received;

(5) A statement that a hearing does not preclude the State or federal government from prosecuting the customer or the provider for the intentional program violation in a civil or criminal court; and

(6) The name and telephone number of the person to contact for additional information.

E. If the local State's Attorney decides that a case does not warrant prosecution, the contractor shall refer the case to the OAH for an administrative disqualification hearing.

F. If the local State's Attorney does not act on a referred case within 30 calendar days, the referral shall be withdrawn and the case shall be referred to the OAH for an administrative disqualification hearing.

G. The contractor may not initiate an administrative disqualification hearing:

(1) Against a customer or a provider whose case is being referred by the State's Attorney for prosecution; or

(2) After the State's Attorney or a court of appropriate jurisdiction has taken any action against the customer or the provider in a case arising out of the same or related circumstance.

H. Imposition of Disqualification Penalties. If the contractor receives a signed waiver of the right to an administrative disqualification hearing, the contractor shall apply the disqualification penalty at the beginning of the next service period.

I. If the contractor does not receive a signed waiver of the right to an administrative disqualification hearing within 20 calendar days of providing advance notification in accordance with §D of this regulation, the contractor shall refer the individual to the OAH for a hearing in accordance with COMAR 13A.14.06.15.

J. The referral shall include:

(1) Identifying case information;

(2) A summary of the alleged intentional program violation;

(3) Copies of the contractor's supporting documentation; and

(4) Documentation that the customer or the provider has been:

(a) Previously disqualified for an intentional program violation; or

(b) Convicted by a court of fraud involving the CCS Program.

K. A pending disqualification hearing does not affect the customer's or the provider's right to be certified and participate in the program.

L. The contractor shall terminate or reduce the services if:

(1) The customer or the provider returns the signed waiver to the contractor;

(2) The customer or the provider fails to request a hearing and continuation of benefits after notice of termination or reduction;

(3) The decision of the contractor is upheld upon disposition of an intentional program violation hearing; and

(4) The State's Attorney Office's final disposition of a referred proceeding is received.

M. A customer or a provider who has waived the right to an administrative disqualification hearing or was found to have committed an intentional CCS Program violation is ineligible to participate in the CCS Program as follows:

(1) For the first violation, the customer or the provider may not receive any CCS Program payments for 6 months from the date payment was denied or until the customer or provider makes full restitution to the CCS Program, whichever is earlier;

(2) For the second violation, the customer or the provider may not receive any CCS Program payments for 12 months from the date the payment was denied or until the customer or the provider makes full restitution to the CCS Program, whichever is earlier;

(3) For the third violation, the customer or the provider shall be permanently barred from receiving CCS Program payments and shall pay restitution to the CCS Program; and

(4) For a determination of an intentional program violation based on a customer's or a provider's conviction in a federal or state court on charges that the person misrepresented the location of his or her residence in order to obtain services from two or more states, the customer or the provider is not eligible to receive CCS Program services or payments for 10 years from the finding.

N. The disqualification period begins with the service period after which the customer or the provider is sent written notification of the disqualification:

- (1) Upon disposition of an intentional program violation hearing if the decision of the contractor is upheld;
- (2) When a waiver is signed; or
- (3) Upon final disposition of any proceeding referred to the local State's Attorney Office.

O. Once a disqualification penalty has been imposed under §M(1) or (2) of this regulation, the period of disqualification continues uninterrupted until the earlier of:

- (1) Full repayment of the benefit; or
- (2) Completion of the time period.

P. Before imposing the sanction, the CCS Branch shall provide written notice to the customer or the provider of the:

- (1) Effective disqualification date;
- (2) Reason for imposing the sanction;
- (3) Payment that the applicant, customer, or provider was receiving; and

(4) Date on which the customer may reapply or the provider may begin offering service because the disqualification period has expired.

Q. If a customer or the provider has been disqualified pursuant to this regulation, the contractor shall send the customer or the provider a demand letter for restitution, which shall include:

- (1) The amount owed;
- (2) The reason for the claim;
- (3) The period of time covered by the claim;
- (4) The procedure for paying the claim;
- (5) The right to request renegotiation of any repayment schedule if the customer's or the provider's economic circumstances change; and
- (6) The requirement to:

(a) Sign the repayment notice to indicate agreement to make restitution;

(b) Select the method of payment; and

(c) Return the repayment notice within 30 calendar days of the date of the notice.

R. The customer or the provider may request a hearing before the OAH if the individual disagrees with the amount of the overpayment or the method of repayment.

[.11] .15 Hearings and Appeals.

A. Appeal by [Applicant or Recipient] Customer. [An applicant or recipient] A customer may request a hearing if the [local department] contractor:

- (1)—(4) (text unchanged)

B. Notice.

(1) The [local department or] contractor shall send written notice of any adverse action in writing:

(a) To [each applicant for, and each recipient of, child care services] the customer; and

[(b) To each individual selected by the applicant or customer as an informal provider who is denied payment pursuant to Regulation .09G(11) of this chapter; and]

[(c)] (b) To a [family child care provider, a child care center, or informal] provider who is denied payment for committing an intentional program violation pursuant to Regulation [.09G(12)(f)] .14M of this chapter.

- (2) (text unchanged)

(3) [Applicants or recipients] The customer or provider may appeal within 90 calendar days of the [local department action or mailing] date of the notice of adverse action.

- (4) An appeal request:

(a) Is made by [expressing a desire to appeal] filing a completed MSDE appeal request form with the contractor;

(b) May be received by any employee of the [local department] contractor whose assignment requires contact with the public; and

(c) [Whether communicated formally or informally, shall] Shall be [reported] submitted immediately by the contractor to the designated hearing coordinator.

(5) The filing date of the appeal request is the date the [local department] contractor received the [request in writing] completed MSDE appeal request form.

(6) [Local Department] Contractor Assistance in the Appeal Request. The [local department] contractor shall assist the appellant in completing an appropriate appeal request form to ensure that it contains all the information required to process the request and, if necessary, shall provide an interpreter.

C. Processing of Appeal Requests.

(1) Within 5 business days of the filing date of [a written] an appeal request, the [local department] contractor shall:

- (a)—(b) (text unchanged)

(2) Conference.

(a) When the [local department acknowledges receipt of] contractor receives an appeal request, the [local department] contractor shall promptly offer the appellant a conference.

(b) A [local department] contractor supervisor shall attend the conference.

- (c)—(d) (text unchanged)

D. Continuation of Assistance Pending Appeal.

- (1) (text unchanged)

(2) Assistance may not be continued or reinstated pending appeal if:

- (a)—(d) (text unchanged)

(e) The service is terminated because of nonpayment by the family of the copayment stated on the voucher that was assigned by the [local department] contractor.

(3) An appeal request form shall contain:

- (a) (text unchanged)

(b) A statement that the appellant is responsible for repaying any assistance paid during the appeal process if the [local department's] contractor's position is upheld.

E. (text unchanged)

F. Scheduling and Notice.

- (1) (text unchanged)

(2) Intentional Program Violation Hearing. When the [local department or] contractor makes a referral to OAH concerning an intentional program violation, OAH shall:

- (a)—(b) (text unchanged)

(3) Hearing Notice. The hearing notice shall:

- (a) (text unchanged)

(b) Advise the appellant of:

- (i)—(iii) (text unchanged)

(iv) The right to present documents and witnesses, including [local department employees or contractors] contractor employees, at the hearing;

(v)—(vii) (text unchanged) The right to examine the case record in preparation for the hearing;

- (c) (text unchanged)

G. Prehearing Procedures.

- (1) (text unchanged)

(2) Summaries. The [local department] contractor shall:

- (a)—(b) (text unchanged)

H. (text unchanged)

I. Final Decision.

- (1) Within 90 calendar days of the filing of the appeal request:

- (a) (text unchanged)

(b) The [local department] *contractor* shall complete all administrative or corrective action necessary to implement the decision.

(2) If the decision is favorable to the [local department] *contractor*, the [local department] *contractor* may:

(a) (text unchanged)

(b) Reduce or terminate assistance that has been continued while the appeal was pending by:

(i) (text unchanged)

(ii) Notifying the child care provider of the reduction or termination pursuant to Regulation [.08C(1)] .10A.

(3) If the decision is favorable to the appellant, the [local department] *contractor* shall, within 10 calendar days of the date of the decision:

(a)—(d) (text unchanged)

(4) (text unchanged)

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

Subtitle 14 CHILD AND FAMILY DAY CARE

13A.14.12 Maryland After-School Opportunity Fund Program

Authority: Article 41, §§6-801—6-807, Annotated Code of Maryland

Notice of Proposed Action [15-011-P]

The State Superintendent of Schools proposes to repeal Regulations .01 — .08 under COMAR 13A.14.12 Maryland After-School Opportunity Fund Program.

Statement of Purpose

The purpose of this action is to support the transfer of the Maryland After-School Opportunity Fund Program from the Maryland State Department of Education to the Maryland Governor's Office for Children.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Philip Koshkin-Youritzin, Chief, Research and Evaluation Section, Maryland State Department of Education, Division of Early Childhood Development, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-7823 (TTY 410-333-6442), or email to philip.koshkin-youritzin@maryland.gov, or fax to 410-333-6226. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

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

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 02 ACADEMIC REGULATIONS

13B.02.03 Academic Programs — Degree- Granting Institutions

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

Notice of Proposed Action [15-009-P]

The Maryland Higher Education Commission proposes to adopt new Regulation .03-1 under COMAR 13B.02.03 Academic Programs—Degree Granting Institutions. This action was considered by the Commission at an open meeting held on November 24, 2014, notice of which was given as required by the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update regulations relating to areas of concentration at institutions of higher education.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Secretary may establish program review fees for singular and multiple options. It is anticipated that fees will not exceed \$500 per campus (16 community colleges), for a total of \$8,000. However, this figure will be dependent upon the number of proposals submitted.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Review Fees	(R+)	\$8,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Review Fees	(-)	\$8,000
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. The Secretary may establish program review fees for singular

and multiple options. It is anticipated that fees will not exceed \$500 per campus (16 community colleges), for a total of \$8,000. However, this figure will be dependent upon the number of proposals submitted.

D. The Secretary may establish program review fees for singular and multiple options. It is anticipated that fees will not exceed \$500 per campus (16 community colleges), for a total of \$8,000. However, this figure will be dependent upon the number of proposals submitted.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Shawna Acker-Ball, Director of Academic Affairs, Maryland Higher Education Commission, 6 N Liberty Street, 10th Floor, Baltimore, MD 21201, or call 410-767-3268, or email to shawna.acker-ball@maryland.gov, or fax to 410-332-0270. Comments will be accepted through February 10, 2015. A public hearing has not been scheduled.

.03-1 Review of Extant Curricular Offerings as an area of Concentration at Community Colleges.

A. In this regulation, “sequential arrangement” means an arrangement of approved courses comprising between 12 and 30 semester hours offered by a community college on or before June 30, 2014.

B. A community college that has publicized a sequential arrangement as an “option” for students may submit a program proposal as provided in §C of this regulation to have the sequential arrangement approved as an area of concentration.

C. A community college may request that the Commission approve a sequential arrangement as an area of concentration by submitting a proposal that:

- (1) Provides the area of concentration name;
- (2) Outlines the curriculum design, including course descriptions, names, and credit hours;
- (3) Explains the centrality of the proposed area of concentration to the institution’s mission;
- (4) Identifies when the option first became available; and
- (5) Identifies with specificity:
 - (a) The educational need for the area of concentration, to include the regional or statewide need as identified in the State Plan; or
 - (b) The transfer and articulation arrangements that the area of concentration will facilitate or support.

D. Notwithstanding the provisions of regulation 13B.02.03.02-1, the Secretary may establish program review fees for singular and multiple options submitted under this regulation.

E. A request that a sequential arrangement be approved as an area of concentration must be submitted to the Commission by June 30, 2017.

CATHERINE M. SHULTZ
Acting Secretary of Higher Education

Subtitle 08 FINANCIAL AID

13B.08.01 2 + 2 Transfer Scholarship Program

Authority: Education Article, §§11-105(u) and 18-204(c) and Title 18, Subtitle 25; State Government Article, Title 10, Subtitle 2; Annotated Code of Maryland

Notice of Proposed Action

[15-012-P]

The Maryland Higher Education Commission proposes to adopt new Regulations .01 —.10 under a new chapter, **COMAR 13B.08.01 2 + 2 Transfer Scholarship Program**, under a new subtitle, **Subtitle 08 Financial Aid**. This action was considered by the Commission at an open meeting held on November 24, 2014, notice of which was given as required by the State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to assist and encourage community college graduates to transfer to a 4-year institution within the State.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Shawna Acker-Ball, Director of Academic Affairs, Maryland Higher Education Commission, 6 N Liberty Street, 10th Floor, Baltimore, MD 21201, or call 410-767-3268, or email to shawna.acker-ball@maryland.gov, or fax to 410-332-0270. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Purpose.

The purpose of the 2+2 Transfer Scholarship Program is to assist and encourage community college graduates to transfer to a 4-year institution within the State.

.02 Eligibility.

To be eligible for assistance under the 2+2 Transfer Scholarship Program, an applicant shall:

- A. Be a Maryland resident;
- B. Be currently enrolled at a community college in Maryland;
- C. Maintain a minimum cumulative 2.5 grade point average on a 4.0 scale while a student at a community college in Maryland;
- D. Have earned an associate’s degree from a community college in Maryland by the end of the semester in which the applicant plans to transfer;
- E. Be accepted for admission to a degree program at a public senior higher education institution or a private nonprofit institution of higher education in Maryland;
- F. Intend to enroll in a public senior higher education institution or a private nonprofit institution of higher education in Maryland in order to complete a bachelor’s program;
- G. On or after the fall semester of 2014, enroll as a full-time, degree-seeking student in a public senior higher education institution or a private nonprofit institution of higher education in Maryland by the fall semester following completion of the associate’s degree;

H. In the case of an individual who is required to register with the Selective Service System, have complied with the registration requirement;

I. Timely file the Free Application for Federal Student Aid (FAFSA) form; and

J. Have demonstrated financial need, defined as a federally calculated expected family contribution (EFC) of \$10,000 or less as reported on the student's FAFSA.

.03 Application Procedures.

A. To be considered for the 2+2 Transfer Scholarship, students shall submit the application and all documents required by the Office for Student Financial Assistance.

B. Students applying for the 2+2 Transfer Scholarship shall provide:

(1) A completed online application form;

(2) A completed FAFSA application;

(3) An official college transcript reflecting that the applicant has earned an associate's degree from a community college in the State; and

(4) Documentation the student has registered with the Selective Service System, if applicable.

C. Students should file a FAFSA by March 1 each year for priority consideration. Applications will be accepted after the March 1 date and awards will be made with available funds

D. Each student shall agree to provide any information or documentation requested by OSFA for the purpose of administering this program and, if requested, to sign an authorization for the release of information to OSFA for the purpose of administering this program. The student's failure or refusal to provide requested information or a signed release may result in a determination of ineligibility, the cancellation of an award, and the denial of a request for the deferment or waiver of a service obligation.

.04 Award Amount.

A. Except as provided in §B of this regulation, the annual award amount shall be \$1,000.

B. The annual award amount shall be \$2,000 for a student who enrolls in a science, teaching, engineering, computer science, mathematics, or nursing program.

C. The scholarship may be used for tuition and mandatory fees for 3 years of study or 6 semesters of study, whichever is longer.

.05 Selections of Recipients and Award Notification.

A. Eligible applicants shall be ranked on the basis of cumulative grade point average.

B. Grades for credits earned as a community college student shall be used to calculate the cumulative grade point average.

C. Awards shall be made to applicants based on cumulative grade point average ranked highest to lowest. Awards shall be issued until the total funds appropriated for the program have been depleted.

D. Recipients shall be notified in writing of the scholarship award. A recipient shall provide written acceptance of the award to the Office of Student Financial Assistance by the date specified in the award notice or the award will be forfeited.

.06 Verification and Payment.

A. The Office of Student Financial Assistance has the authority to verify information concerning applicants and recipients for the purpose of administering this program.

B. At the request of OSFA, schools are required to verify the following using federal standards:

(1) Taxable and nontaxable income of student and parents (if a dependent student);

(2) Enrollment status (undergraduate or graduate);

(3) Dependency status; and

(4) Transaction number of ISIR used.

C. Schools shall provide updated and verified data to OSFA by the date established each year.

D. Information verified by the institutions will be used to update OSFA records. Awards for students with corrections and errors shall be recalculated and adjusted as specified in Regulation .05 of this chapter or canceled accordingly.

E. Each semester, eligible institutions shall certify on billing rosters provided by the Office of Student Financial Assistance that the recipient is:

(1) A Maryland resident;

(2) Enrolled for 12 or more hours as a degree-seeking undergraduate student; and

(3) Making satisfactory academic progress toward a degree.

.07 Renewal and Continuation.

A. A 2+2 Transfer Scholarship may be renewed for a total of 3 years of study, or 6 semesters of study, whichever is longer, if the recipient:

(1) Remains a resident of the State of Maryland;

(2) Continues to be enrolled full-time as an undergraduate student in a degree program at a public senior higher education institution or a private nonprofit institution of higher education in Maryland;

(3) Maintains a cumulative 2.5 grade point average on a 4.0 scale each academic year the recipient is enrolled at a public senior higher education institution or a private nonprofit institution of higher education in the State or provides evidence satisfactory to the administration of extenuating circumstances as specified under Regulation .09 of this chapter; and

(4) Maintains the standards of the institution attended by the recipient.

B. Certification of Grade Point Average.

(1) Following the spring semester, the Office of Student Financial Assistance shall request the postsecondary institution to provide a certified cumulative grade point average for the academic year for the 2+2 Transfer Scholarship recipients attending that institution. The grade point average shall be computed using the procedures in use by the institution.

(2) OSFA also may ask the school to verify the recipient's grade point average by submitting an official transcript.

(3) The institution's calculation of the grade average is final. OSFA does not round any reported grade point averages.

(4) If the institution cannot compute a cumulative grade point average for the academic year, it shall submit a grade point average for each semester the student was enrolled during the academic year. If either semester average is below a 2.5, the institution shall report the number of hours attempted and the number of hours completed for the semesters in which the student is enrolled.

(5) If the reported calculation is below a 2.5 grade point average, the recipient's 2+2 Transfer Scholarship will not be renewed.

(6) A recipient whose award has been canceled may request reinstatement of the scholarship if the student's academic performance in summer school courses taken immediately following that academic year raises the cumulative grade point average to 2.5 or above.

.08 Nonrenewal of Award.

The 2+2 Transfer Scholarship will not be renewed if the student fails to:

A. Maintain the academic standards of the institution;

B. Maintain Maryland residency;

C. Maintain a cumulative 2.5 grade point average; or

D. Enroll as a full-time degree-seeking student taking at least 12 credit hours each semester.

.09 Appeals.

A. *Basis of Appeal.* An appeal may only be filed on the basis of:

- (1) Failure to maintain full-time enrollment; or
- (2) Failure to maintain a 2.5 cumulative grade point average.

B. *Appeal Based on Full-Time Enrollment.*

(1) "Full-time" means enrollment for at least 12 semester hours of courses each semester or its equivalent.

(2) To be considered full-time, the actual time spent in the classroom, lab, supervised activity, or clinic shall equal 180 clock hours or more in a regular semester.

(3) Students enrolled for at least 6 credit hours but less than 12 credits can appeal to receive the 2+2 Transfer Scholarship if they are participating in a specific course or activity (such as an internship or a practicum) that is required by the institution to complete their academic program. The student may appeal by submitting documentation, in addition to the appeal form, from the student's department chair that describes and confirms the program requirements for that semester, along with a catalog description of the program and classes involved. The documentation shall also list the number of clock hours required for each activity.

C. *Appeal Based on Grade Point Average.*

(1) If a student fails to meet grade point average requirement, the student may appeal on the basis of:

- (a) A serious illness or injury of the student;
- (b) A serious illness of a member of the student's immediate family;
- (c) Serious emotional difficulties experienced by the student;
- (d) The death of a member of the student's immediate family; or
- (e) Other serious personal circumstances.

(2) The student's appeal information shall clearly demonstrate that one or more of the factors in §C(1) of this regulation prevented the student from achieving the required grade point average.

D. *Appeal Procedures.*

(1) An appeal may only be filed by the submission of a completed appeal form to the Director of Student Financial Assistance.

(2) An appeal shall be received by OSFA within 45 days of the date the student is notified that the scholarship award has been nonrenewed.

(3) In completing the appeal form, the student shall document the conditions upon which the appeal is based as specified in §A of this regulation. Upon receipt of the appeal, the documentation shall be reviewed and a decision shall be rendered. The student shall be notified of the outcome of the appeal in writing.

.10 Funding.

The funding for the 2+2 Transfer Scholarship shall be as provided in the annual State budget. All awards are contingent upon the annual appropriation of funding.

ANWER HASAN
Chair

Maryland Higher Education Commission

Title 14**INDEPENDENT AGENCIES****Subtitle 31 OFFICE FOR CHILDREN****14.31.06 Standards for Residential Child Care Programs**

Authority: Education Article, §§8-301 — 8-303 and 8-401—8-417; Family Law Article, §§5-506, 5-508, 5-509, and 5-510; Health-General Article, §§2-104, 7-904, 8-404, 10-922, and 10-924; Health Occupations Article, §20-302.2; Human Services Article, §§2-209, 2-212, 9-203, 9-204, 9-221, 9-231, 9-234, 9-235, 9-236, and 9-237; Annotated Code of Maryland

Notice of Proposed Action

[15-010-P]

The Children's Cabinet proposes to amend Regulation .05 under **COMAR 14.31.06 Standards for Residential Child Care Programs.**

Statement of Purpose

The purpose of this action is to align requirements for tuberculosis screening with requirements in existing regulations.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Anne Sheridan, Executive Director, Governor's Office for Children, 301 W. Preston Street, 15th Floor, Baltimore, MD 21201, or call 410-767-4092, or email to anne.sheridan@maryland.gov, or fax to 410-333-5248. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.05 Personnel Administration.

A.—D. (text unchanged)

E. Personnel Record. The licensee shall:

(1) Maintain for each staff member a personnel record that contains:

(a)—(c) (text unchanged)

(d) [An annual] A screening for tuberculosis *every 2 years* administered by the Mantoux method or current Centers for Disease Control and Prevention standard with an analysis of results or, for those staff members whose results were positive, an annual medical certification that the staff member presents no symptoms of active tuberculosis;

(e)—(n) (text unchanged)

(2)—(3) (text unchanged)

F.—G. (text unchanged)

ANNE SHERIDAN

Executive Director

Governor's Office for Children

Title 17 DEPARTMENT OF BUDGET AND MANAGEMENT

Subtitle 05 COUNCIL ON MANAGEMENT AND PRODUCTIVITY

17.05.01 Competitive Re-Engineering Pilot Program

Authority: State Finance and Procurement Article, §§18-101—18-104, Annotated Code of Maryland

Notice of Proposed Action [15-023-P]

The Secretary of Budget and Management proposes to repeal Regulations .01 — .08 under COMAR 17.05.01 Competitive Re-Engineering Pilot Program.

Statement of Purpose

The purpose of this action is to repeal COMAR 17.05.01. These regulations were promulgated to support the statute that created the Competitive Re-Engineering Pilot Program, State Finance and Procurement Article, §§18-101 — 18-104, Annotated Code of Maryland. That statutory authority abrogated September 30, 2003.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jennifer P. Hine, Personnel Director, Department of Budget and Management, 301 W. Preston Street, Room 602, Baltimore, MD 21201, or call 410-767-4718, or email to jennifer.hine@maryland.gov, or fax to 410-333-5262. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

T. ELOISE FOSTER
Secretary of Budget and Management

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 19 OIL AND GAS RESOURCES

26.19.01 Oil and Gas Exploration and Production

Authority: Environment Article, §14-103, Annotated Code of Maryland

Notice of Proposed Action [15-001-P-I]

The Secretary of the Environment proposes to repeal existing Regulations .01—.15 and adopt new Regulations .01—.58 under COMAR 26.19.01 Oil and Gas Exploration and Production.

Statement of Purpose

The purpose of this action is to update the regulations to address new technologies.

These changes will establish new oil gas exploration and production standards. The new standards for oil and gas exploration and production in Maryland are needed to provide adequate protection for public health, safety, the environment and natural resources. These standards are at least as protective, and in some cases more protective, than those in place currently in other states. The standards will provide a suite of best practices that are to be followed for oil and gas production in the Marcellus Shale in Maryland.

Background

The Marcellus Shale is a black shale, or rock formation, found throughout the northern Appalachian Basin. The Marcellus Shale formation underlies New York, Pennsylvania, Ohio, West Virginia and western Maryland. In 2009, the Department of Energy estimated 262 trillion cubic feet of natural gas exists in the Marcellus Shale, making it the largest onshore Natural Gas Reserve in the United States. In Maryland, the Marcellus Shale formation is located within western Maryland from Washington, Allegany and Garrett Counties. The only anticipated areas of gas production in the Marcellus Shale are western Allegany and Garrett Counties.

On June 6, 2011, Governor Martin O'Malley signed Executive Order 01.01.2011.11, establishing the Marcellus Shale Safe Drilling Initiative. The Executive Order directs the Maryland Department of the Environment (MDE) and the Department of Natural Resources (DNR) to assemble and consult with an Advisory Commission in the study of specific topics related to horizontal drilling and hydraulic fracturing in the Marcellus Shale. The Advisory Commission was established to assist State policymakers and regulators in determining whether and how gas production from the Marcellus Shale in Maryland can be accomplished without unacceptable risks of adverse impacts to public health, safety, the environment, and natural resources. The Advisory Commission includes a broad range of stakeholders, including elected officials from Allegany and Garrett Counties, two members of the General Assembly, representatives of the scientific community, the gas industry, business, agriculture, environmental organizations, citizens, and a State agency. A representative of the public health community was added in 2013.

Since its inception the Advisory Commission has met 35 times. Most meetings were in Allegany or Garrett Counties, but several were held in Hagerstown, Annapolis and Baltimore. The Departments provided written information and briefings to the Advisory Commission on issues relating to high volume hydraulic fracturing

(HVHF). Speakers representing the scientific community, industry and agencies from Maryland and other states presented information to the Advisory Commission and the Departments. The Commissioners were able to visit active drilling sites. The Departments consulted with the federal government and neighboring states regarding policy, programmatic issues and enforcement experiences. The Commissioners themselves shared information and brought their expertise to bear.

The Executive Order tasked MDE and DNR, in consultation with the Advisory Commission, with conducting a three-part study and reporting findings and recommendations. The completed study includes:

- i. findings and related recommendations regarding sources of revenue and standards of liability for damages caused by gas exploration and production;
- ii. recommendations for best practices for all aspects of natural gas exploration and production in the Marcellus Shale in Maryland; and
- iii. a final report with findings and recommendations relating to the impact of Marcellus Shale drilling including possible contamination of ground water, handling and disposal of wastewater, environmental and natural resources impacts, impacts to forests and important habitats, greenhouse gas emissions, and economic impact.

The completed study has informed this action to update the standards for oil and gas exploration and production. Many of the updated standards included in this regulatory action were included among the recommendations in the completed study.

Affected Sources

This action directly impacts oil and gas exploration and production companies and their contractors that work in Maryland. There will also be impacts to trucking companies engaged to work on behalf of the oil and gas companies. Additionally, there could be impacts to mineral rights owners in Garrett and Allegany Counties.

Requirements

This is a comprehensive regulatory action to address the potential impacts to public health, safety, the environment and natural resources from HVHF in the Marcellus Shale in Maryland. The updated regulatory standards included in this action will require a suite of best practices be followed for oil gas exploration and production. These best practices will provide superior results to those achieved by other methods and techniques. These best practices are as protective, or more protective, than those in place currently in other states.

The following are requirements that will be imposed on affected sources by these regulations:

- Use of a Comprehensive Development Plan (CDP) - Designed to address the larger, landscape-level issues and cumulative effects. This comprehensive planning tool will allow for gas development activities to be considered in an area rather than considering each well individually. This includes the consideration of the placement of well pads, roads, pipelines and other ancillary equipment for a large area. The CDP is mandatory except for a limited number of exploratory wells, and will be a prerequisite to an application for a well permit. Once the CDP is approved, applications for individual wells consistent with the approved plan could be made.
- Public notification and opportunity for public hearing - The application for an individual well permit includes public notice and opportunity for public hearing once the Department determines the application is complete. The Department will provide written notice of its final decision to the applicant, any participants who attended a public informational hearing, persons who commented on the application, and all landowners, royalty owners, and owners of mineral, oil, and gas rights within 1,000 feet of the proposed well.

- Environmental Assessment and baseline monitoring - An application for a permit to drill a well must include an Environmental Assessment and two years of baseline monitoring in the vicinity of the well pad.

- Location restrictions and setbacks - For wells and well pads, including restrictions based on: topography and geology; location within certain reservoirs and drinking water protection areas; proximity to certain natural features; proximity to boundary lines; and proximity to certain occupied dwellings.

- Detailed plans for individual wells - The application for an individual well permit will require detailed plans for all activities, from construction of the access road through closure and restoration of the site. The elements of the plan must meet or exceed standards for engineering, design and environmental controls that are recommended in these standards. The engineering, design, and environmental controls and standards include requirements for:

- Drilling
- Stormwater management;
- Sediment and erosion control;
- Wellpad construction;
- Access roads;
- Freshwater storage;
- Chemical use, storage, and handling;
- Chemical disclosure;
- Radioactive materials
- Transportation and truck traffic;
- Protection of Sensitive Aquatic Resources
- Protection of freshwater aquifers;
- Control and reporting of air emissions;
- Use of engines and compressors;
- Blowout prevention;
- Leak detection and repair;
- Well construction, casing, and cement;
- Integrity testing;
- Monitoring during drilling and high volume hydraulic fracturing;
- Site security;
- Management of drilling fluids, simulation fluids and produced water;
- Gathering lines and pipelines;
- Flaring;
- Noise;
- Lighting;
- Spill prevention, control and countermeasures and emergency response plan;
- Ongoing monitoring and corrective measures;
- Invasive species;
- Site reclamation; and
- Wastes and wastewater.

- Financial Assurance - These regulations also include requirements for liability insurance, environmental pollution liability insurance, and a performance bond, a blanket bond, cash, a certification of deposit, or a letter of credit relating to proper abandonment of wells.

- Plugging of oil or gas wells - These regulations include detailed requirements for plugging of an oil or gas well.

- Bond performance and release procedures - The regulations include requirements for oil and gas bond performance and release procedures.

- Statutory, Regulatory, or Permit violations - The regulations include Departmental authority and potential actions against a person who violates either statutory, regulatory, or permit provisions relating to oil and gas exploration and production.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed regulations for oil and gas exploration and production will economically impact many different parties, both positively and negatively. These economic impacts cannot be quantified, but are discussed in detail below.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
<hr/>		
A. On issuing agency:		
(1) Program implementation	(E+)	Indeterminable
(2) Funding of program implementation	(R+)	Indeterminable
B. On other State agencies:		
(1) Department of Natural Resources	(E+)	Indeterminable
(2) Department of Natural Resources	(R+)	Indeterminable
C. On local governments:		
(1) Road improvements	(E+)	Indeterminable
(2) Road improvements and maintenance	(R+)	Indeterminable
	Benefit (+) Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:		
(1) Oil and Gas Companies—Large	(-)	Indeterminable
(2) Oil and Gas Companies—Small	(-)	Indeterminable
(3) Trucking Companies	(-)	Indeterminable
E. On other industries or trade groups:		
(1) Environmental Consultants	(+)	Indeterminable
(2) Laboratories	(+)	Indeterminable
(3) Tourism	(+)	Indeterminable
(4) Real Estate	(+)	Indeterminable
F. Direct and indirect effects on public:		
(1) Health Benefits	(+)	Indeterminable
(2) Drinking Water Protection	(+)	Indeterminable
(3) Natural Resource Protection	(+)	Indeterminable
(4) Environmental Protection	(+)	Indeterminable

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

A(1). There will be an economic impact to the Department of the Environment (MDE). The regulatory and permitting requirements will require additional work by Department staff. How much additional work would vary depending on the level of drilling activity

in Maryland's portion of the Marcellus Shale formation. Some of the additional work for the Department would include additional work reviewing: Comprehensive Development Plans (CDPs); the required two years of baseline data; and more detailed permit applications. There would also be additional work to monitor compliance with permit conditions. Any additional costs to the Department for this work cannot be estimated.

A(2). Environment Article, §14-105, Annotated Code of Maryland authorized the Department to assess permit and production fees in an amount necessary to operate the regulatory program, with a provision for annual adjustment.

B(1). There will be an economic impact to the Department of Natural Resources (DNR). How much additional work would vary depending on the level of drilling activity in Maryland's portion of the Marcellus Shale formation. Under the proposed regulations, DNR will have responsibilities concerning evaluation of Comprehensive Development Plans. In addition, DNR has a consultative role with MDE for various activities specified in the proposed regulations. Additional costs to DNR for these activities cannot be estimated.

B(2). The proposed regulations provide for reimbursement of DNR by MDE for some expenses associated with evaluation of proposed CDPs.

C(1). There is potential for economic impacts to local jurisdictions. The regulations provide for the option for local jurisdictions to enter into agreements with drilling companies to make road improvements that are necessary as a result of drilling activity. This is voluntary for local jurisdictions, but it is likely that some of the jurisdictions will undertake this activity, which will lead to added costs. Any additional costs to local jurisdictions cannot be estimated.

C(2). There is a potential for a positive economic impact to local jurisdictions if roads are improved or maintained at the cost of the exploration or drilling company.

D(1). The largest economic impact will be to oil and gas exploration and production companies that work in Maryland. These companies will have to meet the more stringent oil and gas exploration and production regulations. These regulations are more stringent than what is currently required in Maryland regulations, and as stringent, or more stringent, than what is required in other states that were surveyed. Some of these additional requirements will result in negligible additional costs to the oil and gas companies because many of the best practices that will be required by these regulations have become fairly common industry practices among the larger companies that engage in this type of activity. The major added costs to these larger companies would be the costs related to the Comprehensive Development Plan, two years of baseline monitoring before a well can be drilled, ongoing monitoring during drilling, hydraulic fracturing, and production, and any additional testing required by the Department. Any additional costs to large companies or smaller companies from these requirements cannot be estimated.

There will also be added costs to oil and gas companies to comply with the financial assurance provisions of the regulations. These companies must have liability insurance, environmental pollution liability insurance, and a performance bond, a blanket bond, cash, a certificate of deposit, or a letter of credit. Larger companies will likely avoid the added costs associated with these requirements by meeting the alternative financial test.

D(2). The largest economic impact will be to oil and gas exploration and production companies that work in Maryland. These companies will have to meet the more stringent oil and gas exploration and production regulations. These regulations are more stringent than what is currently required in Maryland regulations, and as stringent, or more stringent, than what is required in other states

that were surveyed. Some of these additional requirements will result in negligible additional costs to the oil and gas companies because many of the best practices that will be required by these regulations have become fairly common industry practices among the larger companies that engage in this type of activity. The major added costs to these larger companies would be the costs related to the Comprehensive Development Plan, two years of baseline monitoring before a well can be drilled, ongoing monitoring during drilling, hydraulic fracturing, and production, and any additional testing required by the Department. The smaller oil and gas companies will likely have even larger additional costs to comply with the regulations to the extent that the additional requirements are not practices that they currently engage in. Any additional costs to large companies or smaller companies from these requirements cannot be estimated.

There will also be added costs to oil and gas companies to comply with the financial assurance provisions of the regulations. These companies must have liability insurance, environmental pollution liability insurance, and a performance bond, a blanket bond, cash, a certificate of deposit, or a letter of credit. It is unlikely that smaller companies will be able to pass the alternative financial test. Any additional costs to small companies from these requirements cannot be estimated.

D(3). There is also the potential for economic impacts to trucking companies that contract with oil and gas companies to transport materials to and from the well sites. All trucks transporting waste materials from the site must have a Global Positioning System (GPS) to track the transport and disposition of these materials. This will be an additional cost to trucking companies. This cost cannot be estimated, as it depends on a number of factors, including the level of drilling activity, the number of trucks in a company's fleet, and which trucks if any already have a GPS.

E(1). There will be positive economic impacts to environmental consultants and laboratories for the additional work that will be required by the regulations. It is likely that the drilling companies will hire consultants and use laboratories to do all of the necessary environmental assessments, baseline monitoring, ongoing monitoring, testing and analytical procedures, and any other environmental studies or assessments required by regulations or permit. Any additional revenues to consultants cannot be estimated.

E(2). There will be positive economic impacts to environmental consultants and laboratories for the additional work that will be required by the regulations. It is likely that the drilling companies will hire consultants and use laboratories to do all of the necessary environmental assessments, baseline monitoring, ongoing monitoring, testing and analytical procedures, and any other environmental studies or assessments required by regulations or permit. Any additional revenues to consultants cannot be estimated.

E(3). There will be positive economic impacts to real estate professionals and tourism related businesses in Garrett and Allegany Counties as a result of replacing the existing regulations with these more stringent regulations. The protections included in these regulations will help to minimize any negative impact to property values that may result from drilling activity, which will positively impact property owners and real estate professionals. Stronger regulations for oil and gas drilling will also benefit the tourism industry and tourism related businesses by ensuring better protection of the natural environment which is the driver for much of the tourism in these two Counties.

E(4). There will be positive economic impacts to real estate professionals and tourism related businesses in Garrett and Allegany Counties as a result of replacing the existing regulations with these more stringent regulations. The protections included in these

regulations will help to minimize any negative impact to property values that may result from drilling activity, which will positively impact property owners and real estate professionals. Stronger regulations for oil and gas drilling will also benefit the tourism industry and tourism related businesses by ensuring better protection of the natural environment which is the driver for much of the tourism in these two Counties.

F(1). There will be positive economic impacts to the residents in Garrett and Allegany Counties by enacting these more stringent regulations. The regulations will minimize the impacts from drilling to public health, safety, the environment and natural resources in these two Counties. By minimizing these impacts, the general citizenry of the two Counties will benefit from enhanced public health protection and safety, including better protections for air quality and sources of drinking water. Additionally, the natural environment of the two Counties will be better protected, including forests, rivers, streams and other water bodies, wildlife, flora and fauna.

F(2). There will be positive economic impacts to the residents in Garrett and Allegany Counties by enacting these more stringent regulations. The regulations will minimize the impacts from drilling to public health, safety, the environment and natural resources in these two Counties. By minimizing these impacts, the general citizenry of the two Counties will benefit from enhanced public health protection and safety, including better protections for air quality and sources of drinking water. Additionally, the natural environment of the two Counties will be better protected, including forests, rivers, streams and other water bodies, wildlife, flora and fauna.

F(3). There will be positive economic impacts to the residents in Garrett and Allegany Counties by enacting these more stringent regulations. The regulations will minimize the impacts from drilling to public health, safety, the environment and natural resources in these two Counties. By minimizing these impacts, the general citizenry of the two Counties will benefit from enhanced public health protection and safety, including better protections for air quality and sources of drinking water. Additionally, the natural environment of the two Counties will be better protected, including forests, rivers, streams and other water bodies, wildlife, flora and fauna.

F(4). There will be positive economic impacts to the residents in Garrett and Allegany Counties by enacting these more stringent regulations. The regulations will minimize the impacts from drilling to public health, safety, the environment and natural resources in these two Counties. By minimizing these impacts, the general citizenry of the two Counties will benefit from enhanced public health protection and safety, including better protections for air quality and sources of drinking water. Additionally, the natural environment of the two Counties will be better protected, including forests, rivers, streams and other water bodies, wildlife, flora and fauna.

Economic Impact on Small Businesses

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

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article §2-1505.2, includes the following definitions which are relevant to the analysis:

"Economic impact analysis" means an estimate of the cost or the economic benefit to small businesses that may be affected by a

regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries: Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

The intended beneficiaries of the proposed regulations are residents of and visitors to Garrett and Allegany Counties. These beneficiaries are primarily households. The proposed regulations will have some indirect benefits to environmental consultants and laboratories, as well as the real estate and tourism industries, but these are not the primary intended beneficiaries.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

The proposal should not materially affect the income or purchasing power of households and thus will not change the volume or patterns of their consumer spending.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

Companies in the tourism business will benefit because the proposed regulations are much more protective of the environment and natural resources than the existing regulations. Some of these companies are small businesses. The Department does not have information on the number or proportion of small businesses in the total population of the tourism businesses.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) cost plus time costs – usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

The proposed regulations affect oil and gas exploration and production companies. Most of these companies are likely to be large businesses. However, it is possible that some companies or their contractors are small businesses. The Department does not have information on the number or proportion of small businesses in the total population of oil and gas businesses.

Oil and gas companies will have to meet the more stringent regulations when conducting drilling operations in Maryland. The regulatory requirements are more stringent than what is currently

required in Maryland regulations. Some of these additional requirements will result in negligible additional costs to large oil and gas companies because many of the requirements are already included among common industry practices. The smaller oil and gas companies will likely have larger additional costs to comply with the regulations to the extent that the additional requirements are not practices that they currently follow. Any additional costs to small oil and gas businesses from these requirements cannot be estimated.

There will also be added costs to oil and gas companies to comply with the financial assurance provisions of the regulations. Larger companies will likely avoid the added costs associated with these requirements by demonstrating that they comply with the alternative financial test. It is unlikely that smaller companies will be able to pass this alternative test, and thus will have to comply with the additional financial assurance provisions of the regulations. Any additional costs to these small businesses from these requirements cannot be estimated.

There is also potential for economic impacts to trucking companies that contract with oil and gas companies to transport materials to and from the well sites. All trucks transporting these materials must have a GPS to ensure the safe tracking and disposition of these materials. This will be an additional cost to trucking companies. These costs cannot be estimated. The Department does not have information on the number or proportion of small businesses in the total population of trucking companies.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

There will be positive economic impacts to environmental consultants and laboratories for the additional work that will be required by the regulations. It is likely that the drilling companies will hire consultants and use laboratories to do all of the necessary environmental assessments, baseline monitoring, ongoing monitoring, testing and analytical procedures, and any other environmental studies or assessments required by regulations or permit. Any additional revenues to consultants cannot be estimated. The Department cannot estimate the number or portion of small businesses in the total population of environmental consulting businesses likely to be positively impacted by these regulations.

There will also be positive economic impacts to real estate professionals and tourism related businesses in Garrett and Allegany Counties by enacting these more stringent regulations. The protections included in these regulations will help to minimize any negative impacts to property values that may result from drilling activity, which will positively impact property owners and real estate professionals. Stronger regulations for oil and gas drilling will also benefit the tourism industry and tourism related businesses by ensuring better protection of the natural environment which is the driver for much of the tourism in these two Counties. The Department cannot estimate the total number or portion of small businesses in the total population of either real estate businesses or tourism related businesses, although it is likely to be a large proportion of the total population of both. The Department also cannot estimate the total additional revenues to either of these types of businesses.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small

businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial impact described above?

No.

4. Estimate of Economic Impact. State Government Article 2-1505.2 requires that an agency include estimate, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development, and (6) consumer choice.

(1) Cost of providing goods and services: The Department cannot determinate the additional costs of providing the services included in the regulations.

(2) Effect on the work force: There will be better public health and safety protections for oil and gas employees in Maryland from these more stringent regulations. The Department cannot estimate this benefit in dollar terms.

(3) Effect on the cost of housing: Traditionally there is a decrease in home values when a home is located in close proximity to an oil or gas well. The added protections in these regulations should serve to limit the decrease in home values by affording homeowners better public health, safety, and environmental protections. The extent of this effect cannot be estimated.

(4) Effect on efficiency in production and marketing: None expected.

(5) Capital investment, taxation, competition, and economic development: The level of capital investment, taxation, competition, and economic development resulting from these regulations is unlikely to be significantly different than that under the current regulations. The Department cannot estimate any changes in these amounts.

(6) Consumer choice: None expected.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Brigid Kenney, Senior Policy Advisor, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, Maryland 21230-1720, or call 410-537-4187, or email to brigid.kenney@maryland.gov, or fax to 410-537-3888. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Guidelines for Administering Oil and Gas Activity on State Forest Lands has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 41:1 Md. R. 9 (January 10, 2014), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Definitions.

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

B. Terms Defined.

(1) Administratively Complete.

(a) "Administratively complete" means that the application contains the information and supporting documents requested on the application form.

(b) "Administratively complete" does not mean that the application is complete for purposes of Regulation .16C of this chapter.

(2) "Angular deviation and directional survey" means a well survey that indicates, at frequent intervals, the amount and azimuth that the hole has departed from vertical.

(3) "Annular space" means the area between the inner and outer walls of two concentric casings and the area between the outer casing and the wall of a borehole.

(4) "API" means American Petroleum Institute, a national trade association that represents the oil and natural gas industry in the United States that develops and publishes standards and other documents.

(5) "Aquatic habitat" means all streams, rivers, seeps, springs, wetlands, lakes, ponds, water reservoirs and 100 year floodplains.

(6) "Base fluid" means the continuous phase fluid used in the makeup of a well stimulation treatment fluid.

(7) "Baseline monitoring" means gathering and reporting data according to protocols developed jointly by the Departments of the Environment and Natural Resources to characterize the condition of air, ground water and surface water in the vicinity of a planned well pad before site preparation and drilling.

(8) "Blowout" means an uncontrolled flow of gas, oil, or other well fluids into the atmosphere, which may occur when formation pressure exceeds the pressure applied to it by the column of drilling fluid.

(9) "Blowout prevention equipment" means devices attached to the top of the well casing that can be closed and shut off to control pressure at the wellhead.

(10) "Brackish and salt water" means water with a total dissolved solids concentration greater than 1,000 milligrams per liter.

(11) "Bridge plug" means an expandable device used inside the casing of a well to isolate certain zones or to seal the casing to a shallower depth.

(12) "CAS" means Chemical Abstract Service.

(13) "Circulating medium" means any type of liquid, gas, or slurry used as an agent to remove drill cuttings and to cool the bit.

(14) CO₂ Equivalent Emissions (CO₂e).

(a) "CO₂ equivalent emissions (CO₂e)" means the amount of Greenhouse Gas emitted.

(b) "CO₂ equivalent emissions (CO₂e)" for methane is computed by multiplying the mass amount of emissions, in tons per year, by methane's associated global warming potential.

(15) "Commingle production" means to mix hydrocarbons from two or more pay zones in the same well.

(16) "Comprehensive Development Plan (CDP)" means a document prepared by a person holding oil or gas interests describing the person's plans for exploration and production in the Maryland portion of an oil- or gas-bearing formation for at least the succeeding five years, and submitted to the State for review and approval.

(17) "Comprehensive Development Plan applicant (CDP-applicant)" means a person submitting a Comprehensive Development Plan to the Department for approval.

(18) "Conductor pipe" means a pipe used near the surface to prevent unconsolidated material from caving or sloughing into the hole.

(19) "Coning" means the cone-shaped invasion of water underlying oil or gas in an oil or gas reservoir or invasion of gas overlying oil in a reservoir as the oil or gas is withdrawn from a well.

(20) "Critical Area" has the meaning stated in COMAR 27.01.01.01B.

(21) "Cuttings" means the fragments of rocks produced by the drill bit during the drilling process and brought to the surface in the drilling liquid.

(22) "Department" means the Department of the Environment.

(23) "Diesel fuel" means a substance with one of the following Chemical Abstract Service Registry Numbers:

(a) 68334-30-5 Primary Name: Fuels, diesel;

(b) 68476-34-6 Primary Name: Fuels, diesel, No. 2;

(c) 68476-30-2 Primary Name: Fuel oil, No. 2;

(d) 68476-31-3 Primary Name: Fuel oil, No. 4; or

(e) 8008-20-6 Primary Name: Kerosene.

(24) "Directional drilling" means:

(a) Aiming wells at horizontally displaced bottom-hole targets; and

(b) Intentional deviation of a borehole from the path it would naturally take.

(25) "Discharge" has the meaning stated in COMAR 26.08.01.01B(20).

(26) Drilling Liquid.

(a) "Drilling liquid" means a fluid, such as mud or water, circulated in a borehole to remove the drill cuttings from the hole and to cool the drill bit.

(b) "Drilling liquid" does not include air or gas.

(27) "Dry hole" means a well that encountered no oil or gas of commercial significance.

(28) "Environmental Assessment" means a document prepared by an applicant for a gas and oil drilling and operating permit in accordance with guidance from the Department and submitted with an application for the permit and includes, at a minimum, a discussion and evaluation of the possible ecological, aesthetic, historic, cultural, economic, social, or health impacts of the planned drilling and operating.

(29) "Explosives" means any chemical compound, mixture, or device, the primary purpose of which is to function by explosion through substantially instantaneous release of gas and heat, unless the compound, mixture, or device is otherwise specifically classified by the Interstate Commerce Commission or other federal agencies.

(30) "Flowback" means well stimulation treatment fluid and formation water that comes to the surface through the borehole during the first few days after well stimulation is completed.

(31) "FracFocus" means the national hydraulic fracturing chemical registry managed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission.

(32) "Fresh water" means water with a total dissolved solids concentration of 1,000 milligrams per liter or less.

(33) "Gas" means all natural gas and other fluid hydrocarbons, not defined as oil, that are produced from a natural oil or gas reservoir.

(34) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle, consistent with good engineering judgment.

(35) "Heavy duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy-duty vehicle.

(36) "Heavy duty vehicle" means any motor vehicle that:

(a) Is rated at more than 8,500 pounds gross vehicle weight rating (GVWR);

(b) Has a vehicle curb weight of more than 6,000 pounds; or

(c) Has a basic vehicle frontal area in excess of 45 square feet.

(37) "High volume hydraulic fracturing" means all stages of a stimulation treatment of a well by the pressurized application of more than 80,000 gallons per stage or more than 300,000 gallons total of hydraulic fracturing fluid and proppant to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas.

(38) "Hydraulic fracturing" means a stimulation treatment performed on oil and gas wells in low-permeability oil or gas reservoirs whereby specially engineered fluids are pumped at high pressure and rate into the reservoir interval to be treated, causing fractures to open.

(39) "Hydraulic fracturing fluid" means a mixture of a base fluid, proppant and chemical additives injected through a well drilled into an oil- or gas-bearing rock formation under high but controlled pressure to initiate or propagate fractures in a geologic formation to enhance extraction or production of oil or gas.

(40) "Impermeable" means that the permeability of the material is less than or equal to 1 times 10⁻⁷ centimeters per second.

(41) "Injection well" means a well used for the subsurface emplacement of fluids.

(42) "Irreplaceable Natural Area" means a site designated by the Department of Natural Resources as a Tier 1 or Tier 2 under the Biodiversity Conservation Network.

(43) "Killing the well" means overcoming downhole pressure, in a well being drilled, through the use of drilling liquid or water.

(44) "Log" means a continuous record as a function of depth, usually graphic and plotted to scale on a narrow paper strip, of observations made on the rocks and fluids of the geologic section exposed in a well bore.

(45) "Mechanical plug" means an expandable device placed in a well to act as a water-tight, oil-tight, and gas-tight seal.

(46) "Nonporous material" means bentonitic mud, cement, or equivalent materials approved by the Department which will retard the movement of fluids.

(47) "Nontidal wetland" has the meaning stated in COMAR 26.23.01.01.

(48) "Oil" means crude petroleum oil and other hydrocarbons, regardless of specific gravity, that are produced at the wellhead in liquid form, except liquid hydrocarbons known as distillate or condensate recovered or extracted from gas.

(49) "Oil or gas reservoir" means a natural underground oil or gas bearing formation.

(50) "Open-flow test" means a measurement of the rate of flow of a gas well when flowing into the air, unrestricted by any pressure other than that of the atmosphere, and usually measured in thousands of cubic feet (Mcf) per day.

(51) Operator.

(a) "Operator" means a person who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, stimulate, complete, operate, maintain, or control an oil or gas well or production facility.

(b) "Operator" includes:

(i) A person who holds a permit to drill or operator a well;

(ii) A supplier; and

(iii) An owner.

(52) "Owner" means the person who has the right by deed, lease, or otherwise to drill into and produce from a pool, or to store in a pool, and appropriate the oil or gas the person produces or stores either for the person or others.

(53) "Pay zone" means an oil or gas reservoir or portion of a reservoir that contains economically producible hydrocarbons.

(54) "Perforating" means to make holes through the casing opposite the producing zone to allow the oil or gas to flow into the well.

(55) "Permittee" means the person in whose name a seismic permit or a drilling and operating permit has been issued.

(56) "Person" means the federal government, the State, a county, municipal corporation, or other political subdivision of the State, or their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or a partnership, firm, association, public or private corporation, or any other entity.

(57) "Pilot hole" means a vertical boring located from land surface to the bottom of the targeted geologic formation to assist in the identification of geologic features, underground voids, gas- or water-bearing formations, geologic faults, and the lowest fresh water aquifer.

(58) "Plug" means an expandable device or cement placed in a well to prevent the movement of liquids and gas.

(59) "Pollutant" has the meaning stated in COMAR 26.08.01.01B(66).

(60) "Pool" means an underground oil or gas reservoir containing a common accumulation of oil or gas, or both.

(61) "Pooled unit" means an area within which owners of different properties in the area have voluntarily agreed to participate in a well drilled within the unit.

(62) "Pressure maintenance" means the injection of liquid or gas into an oil or gas reservoir to increase or maintain reservoir pressure in order to recover additional quantities of hydrocarbons.

(63) "Produced water" means water that is produced from a wellbore that is not flowback.

(64) "Producer" means the owner of a well capable of producing oil, gas, or both.

(65) "Producing zone" means the stratum, bed, or formation from which oil or gas enters the well.

(66) Production.

(a) "Production" means the act or process of producing oil or gas from a natural oil or gas reservoir.

(b) "Production" does not include the sale or distribution of oil or gas.

(67) "Production facility" means any equipment attendant to oil and gas production including, but not limited to, tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, and intrastate pipelines.

(68) "Proppant" means material inserted or injected into the underground geologic formation that is intended to prevent fractures from closing.

(69) "Ready-reserve" means the state of an engine that may not be performing work at all times, but must be ready to take over powering all or part of an operation at any time to ensure safe operation of a process.

(70) "Recomplete a well" means to seal off one producing zone, and perforate a new producing zone.

(71) "Reduced emission completion" has the meaning stated in 40 CFR § 60.5430.

(72) "Re-enter" means to drill out the plugs of an abandoned well in a new effort to establish oil or gas production, or use the well for another purpose.

(73) "Refracturing" means a subsequent high volume hydraulic fracturing event following initial drilling and high volume hydraulic fracturing to increase gas production.

(74) "Rework" means to perform remedial measures in a well in order to restore oil or gas production that has declined substantially or stopped completely.

(75) "Royalty interest" means the right to receive royalty payments on the production of oil or gas.

(76) "Seismic operations" means the controlled application of vibratory energy from any source to determine if favorable conditions exist for the subsurface entrapment of oil or gas.

(77) "Seismic section" means a graphic, near-vertical display of waveform data processed by a computer program to facilitate interpretation of subsurface conditions.

(78) "Seismic survey" means a planned network or program of seismic operations conducted by one person, one time, under one permit.

(79) "Shotholes" means drilled holes which are subsequently loaded with explosives whose detonation generates seismic waves during a seismic survey.

(80) "Shut-in pressure" means the pressure in the well measured at the wellhead in a specified period of time after the valves are closed.

(81) "Special Conservation Areas" mean State-designated Wildlands and areas identified by the Department of Natural Resources as Irreplaceable Natural Areas.

(82) "Stimulate a zone" means to use techniques such as hydraulic fracturing and acidizing in order to increase oil or gas production from a formation.

(83) Stimulation Additive.

(a) "Stimulation additive" means a substance or combination of substances added to a base fluid for purposes of preparing well stimulation treatment fluid which includes, but is not limited to, an acid stimulation treatment fluid or a hydraulic fracturing fluid.

(b) "Stimulation additive" includes an additive that may:

(i) Serve additional purposes beyond the transmission of hydraulic pressure to a geologic formation;

(ii) Be of any phase; and

(iii) Be a proppant.

(84) "Supplier" means an entity performing drilling or a well stimulation treatment or an entity supplying an additive or proppant directly to the operator for use in drilling or a well stimulation treatment.

(85) "Surface casing" means the first casing set inside the conductor pipe, which seals off any shallow aquifers and also serves as a foundation for all subsequent drilling activity.

(86) "Surface impoundment" means a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, that is not an injection well.

(87) "Tidal wetlands" has the meaning stated in COMAR 26.24.01.02B.

(88) "Volatile organic compound (VOC)" has the meaning stated in COMAR 26.11.01B(53).

(89) "Waters of this State" has the meaning stated in Environment Article, §9-101, Annotated Code of Maryland.

(90) Well Pad.

(a) "Well pad" means the area extending to the limit of disturbance of the grading plan for a drilling site where a well is to be drilled and where drill rigs, pumps, engines, generators, mixers and similar equipment, fuel, pipes, and chemicals are located.

(b) "Well pad" does not include temporary worker housing and employee parking lots unless equipment, fuel, or chemicals are stored there.

(91) Well Stimulation Treatment Fluid.

(a) "Well stimulation treatment fluid" means a base fluid mixed with physical and chemical additives, which may include acid, for the purpose of a well stimulation treatment.

(b) "Well stimulation treatment fluid" includes hydraulic fracturing fluids and acid stimulation treatment fluids.

(92) Wellhead Protection Area.

(a) "Wellhead protection area" means the surface and subsurface area, determined by the Department under the Department's Water Supply Program, surrounding a water well or well field that supplies a public water system, through which

contaminants are reasonably likely to move toward and reach the water well or well field; and

(b) "Wellhead protection area" means, for a public water system that withdraws less than 10,000 gallons per day from fractured rock aquifers and for which a wellhead protection area has not been defined by the Department's Water Supply Program, a fixed radius of 1,000 feet around the one or more water wells.

(93) "Wildcat well" means an exploratory well drilled for oil or gas on a geologic feature not yet proven to be productive, or in an unproven territory, or to a zone that has never produced or is not known to be productive in the general area.

(94) "Wildlands" means areas designated by the General Assembly under Natural Resources Article, §5-1205, Annotated Code of Maryland.

(95) Workover.

(a) "Workover" means the repair or stimulation of an existing oil or gas production well for the purpose of restoring, prolonging, or enhancing the production of hydrocarbons.

(b) "Workover" includes refracturing.

(96) "Zonal isolation" means the isolation through specified cementing and casing practices of all fluid-bearing formations, whether the fluids are gaseous or liquid, along the vertical borehole.

.02 Incorporation by Reference.

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

A. Guidelines for Administering Oil and Gas Activity on State Forest Lands (Pennsylvania Department of Conservation and Natural Resources, Revised 2013);

B. Maryland Standards and Specifications for Soil Erosion and Sediment Control, which has been incorporated by reference in COMAR 26.17.01.11;

C. 40 CFR Part 86, as amended; and

D. 40 CFR § 60.5430, as amended.

.03 Responsibility for Compliance.

A. Where an obligation is imposed on an operator under this chapter, the permittee is responsible for assuring that the obligation is met.

B. If an obligation imposed on an operator under this chapter is not met, the operator as well as the permittee shall be liable for the noncompliance.

C. No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the permittee, to any other person, the liability imposed under this chapter.

D. Nothing in this regulation shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this chapter.

.04 Incident Notification.

A. In addition to any other notifications required by law or permit, an operator shall report any condition such as fires, breaks, blowouts, leaks, escapes, spills, overflows, or other occurrences at the well pad, at pipelines and compressors, and during transport that create a safety or pollution hazard immediately, but not later than 30 minutes after detection:

(1) To the emergency contact official of the nearest downstream water supplier if pollutants are not contained on the well pad; and

(2) To the Department.

B. The operator shall remain available until clearance to leave is given by the Department.

.05 Seismic Permit Application Procedures.

A. A person may not conduct seismic operations in the State without obtaining a seismic permit from the Department.

B. A seismic permit may not be transferred without written permission of the Department.

C. Application Procedures for a Seismic Permit Applicant.

(1) A seismic permit application shall be:

(a) On a form provided by the Department; and

(b) Completed and signed by the seismic contractor or the contractor's authorized agent.

(2) The seismic permit application shall include:

(a) The name, address, and telephone number of the applicant's resident agent;

(b) U.S. Geological Survey 7.5-minute topographic maps, hydrographic charts, or copies, showing the location of seismic lines;

(c) Certification that State and county permit and bond requirements have been met for any seismic operations;

(d) A statement, on a form provided by the Department, signed by each affected property owner providing the operator with the right of entry to conduct seismic operations;

(e) Authorization, on a form provided by the Department, signed by property owners who can grant legally binding rights of entry to the property, authorizing representatives of the Department and the Department of Natural Resources to enter their private property for the purpose of inspecting seismic operations that are ongoing or have been conducted on the property;

(f) A reclamation plan detailing how any area disturbed by the seismic operation will be restored;

(g) A certificate of insurance for personal injury and property damage liability coverage of not less than \$1,000,000 for each person injured and \$5,000,000 for each occurrence or accident; and

(h) A specific calendar schedule for the proposed operation which prohibits any in-stream work during the spawning season of anadromous fish and the spawning season for self-sustaining brook trout populations.

(3) Applications for permits to conduct seismic operations on the waters of Chesapeake Bay and its tidal tributaries shall be accompanied by a written agreement to provide the Department with processed seismic sections as soon as these sections are available, but not more than 1 year after field operations are completed.

(4) The applicant shall provide additional information considered necessary by the Department to process the permit.

D. A request for modification of the activities approved under the seismic permit shall be submitted to the Department in writing, and shall be approved by the Department before the person conducts the modified seismic operation.

E. Application Processing Procedures for the Department.

(1) The Department shall review the application to determine whether it is administratively complete.

(2) If the required information is not included, the Department shall advise the applicant by written or oral communication that the application is incomplete, and may suspend processing the permit application pending receipt of deficiencies.

(3) The Department may deny a permit if the:

(a) Applicant does not submit the information required by the Department;

(b) Proposed activity poses a substantial risk of causing environmental damage that cannot be mitigated by the applicant such as that set forth in Environment Article, §14-109(b)(6)(ii), Annotated Code of Maryland; or

(c) Proposed operation will violate this chapter.

(4) If the Department's decision is to deny the permit, a notification of denial shall state the reasons for denial, modifications, if any, necessary for approval of the application, and the hearing rights as provided in Environment Article, §5-204, Annotated Code of Maryland and State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

(5) Information contained in the application and accompanying documents and required reports shall be available to the public, except for confidential geological and geophysical information protected under General Provisions Article, §4-335, Annotated Code of Maryland.

(6) The Department may include special provisions or modify conditions in the permit for environmental, safety, or other relevant reasons.

F. The seismic permit is valid for 12 months from the date of issuance.

G. In addition to any other remedies provided by law, after notice to the permittee and the opportunity for a hearing, the Department may revoke a seismic permit for the reasons in Regulation .58 of this chapter.

.06 Use of Explosives in Seismic Operations.

A. Persons using explosives in seismic operations shall comply with all applicable local, State, and federal laws and regulations that control the handling or detonation of explosive materials.

B. The use of explosives in seismic operations on or in the waters of the Chesapeake Bay and its tributaries is prohibited.

C. Use of explosives shall be conducted by a person licensed to handle explosives under the Public Safety Article, Title 11, Subtitle 1, Annotated Code of Maryland.

D. The use of explosives shall be conducted in a manner not to cause injury to persons, damage to public or private property, adverse impacts on an underground mine, or to bring about any change in the course, current, channel, or availability of ground water or surface waters.

E. The use of explosive charges on elevated poles as an energy source, referred to as the Poulter method, or with the charges laid on the surface of the ground, is prohibited.

F. After explosives are loaded into shotholes, the explosives handler shall keep the loaded holes under surveillance until the charges are detonated.

G. Persons using explosives in seismic operations shall comply with the following additional safety measures:

(1) Explosives in a shothole may not be detonated unless the explosives handler determines that the area is clear and safe to proceed;

(2) Explosives may not be left in a shothole overnight; and

(3) Seismic operations that use explosives shall be conducted only during daylight hours, and the Department may impose a more restrictive time period.

H. Persons using explosives in seismic operations are subject to the following additional blasting restrictions:

(1) The operator shall obtain written approval from the Department before blasting within 500 feet of any occupied dwelling, commercial building, school, church, or hospital;

(2) The Department may require a seismographic record of any blast; and

(3) The Department may prohibit blasting at specific times and in specific areas, if necessary, to protect public safety, natural resources, or the environment.

.07 Completion of Seismic Permit Operations.

Within 30 days after the completion of seismic work, the operator shall:

A. Notify the Department of the status of the operation in writing;

B. Provide the Department with the results of the seismic survey, which shall be considered public information except for confidential geological and geophysical information protected under General Provisions Article, §4-335, Annotated Code of Maryland; and

C. Complete reclamation work as required by the seismic permit.

.08 Drilling and Operating Permit Required.

A. A person proposing to conduct any of the following operations to explore for, store, produce, or increase the production of oil or gas within the State shall obtain a drilling and operating permit from the Department before the person:

(1) Prepares a well site for the operation;

(2) Drills a well for oil or gas;

(3) Redrills at a location previously permitted;

(4) Re-enters a well;

(5) Deepens an existing well drilled for oil or gas;

(6) Drills a core hole or stratigraphic test; or

(7) Drills a well for the storage of natural gas or the observation of the storage of natural gas.

B. An operator shall maintain a valid permit until the well is abandoned in accordance with the approved plan for abandoning the well.

.09 Prerequisite for Application for a Permit.

A. Except as provided in §B of this regulation, unless the new oil or gas well is included in an approved CDP, a person may not submit, and the Department may not accept or process, an application for a drilling and operating permit for an oil or gas well that will use one or more of the following techniques:

(1) Directional drilling;

(2) More than one well on a well pad;

(3) Acid stimulation, except for acid stimulation of a storage well; and

(4) High volume hydraulic fracturing.

B. A person may apply for, and the Department may accept and process, a drilling and operating permit to drill a wildcat well without first obtaining approval of a Comprehensive Development Plan in accordance with this chapter.

.10 Fees Associated with Seismic Permits and Drilling and Operating Permits.

A. The fees imposed under this regulation shall be set by the Department at the rate necessary to administer and implement programs to oversee oil and gas exploration and production, storage of oil and gas in depleted underground pools, and other requirements related to the drilling of oil and gas wells, including all costs incurred by the State to:

(1) Review, inspect, and evaluate monitoring data, applications, licenses, permits, analyses, and reports;

(2) Perform and oversee assessments, investigations, and research;

(3) Conduct permitting, inspection, and compliance activities; and

(4) Develop, adopt, and implement regulations, programs, or initiatives to address risks to public safety, human health, and the environment related to the drilling and development of oil and gas wells, including the method of hydraulic fracturing.

B. In any fiscal year, if the fee schedule established by the Department generates revenue that exceeds or falls short of the amount necessary to operate a regulatory program to oversee the drilling of oil and gas wells, the Department shall adjust the fees in the following fiscal year.

C. Until modified in accordance with §D of this regulation:

(1) An applicant for a seismic permit shall pay a fee of \$5,000 to the Department upon submission to the Department of the application for a seismic permit.

(2) An applicant for approval of a CDP shall pay a fee of \$30,000 to the Department upon submission to the Department of the draft CDP for preliminary review.

(3) An applicant for a drilling and operating permit shall pay a fee for each well to the Department of:

- (a) \$30,000 with the application for drilling a new well or reentering a well;
- (b) \$20,000 with the application for refracturing or reworking a well; and
- (c) \$25,000 for the 5-year renewal of a drilling and operating permit for an oil or gas well installed after October 1, 2010.

(4) A permittee who requests a modification or transfer of a permit shall pay a fee of \$1,000 to the Department.

D. The Department may administratively adjust its fees in accordance with §B of this regulation by:

- (1) Posting a proposed revised fee schedule on its website along with justification for the proposed fee revision at least 30 days before the new fee schedule is to take effect;
- (2) Allowing public comment for 30 days after posting;
- (3) Considering comments made during the public comment period; and
- (4) Posting the final fee revisions on its website.

E. Fees paid to the Department under this regulation are not refundable.

.11 Comprehensive Development Plan—Purpose and Scope.

A. A CDP shall:

- (1) Identify the locations for well pads, access roads, pipelines, and other ancillary facilities to be developed, and include a plan for transportation routes; and
- (2) Assure that the locations of items identified in §A(1) of this regulation and the plan for transportation routes:
 - (a) Avoid, to the extent possible, adverse site-specific and cumulative impacts to public health, the environment, the economy, and the people of Maryland;
 - (b) Minimize the adverse impacts that cannot be avoided; and
 - (c) Mitigate the remaining impacts.

B. The CDP shall address as much as possible of a CDP-applicant's planned development, but not less than the plans for the 5 years following submission of the CDP.

C. The geographic scope of the CDP shall include, at a minimum, all land on or under which the applicant expects to conduct exploration or production activities over a period of at least the succeeding 5 years.

D. The CDP may be submitted by a single person or by more than one person for an assemblage of land in which the persons hold mineral rights.

E. An approved CDP will remain in effect for 10 years, but one renewal for an additional 10 years may be granted by the Department if the resource information is updated and the locations approved in the initial CDP are not prohibited under any more stringent location restrictions or setback requirements enacted after the approval of the initial CDP.

.12 Procedure and Approval Process for Comprehensive Development Plan.

A. If a CDP is a prerequisite for applying for a permit to drill a well under Regulation .09 of this chapter, a person who seeks to obtain a permit under the Environment Article, §14-104, Annotated Code of Maryland, shall prepare a CDP that complies with location and setback restrictions under Regulation .18 of this chapter and avoids, minimizes, and mitigates adverse impacts to public health, the environment, the economy, and the people of Maryland in accordance with Regulation .11 of this chapter.

B. The CDP shall include:

- (1) A map and accompanying narrative showing the proposed location of all planned wells (vertical and horizontal portions), well

pads, gathering and transmission lines, compressor stations, separator facilities, access roads, and other supporting infrastructure;

(2) Survey data and field notes from a geological survey of the area covered by the CDP; including, at a minimum:

- (a) Locations of all gas and oil wells (abandoned and existing), current water supply wells, and springs;
- (b) Geologic map and cross section of the area;
- (c) Fracture-trace mapping, orientation and location of all joints, faults and fractures; and
- (d) Other additional geologic information as required by the Department;

(3) Identification of travel routes in Maryland for transportation of equipment and materials to and from the well pad;

(4) A water acquisition plan that:

- (a) Identifies the amount of water needed to support the CDP;

- (b) Identifies the sources of that water; and
- (c) Includes, if a water appropriation permit will be needed, a generalized water appropriation plan that identifies the proposed locations and amounts of water withdrawals; and

(5) The sequence of well drilling over the lifetime of the plan that places priority on locating the first well pads in areas removed from sensitive natural resources.

C. The CDP shall be prepared using the State's CDP planning guide and the State-provided toolbox that includes geospatial data necessary for adhering to location restrictions and setbacks and addressing additional planning criteria. The CDP-applicant shall also provide other information as needed, including a field assessment for unmapped streams, wetlands, and other sensitive areas.

D. Preliminary Review.

(1) The CDP-applicant shall submit a draft CDP, including mapping information submitted as geospatial data following the criteria specified in the CDP planning guide, to the Department.

(2) The Department shall forward the draft CDP for preliminary review and comment by appropriate State and local government agencies with responsibility for public health, natural resources and roads.

(3) The Department shall send the preliminary comments to the CDP-applicant within 45 days of receipt of the CDP by the Department.

E. Submission of CDP.

(1) Following the CDP-applicant's receipt and consideration of the preliminary comments, the CDP-applicant shall submit the CDP or a revised CDP to the Department for approval.

(2) Upon receipt of the CDP for approval, the Department will initiate the following process for review and approval of the CDP:

(a) The Department will notify the Department of Natural Resources, which shall convene a stakeholders group that includes a representative of the CDP-applicant, appropriate State agencies, local government, resource managers, non-governmental organizations, and surface owners;

(b) The expenses incurred by the Department of Natural Resources in connection with the stakeholders group, up to an amount agreed to with the Department, shall be reimbursed by the Department from the Oil and Gas Fund;

(c) The stakeholders group will meet with the assistance of a facilitator and, within 60 days after the Department's receipt of the CDP for approval, complete a discussion of how the CDP might be improved;

(d) Following completion of the stakeholders group process, the CDP-applicant may revise the CDP and will present it at a public meeting in a county where land included in the CDP is located, and the public shall be allowed to comment on the plan at the meeting or

within 5 days after the meeting, after which the comment period closes;

(e) Following closure of the comment period, the CDP-applicant may further modify the plan based on alternatives analyses and public comment and shall submit the CDP to the Department of Natural Resources; and

(f) The Department of Natural Resources shall, within 30 days of receipt of the CDP from the CDP-applicant, transmit the CDP to the Department with written advice on whether the CDP:

(i) Conforms to location and setback requirements under Regulation .18 of this chapter; and

(ii) To the maximum extent practicable, avoids adverse impacts to public health, the environment, the economy, and the people of Maryland, minimizes unavoidable impacts, and mitigates remaining impacts.

F. Approval Process.

(1) Except as otherwise provided in this subsection, within 30 days after the Department of Natural Resources provides its written advice to the Department, the Department shall, having considered that advice, approve, disapprove, or partially approve and partially disapprove the CDP.

(2) For good cause and after notice to the CDP-applicant, the Department may extend the 30-day review period under §F(1) of this regulation for an additional 30 days.

(3) If the Department disapproves, in whole or in part, a CDP, the Department shall give the CDP-applicant a written notice of disapproval that states the reasons for disapproval.

G. The disapproval, in whole or in part, of a CDP is subject to judicial review as provided by Environment Article, §14-117, Annotated Code of Maryland.

H. Modifications to the CDP.

(1) A significant modification to an approved CDP, such as a change in the location of a drilling pad that places it closer to special conservation areas, or the addition of new drilling pads, will require the submission for approval of a modified CDP in accordance with the procedures for review and approval of an initial CDP.

(2) A modification that causes no change in the surface impact in the approved CDP, such as the installation of additional wells on an existing pad or a change in the sequence of development, may be approved by the Department upon request of the applicant without the review process required for the initial CDP.

.13 Application for a Drilling and Operating Permit.

A. An application for a drilling and operating permit under Regulation .08 of this chapter shall be submitted to the Department on forms provided by the Department and shall contain the following:

(1) The names, addresses, business status, and telephone numbers of the applicant, operator, and resident agent;

(2) A plat prepared and certified by a Maryland licensed professional land surveyor or property line surveyor containing the information required in §C of this regulation;

(3) An environmental assessment, as required under Regulation .17 of this chapter;

(4) Proof that the applicant meets the Financial Assurances requirements of Regulation .53 of this chapter;

(5) A copy of the oil and gas lease that gives the operator the right to enter and drill at the location shown on the plat and if the mineral rights have been severed, a copy of the right of entry agreement with the surface owner;

(6) If a pooled unit, copies of all leases in the unit which shall accompany the application showing the right to pool interests;

(7) A copy of an agreement signed by the applicant and the landowner stating that the Department and the Department of Natural Resources may enter the land to inspect for compliance with

laws, regulations and permit conditions at any reasonable time during the term of the permit and until the performance bond is released;

(8) Certification and documentation by the applicant that the applicant has notified, in writing, each landowner and leaseholder of real property that borders or is within 2,640 feet of the boundary of the proposed drillable lease area of the applicant's intention to file an application for a permit to drill a well;

(9) Written approval by the local zoning authority that all local planning and zoning requirements have been met;

(10) A sediment and erosion control plan approved by the Department, or the appropriate soil conservation district;

(11) A reclamation plan for restoring the well site;

(12) A spill prevention, control, and countermeasure plan;

(13) A statement listing all other federal, State, county, and local permits and approvals required, and the status of each;

(14) The plan required under Regulation .21 of this chapter; and

(15) Other relevant information and documents considered necessary by the Department.

B. When an applicant seeks to directional drill, the applicant shall state the:

(1) Reason for the proposed directional drilling;

(2) Depth at which deviation from the vertical is planned;

(3) Total depth of the vertical drill; and

(4) Horizontal distance and direction of the planned objective with reference to the surface location.

C. Drilling and Operating Permit Plat.

(1) The plat or plats shall be submitted:

(a) On paper that is of appropriate quality and dimensionally-stable at a scale of 1 inch equals 600 feet; and

(b) In a digital format approved by the Department.

(2) Information Required to be Included in Plat. The plat or plats shall include the following information prepared by a Maryland licensed professional land surveyor or property line surveyor:

(a) The proposed well location;

(b) If directional drilling is proposed, the locations of the surface borehole, the proposed bottom-hole, and the lateral shall be shown;

(c) At least two permanently established property tract boundary corners, with bearings and distances to the proposed well established by an on-ground survey;

(d) Boundaries of the lease or pooled unit containing the well location, with individual lease boundaries within a pooled unit being shown by an on-ground survey, deed calls, or tax map references;

(e) Boundaries of adjoining properties with names and addresses of fee owners, surface owners, mineral owners, and oil and gas lessees; and

(f) The following information obtained from the best available sources:

(i) Active oil and gas drilling, production wells, abandoned wells, storage wells, and injection wells within 2,640 feet of the proposed well location;

(ii) Water wells and springs within 2,640 feet of the proposed well location;

(iii) Churches, schools, buildings, and occupied dwellings within 2,640 feet of the proposed well location;

(iv) Any part of the Critical Area, 100-year floodplain as established by the Federal Emergency Management Agency flood insurance rate maps, nontidal wetlands, streams, or other bodies of water within 1 mile of the proposed well;

(v) Roads, railroads, and other transportation routes within 2,640 feet of the proposed well;

(vi) Location of active and abandoned underground coal mines and workings within 1 mile of the proposed well; and

(vii) A legend identifying the different types of wells and other features shown on the plat.

(3) All plat lines actually surveyed shall be shown with solid lines, and lines taken only from deed descriptions or tax maps shall be shown by broken lines.

(4) Ownership and lease information may be based upon current tax records or land record indexes.

(5) The applicant may supply ownership and lease information on a supplemental list indexed to the tracts on the plat.

.14 Review Procedures for Drilling and Operating in the Critical Area.

A. Following receipt of a permit application for a project located in the Critical Area, the Department shall send a copy of the permit application and all accompanying documents to the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays for review and recommendations.

B. The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays shall submit written recommendations on the application to the Department within 150 days of receipt of the application and accompanying documents.

C. Following receipt of the recommendations by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays on the application, the Department shall adopt, to the maximum extent permitted by law, permit conditions recommended by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

.15 Drilling and Operating Requirements and Permit Conditions.

The Department may place in a drilling and operating permit conditions which the Department deems reasonable and appropriate to assure that the operation shall fully comply with the requirements of Environment Article, Title 14, Subtitle 1, Annotated Code of Maryland and this chapter, and provide for public safety and the protection of the State's natural resources.

.16 Departmental Review Procedures for Drilling and Operating Permit.

A. Following receipt of a drilling and operating permit application, the Department shall conduct a review to determine if the application is administratively complete and notify the applicant of deficiencies.

B. The Department may request additional information from the applicant after the application is administratively complete.

C. When the Department determines that all necessary information has been submitted in proper form, it shall notify the applicant that the application is considered complete and provide for public participation in the Department's review by the following means:

(1) The Department shall publish notice of the application once per week for 2 consecutive weeks in a newspaper of general circulation in the county where the proposed permit activity would occur;

(2) The applicant shall pay all costs associated with publishing notice of the application;

(3) The published notice of the application shall provide an opportunity to request a public informational meeting on the application;

(4) Following publication of the notice of the application, a person interested in the pending application for a drilling and operating permit may request that the Department schedule a public informational meeting; and

(5) If the Department receives a request for an informational meeting:

(a) The meeting shall be held within 45 calendar days of the date of the request, unless extenuating circumstances justify an extension of time; and

(b) The Department shall publish notice of the public informational meeting once per week for 2 consecutive weeks in a newspaper of general circulation in the county where the proposed permit activity would occur.

D. The Department shall deny a drilling and operating permit if the Department determines that the proposed activities pose a substantial threat to public safety or a risk of significant adverse environmental impact, particularly to:

(1) The Critical Area;

(2) Tidal or nontidal wetlands;

(3) Endangered or threatened species, or species in need of conservation of their habitat;

(4) Historic properties as provided for in State Finance and Procurement Article, §5A-326, Annotated Code of Maryland; or

(5) Populated areas.

E. The Department may issue a permit for directional drilling when directional drilling is:

(1) Required for proper geologic evaluation; or

(2) Necessary to protect specific features, including:

(a) A water body;

(b) The Critical Area;

(c) A park;

(d) A building; or

(e) A highway, or other developed or natural features.

F. The Department's decision to grant or deny a drilling and operating permit may be issued not later than 30 calendar days after the close of the record for the public informational meeting.

G. The Department shall mail or provide electronic written notice of the decision to grant or deny the permit to:

(1) The applicant;

(2) Participants at a public informational meeting on the application;

(3) Persons who comment on the application; and

(4) All landowners and owners of mineral, oil, and gas rights within 1,000 feet of the proposed well.

.17 Environmental Assessment and Baseline Monitoring.

A. With the application for a drilling and operating permit to drill a well, the applicant shall submit an environmental assessment and 2 years of baseline monitoring of the surface water, ground water, and air in the vicinity of the well pad.

B. Baseline monitoring required under §A of this regulation shall be completed before any site preparation or construction is begun at the site of the planned well pad.

C. The Department, in consultation with the Department of Natural Resources, shall develop guidance for the environmental assessment and the baseline monitoring that will include sampling design, monitoring protocols, quality assurance and quality control criteria, and specifications for analysis and data submission.

D. The Department shall coordinate with the Department of Natural Resources in its evaluation of the environmental assessment.

.18 Location Restrictions and Setbacks.

A. The Department may not issue a drilling and operating permit for drilling in the waters or tributaries of the Chesapeake Bay.

B. The Department may not issue a drilling and operating permit to drill in the Critical Area unless the applicant has obtained written approval from the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

C. The Department may not issue a drilling and operating permit for a well if any part of the land within the limit of disturbance of the well pad is within 1,000 feet from the boundary of the property on which the well is to be drilled.

D. The setback restrictions for well pads in §G of this regulation also apply to all oil and gas development activities that result in permanent surface alteration that would negatively impact aquatic

habitat, special conservation areas, cultural and historical sites, State and federal parks, forests and trails, wildlife management areas, wild and scenic rivers, and scenic byways.

E. The Department may increase the setback distances in §G of this regulation if necessary due to local topography, prevailing winds, or other site-specific conditions.

F. If the pathway of a buried pipeline will be permanently maintained in a vegetated state, the pipeline will not be considered to result in permanent surface alteration.

G. The Department may not issue a drilling and operating permit if any part of the land within the limit of disturbance for the well pad, or other gas development activities that result in permanent surface alteration, including permanent roads, compressor stations, separator facilities, and other permanent infrastructure, is:

(1) On land with a slope, before grading, of greater than 15 percent;

(2) Within the watersheds of any of the following drinking water reservoirs:

- (a) Broadford Lake;
- (b) Piney Reservoir; or
- (c) Savage Reservoir;

(3) Within 450 feet from the edge of an aquatic habitat;

(4) Within 600 feet from special conservation areas;

(5) Within 300 feet from a cultural or historical site, State or federal parks, trails, wildlife management areas, wild and scenic rivers, and scenic byways;

(6) Within public lands owned or managed by the Department of Natural Resources without the approval of the Department of Natural Resources;

(7) Within 1,000 feet of known caves;

(8) Within 750 feet of the downdip side of a limestone outcrop;

(9) Within 1,000 feet from any occupied building, school or church;

(10) Within 1,000 feet from the boundary of a wellhead protection area;

(11) Within 2,000 feet from a private drinking water well; or

(12) Within an area defined as all lands at an elevation equal to or greater than the discharge of a spring used as the source of domestic drinking water by the resident(s) of the property on which the spring is located, not to exceed 2,500 feet unless the Department approves an alternative based on the delineation of recharge area of the spring.

H. Unless the applicant provides evidence satisfactory to the Department that its plan for well completions operations will control pressure and fluid movement within the target geological formation so these changes do not adversely interact with an abandoned oil or gas well or other wells, the Department may not issue a permit to drill a vertical or horizontal segment of well within 1,320 feet of an abandoned oil or gas well or an active oil or gas well.

I. Except for wells with horizontal segments drilled from vertical boreholes on a common well pad, the Department may not issue a permit to drill and complete a gas well closer than 2,000 feet to an existing gas well in the same oil or gas reservoir unless the Department is provided with credible geologic evidence of reservoir separation to warrant granting a spacing exception.

J. Except for wells with horizontal segments drilled from vertical boreholes on a common well pad, the Department may not issue a permit to drill and complete an oil well closer than 1,320 feet to an existing oil well in the same oil or gas reservoir unless the Department is provided with credible geologic evidence of reservoir separation to warrant granting a spacing exception.

.19 Prohibited Acts.

A person may not operate a well in a way that results in physical and preventable loss of oil and gas through inefficient or careless operating practices, such as:

A. Operating or producing any oil or gas well in a manner that would result in a reduction of the ultimate quantity of oil or gas to be recovered from a pool;

B. Inefficient storing or improper handling of oil causing excessive evaporative loss, spillage on the surface, or leakage into the subsurface;

C. Producing oil or gas in a manner causing unnecessary water channeling or coning;

D. Permitting gas produced from a gas well to escape into the air;

E. Flaring of gas from a well producing both oil and gas; or

F. Creating fire hazards.

.20 Wildcat Well.

A. A CDP is not a prerequisite for a permit to drill a wildcat well.

B. Except as provided in §A of this regulation, an application for a wildcat well shall meet all other substantive and procedural requirements for a drilling and operating permit, including submission of the information required for a Completion Report under Regulation .41 of this chapter.

C. A company may apply for permits for wildcat wells before submitting a CDP for approval.

D. The wildcat well shall comply with all of the location restrictions, setbacks, and other requirements for a drilling and operating permit including two years of baseline monitoring and an environmental assessment.

E. Once a permit for a wildcat well has been issued, no other well, wildcat or production, may be permitted within a 2.5 mile radius around the wildcat well until a CDP has been approved.

F. Unless the Department determines that the wildcat well can be connected to a transmission line without any adverse impact on wetlands, forest, or nearby residents, the exploratory well may not be converted to a production well until a CDP for that area is approved.

.21 Performance Standards and Minimum Requirements.

A. In an application for a drilling and operating permit to drill a well, the applicant shall submit a detailed plan for construction and operation of the well that demonstrates that the planned activity meets or exceeds the performance standards and minimum requirements of Regulations .22 through .52 of this chapter.

B. In preparing the plan, the applicant shall consider industry standards and practices as well as API standards.

C. The Department may require the applicant to use specified technology for drilling, well stimulation, production and abandonment if those methods have been demonstrated to have lower potential adverse impacts and to be as effective as the applicant's proposed technology.

D. If the Department approves the plan, it shall be incorporated by reference into the drilling and operating permit.

.22 Drilling.

A. The drilling liquid used shall be conditioned and tested daily to assure it is capable of:

(1) Sealing off each oil, gas, brackish and salt water, or fresh water zone to be encountered; and

(2) Exerting pressure in excess of those pressures anticipated by the operator in any formation to be penetrated.

B. When air is permitted as the circulating medium, sufficient liquid shall be available at the site at all times to kill any flow from the well.

C. When actual drilling begins, the operator shall:

(1) Notify the Department at least 72 hours before beginning to drill;

(2) Collect samples of drill cuttings for the Department's use as directed in the drilling and operating permit;

(3) Conduct an electrical induction and gamma ray log to determine depth of fresh water zones;

(4) Conduct any other logs required by the Department in the permit; and

(5) Run and permanently cement a string of surface casing in the hole to a depth which is at least 100 feet below the deepest known strata bearing fresh water, or the deepest known workable coal, whichever is deeper.

.23 Stormwater.

A. There may not be a discharge of stormwater from the pad as long as any fuel or chemicals are present on the pad.

B. Stormwater collected from the pad may be used for hydraulic fracturing but, prior to use, the stormwater shall be stored in tanks and not in a surface impoundment.

C. During the production phase of the wells on a pad, unless fuel or chemicals are present, the operator shall follow a stormwater management plan for the pad area approved by the Department or the authorized approval authority.

.24 Sediment and Erosion Control.

Sediment and erosion shall be controlled in accordance with State law and the approved sediment control plan for all construction, including the well pad, ponds, access roads, and pipelines.

.25 Well Pad.

A. There may not be a discharge of pollutants from the pad.

B. The pad shall be constructed with a liner and berms with a hydraulic conductivity of 10^{-7} centimeter per second or less.

C. The pad shall be capable of containing, at a minimum, the volume of the 25-year, 24-hour precipitation event.

D. The liner shall be protected from damage by decking or other material.

E. The pad design shall allow for the transfer of stormwater and other liquids that collect on the pad to storage tanks on the pad or to trucks that can safely transport the liquid for proper disposal.

.26 Access Roads.

A. Access roads shall be constructed and operated to allow safe passage of vehicles accessing the site and shall include stormwater controls and control of dust and mud.

B. The design, construction, and maintenance of unpaved roads shall be at least as protective of the environment as the standards in Guidelines for Administering Oil and Gas Activity on State Forest Lands.

.27 Freshwater Storage.

A. Only freshwater may be stored in a surface impoundment.

B. A surface impoundment shall:

(1) Have at least 2 feet of freeboard at all times;

(2) Be at least 1 foot above the ground water table;

(3) Be impermeable;

(4) Allow no liquid or solid discharge of any kind into the waters of the State; and

(5) Provide for diverting surface runoff from surface impoundments.

C. Dikes associated with surface impoundments shall be:

(1) Constructed of compacted material, free of trees and other organic material, and essentially free of rocks or any other material which could affect their structural integrity;

(2) Maintained with a slope that shall preserve their structural integrity; and

(3) Constructed and maintained in accordance with the current Maryland Standards and Specifications for Soil Erosion and Sediment Control.

.28 Chemical Use, Storage and Handling.

A. Except in an emergency, only additives for drilling and well stimulation that have been disclosed to the Department in advance may be used.

B. Diesel fuel shall not be used in hydraulic fracturing.

C. All liquids, except fresh water, shall be stored in watertight, closed tanks or containers with secondary containment capable of holding the volume of the largest tank or container.

D. All non-liquid chemicals shall be stored safely and protected from contact with precipitation or collected water.

E. If the tanks holding liquid have the potential to emit methane or VOCs and are vented to the environment, they shall be equipped with pollution control equipment to destroy or capture methane and VOCs.

.29 Disclosure of Chemicals.

A. Applicants for drilling and operating permits to drill gas wells shall provide the Department with the name, CAS number, and concentration of every chemical constituent of every commercial chemical product it intends to use on the site. Unless the applicant or supplier attests that the information is a trade secret, this information shall be public information.

B. Within 30 days after well completion, the operator shall provide to the Department a list of all chemicals used in fracturing, the weight of each used, and the concentration of the chemical in the fracturing fluid. Unless the operator attests that the information is a trade secret, this information shall be public information under General Provisions Article, §4-335, Annotated Code of Maryland.

C. Within 30 days after well completion, the operator shall provide to FracFocus a list of all chemicals used in fracturing, the weight of each used, and the concentration of the chemical in the fracturing fluid in accordance with FracFocus rules on reporting and trade secrecy.

D. If a claim is made that the concentration of a chemical in either a commercial chemical product or the fracturing fluid is a trade secret, the operator shall attest to that fact and, in addition to providing the complete list to the Department, provide a second list that includes every chemical by name and CAS number, but does not link the chemical to a specific commercial product or reveal the concentration. This list shall be public information under General Provisions Article, §4-335, Annotated Code of Maryland.

E. The Department may share trade secret information with other State and federal agencies that agree to protect the confidentiality of the information.

F. The operator shall provide the local emergency response agency with:

(1) The list of chemicals developed under §B of this regulation;

(2) The second list, developed under §D of this regulation, in the event trade secrecy is claimed; and

(3) A copy of the Safety Data for every commercial product brought to the well site that contains a substance designated as hazardous chemical by the federal Occupational Safety and Health Administration.

G. Upon request, the operator shall provide the public with the same information made available to the local emergency response agency. The operator may satisfy this requirement by providing the information to the Department in a format the Department specifies; the Department will post the information on its website until the well completion report is filed and shall maintain it in the Department's file on the well until the well is properly abandoned.

H. If a claim of trade secrecy is made, the operator shall provide to the Department contact information, including the name of the company, an authorized representative, and a telephone number answered 24 hours per day, 7 days per week by a person with the

ability and authority to provide the trade secret information in accordance with this regulation.

I. Health Care Professionals Diagnosing or Treating a Patient.

(1) An operator shall give the trade secret information immediately to a health care professional who states, orally or in writing, that the health care professional needs the trade secret information to diagnose or treat a patient.

(2) The disclosure may not be conditioned on or delayed for the execution of a confidentiality agreement.

(3) The health care professional may share the information with other persons only as medically necessary, including, but not limited to, the patient, other health professionals involved in the treatment of the patient, the patient's family members if the patient is unconscious, unable to make medical decisions, or is a minor, the Centers for Disease Control and Prevention, and other government public health agencies.

J. Public Health Professionals.

(1) Upon written request and statement of need for public health purposes, the operator shall give the trade secret information to any health professional, toxicologist, or epidemiologist who is employed in the field of public health, including such persons employed at academic institutions who conduct public health research.

(2) The disclosure may be conditioned on the signing of a confidentiality agreement before disclosure.

(3) The recipient may share the information as professionally necessary.

.30 Radioactive Sealed Sources and Other Radioactive Materials.

A. An operator shall comply with all applicable provisions of the Maryland Radiation Act, Environment Article, Title 8, Annotated Code of Maryland, and regulations promulgated under that title.

B. An operator shall disclose to the Department, before use, a radioactive material in charges used to perforate casing, cement, or both, and shall present a plan for safe handling, monitoring, and disposal for approval by the Department.

.31 Transportation and Truck Traffic.

A. Travel for all heavy truck traffic to or from the well pad or to or from centralized facilities serving the well pad shall be planned and implemented to minimize conflicts with the public. The plan at a minimum, shall:

(1) Avoid truck traffic during times of school bus transport of children to and from school locations;

(2) Ensure that truck traffic does not interfere with public events or festivals;

(3) Minimize truck traffic in residential areas; and

(4) Minimize conflict with public uses such as hunting and fishing.

B. The number of truck trips to deliver material to the well pad and remove wastes and the impact of the remaining trips shall be reduced by one or more of the following methods, if they are practicable for the specific site:

(1) Establishing a centralized water storage facility at a location that minimizes the use of roads near homes or other occupied buildings for the truck transportation of water to the centralized water storage facility;

(2) Improving the roads to be used so that damage to the roadways is minimized;

(3) Transferring water from the centralized storage facility to the well pad using aboveground temporary hoses or pipes;

(4) If it is proven to be safe and effective and to have less impact, establishing a centralized facility with all the equipment necessary for preparing and pressurizing the fracturing fluid in a location, with noise and air pollution controls that minimize impacts

to people, and deliver the water, proppant, and additives to the well pad using pipes;

(5) If they are proven to be safe and effective and to have less impact, performing fracturing using alternatives to high volume water-based fracturing fluid; and

(6) Implementing other modifications proposed by the applicant which are accepted by the Department as traffic reduction measures.

.32 Protection of Sensitive Aquatic Resources During Water Withdrawals.

A. If feasible, operators shall arrange to acquire water for drilling and hydraulic fracturing from one or more permanent or semi-permanent water supply access points with large capacity and storage options to decrease risks related to water withdrawals such as invasive species.

B. Applicants seeking water appropriation permits for water from sensitive headwater streams and Use III and Tier II waters may be required to perform additional studies, at the direction of the Department in consultation with the Department of Natural Resources, to ensure water withdrawals will not negatively impact aquatic life.

.33 Protection of Fresh Water Aquifers.

A. The operator shall protect fresh water aquifers from contamination during drilling and during the life of the well.

B. The drilling fluid used to drill intervals prior to reaching the depth 100 feet below the deepest known stratum bearing fresh water, or the deepest known workable coal, whichever is deeper:

(1) Shall be air, fresh water, a freshwater based drilling fluid, or a combination of these; and

(2) May contain only additives that the manufacturer warrants have been certified under NSF/ANSI Standard 60, Certification for Drinking Water Treatment Chemicals – Health Effects.

.34 Control and Reporting of Air Emissions.

A. Reduced emissions completion shall be achieved on all oil and gas wells that are subjected to high volume hydraulic fracturing or re-fracturing.

B. The operator shall use top-down best available technology, as determined by the Department and included as a condition of the drilling and operating permit, for the control of air emissions, including, to the extent relevant to the operations:

(1) Improved Compressor Maintenance to reduce emissions from reciprocating compressors;

(2) Low-Bleed or No-Bleed Pneumatic Controllers used to reduce emissions from control devices;

(3) Dry Seal Systems to reduce emissions from centrifugal compressor seals;

(4) Rigorous Leak Detection and Repair (LDAR) program;

(5) Zero emission or dessicant well gas dehydration;

(6) Vapor Recovery Units used to reduce emissions from storage tanks;

(7) Pipeline inspection, maintenance, and repair program; and

(8) Plunger lift systems when natural gas liquids (NGLs) are present.

C. Methane Offset.

(1) Each calendar year the operator shall estimate the methane emissions from each well pad including the emissions from the well or wells on the pad and any other equipment on the pad.

(2) If feasible, the operator shall verify the estimates by operational data and from the leak detection and repair program.

(3) By April 1 of each year, the operator shall report the methane emissions for the previous calendar year, converted to CO₂ equivalent emissions, to the Department.

(4) Upon notification from the Department that CO₂ equivalent allowances are available, the permittee shall purchase sufficient allowances to offset its methane emissions and provide documentation to the Department of the purchase.

.35 Engines and Compressors.

The operator shall ensure that:

A. All on-road and non-road vehicles and equipment using diesel fuel use Ultra-Low Sulfur Diesel fuel (maximum sulfur content of 15 ppm);

B. All on-road vehicles and equipment limit unnecessary idling to 5 minutes;

C. All trucks used to transport fresh water or wastewater meet EPA Heavy Duty Engine Standards for 2004 to 2006 engine model years in 40 CFR Part 86, as amended, which include a combined NO_x and non-methane hydrocarbon (NMHC) emission standard of 2.5 grams per brake horsepower-hour (g/bhp-hr); and

D. Except for engines necessarily kept in ready-reserve, all diesel non-road engines limit idling to 5 consecutive minutes.

.36 Blowout Prevention.

A. The well shall be equipped with blowout prevention equipment with two or more redundant mechanisms.

B. Blowout preventers shall be tested at a pressure at least 1.2 times the highest pressure expected to be experienced during the life of the well; if this highest pressure occurs during well stimulation, it shall be tested at a pressure at least 1.2 times higher than that experienced during well stimulation.

C. The blow out preventer shall be tested on a weekly basis.

.37 Leak Detection and Repair (LDAR).

A. The applicant for a drilling and operating permit shall submit to the Department for approval a written plan for methane leak detection and repair.

B. The plan shall address:

- (1) Training;
- (2) LDAR audits;
- (3) Contractor accountability;
- (4) Internal leak definition for valves and pumps;
- (5) More frequent monitoring;
- (6) Repairing leaking components;
- (7) Delay of repair compliance assurance;
- (8) Electronic monitoring and storage of LDAR data;
- (9) Quality assurance/quality control of LDAR data;
- (10) Calibration/calibration drift assessment; and
- (11) Records maintenance.

C. The plan shall address leak detection and repair from wellhead to transmission line and assure prompt repair of leaks.

D. Records of leak detection and repair shall be made available to the Department upon request.

.38 Well Construction, Casing, and Cement.

A. Wells shall be drilled, cased, and cemented to effectively isolate the borehole from the surrounding formations and prevent the migration of gas or liquids into or out of the casing and the formations.

B. Pilot Hole.

(1) The operator shall drill at least one pilot hole from a well pad before drilling any well from that pad that will include directional drilling.

(2) The pilot hole shall extend from the surface of the ground to the bottom of the targeted geologic formation.

(3) The operator shall perform open hole logging on the pilot well to determine the geologic and hydrogeologic nature of the well pad site and to assist in the identification of geologic features,

underground voids, gas- or water-bearing formations, geologic faults, and the lowest fresh water aquifer.

(4) The operator shall submit the results of tests run on the pilot hole, including the open hole logging data, to the Department within 30 days after completing the pilot hole.

C. The applicant for a drilling and operating permit shall submit a plan for the Department's approval that describes, at a minimum, how:

(1) A stable borehole will be drilled with minimal rugosity (roughness of the borehole wall);

(2) Complete removal of drilling fluid will be accomplished;

(3) The cement system design addresses challenges to zonal isolation;

(4) Other factors that could interfere with the proper placement of the cement around the casing will be addressed; and

(5) The casing and cement will assure integrity throughout the life of the well.

D. Adherence to the drilling, casing and cementing plan, as well as integrity testing shall be a condition of the permit.

E. Unless the applicant submits proof that demonstrates to the satisfaction of the Department that the applicant's plan assures isolation of the borehole from the surrounding formations and prevents the migration of gas or liquid into or out of the casing and the formation, as well or better than the minimum standards and criteria established in this section, the plan shall meet the following minimum standards and criteria:

(1) The conductor casing shall be cemented to the surface;

(2) The surface casing shall extend from the surface to at least 100 feet below the lowest fresh water and be cemented along its entire length;

(3) The intermediate casing shall be installed and cemented from its greatest depth to the bottom of the surface casing;

(4) Production casing shall be cemented along the horizontal portion of the well bore and to at least 500 feet above the highest formation where hydraulic fracturing will be performed, or to the base of the intermediate casing, whichever is shallower;

(5) A representative sample of each cement formulation shall be tested before use under conditions that are similar to those found in the well where the cement will be used;

(6) Open hole logging shall be performed and used to optimize the design and installation of the well;

(7) All casing installed in a well shall be steel alloy casing and have a minimum internal yield pressure rating designed to withstand at least 1.2 times the maximum pressure to which the casing may be subjected during drilling, production, or stimulation operations;

(8) The minimum internal yield pressure rating shall be based upon engineering calculations that shall be included in the plan;

(9) Thread and coupling designs for casing and tubing shall meet or exceed the maximum anticipated tensile, compressive, burst, and bending stress conditions for the well;

(10) Casing strings with threads should be assembled to the correct torque specifications to ensure leak-proof connections;

(11) An operator shall use a sufficient number of centralizers to properly center the casing in each borehole; and

(12) The cement shall be allowed to set at static balance or under pressure for a minimum of 12 hours and shall have reached a compressive strength of at least 500 psi before drilling the plug, or initiating any integrity testing.

F. Reconditioned casing may be permanently set in a well only after it has passed a hydrostatic pressure test with an applied pressure at least 1.2 times the maximum internal pressure to which the casing may be subjected, based upon known or anticipated subsurface pressure, or pressure that may be applied during stimulation, whichever is greater, and assuming no external pressure. The casing shall be marked to verify the test status. All hydrostatic

pressure tests shall be conducted by a method approved by the Department. The owner shall provide a copy of the test results to the Department before the casing is installed in the well.

.39 Integrity Testing.

A. Integrity testing is required to ensure proper cementing of the well casing to the geological formations.

B. An applicant for a drilling and operating permit shall provide a plan for integrity and pressure testing of the cased hole for approval by the Department.

C. Segmented radial cement bond logging (SRCBL) shall be used, supplemented by other methods that the Department may require in a permit, such as omnidirectional cement bond logging and neutron logging.

D. Before commencing hydraulic fracturing, the operator shall certify to the Department the integrity of the casing and cement, the isolation of all fluid-bearing (gas or liquid) formations, and the sufficiency of the zonal isolation with supporting data.

E. If there is evidence of inadequate casing integrity or cement integrity, the operator shall notify the Department and propose remedial action.

F. Integrity testing shall be performed periodically during the lifetime of the well using the tests and at the frequency specified by the Department in the permit.

G. An additional integrity testing will be required before a well is re-fractured.

H. All integrity test results shall be reported to the Department.

.40 Monitoring During Drilling and High Volume Hydraulic Fracturing.

A. The operator shall perform a tiltmeter or microseismic survey for the first well hydraulically fractured on each pad to provide information on the extent, geometry, and location of fracturing.

B. The Department may require that tiltmeter or microseismic surveys also be conducted for second and subsequent wells on a pad.

C. The operator shall provide the results of the tiltmeter or microseismic survey, with an accompanying narrative, to the Department with the Completion Report required by Regulation .41 of this chapter.

D. The operator shall maintain, at the site, a written record of:

(1) Each pressure test, integrity test, and mechanical test of:

- (a) Casings;
- (b) Blowout preventers;
- (c) Surface connections;
- (d) Fittings; and
- (e) Auxiliary wellhead equipment; and

(2) Daily record of:

- (a) Footage drilled;
- (b) Hole size;
- (c) Accidents; and
- (d) Spills.

.41 Completion Report.

A. Within 30 days after the drilling, stimulating, and testing of a well are completed, a completion report of the well shall be submitted to the Department.

B. Except as provided in Regulation .29 of this chapter and for confidential geological and geophysical information protected under General Provisions Article, §4-335, Annotated Code of Maryland, information contained in the completion report and accompanying documents shall be available to the public.

C. The completion report shall be on a form furnished by the Department and shall include:

- (1) Depth at which any fresh water inflow was encountered;
- (2) Lithology of penetrated strata, including color;
- (3) Total depth of the well;

(4) A record of all commercial and noncommercial oil and gas encountered, including depths, tests, and measurements;

(5) A record of all brackish and salt water inflows;

(6) A record of all casing used, including:

- (a) Size, weight, amount, and depth set;
- (b) Amount of cement used on each casing string; and
- (c) Amount of casing recovered from the hole if the well was abandoned;

(7) Generalized core descriptions, including:

- (a) The type and depth of sample;
- (b) Indications of oil, water, or gas;
- (c) Estimates of porosity and permeability; and
- (d) Percent recovery.

(8) Data recorded regarding perforating, stimulating, and testing, including open-flow tests and shut-in pressures;

(9) Data on bridge plugs set, make and type of plug, depth plug was set, whether plug was left in place or removed, and details of the plug-back operation below the bridge;

(10) Information regarding the constituents of the fracturing fluid required by Regulation .29 of this chapter;

(11) A copy of all electric, radiation, sonic, caliper, directional, and any other type of logs run in the well; and

(12) The date on which verbal approval was obtained from the Department to plug the hole as a dry hole in a continuous progression from drilling or reworking.

.42 Site Security.

A. The operator shall secure the site.

B. At a minimum, security shall include:

- (1) Perimeter fencing;
- (2) Providing local emergency responders with duplicate keys to locks;
- (3) Fencing around any surface impoundments; and
- (4) Posting appropriate signage that:
 - (a) Has letters at least 1 inch high;
 - (b) Indicates the name of the permittee, the name of the lessor or landowner, and the Department and American Petroleum Institute well identification numbers;
 - (c) Indicates phone numbers for the operator and regulatory agencies required to be contacted in the event of an emergency at the site;
 - (d) Is posted in a prominent place as directed by the Department; and
 - (e) Is kept in good condition.

.43 Management of Drilling Fluids, Stimulation Fluids and Produced Water.

A. All drilling fluids and cuttings shall be managed on the well pad in a closed loop system without the use of a surface impoundment for mud or cuttings.

B. Flowback and produced water shall be managed in a closed loop system of tanks or containers at the pad site.

C. Flowback and produced water shall be recycled to the maximum extent practicable. Unless the applicant demonstrates that it is not practicable, the permit shall require that not less than 90 percent of the flowback and produced water be recycled, and that the recycling be performed on the pad site of generation.

.44 Gathering Lines and Pipelines.

A. All necessary approvals and permits, including sediment and erosion control, permits or licenses for dredging and filling of wetlands, and stream crossing, shall be obtained prior to construction.

B. Gathering lines shall be properly constructed, installed, and operated to prevent any leaks.

C. The person that owns or operates an underground facility for the conveyance of oil or gas shall participate as an "owner-member" in the "one-call system" as those terms are defined in the Maryland Public Utilities Code, §12-101, Annotated Code of Maryland.

D. All pipelines and fittings appurtenant thereto used in the drilling, operating, or producing of an oil well, a gas well, or both, shall be designed for at least the greatest anticipated operating pressure or the maximum regulated relief pressure in accordance with the current recognized design practices of the industry.

.45 Flaring.

A. Flaring shall be allowed only if the content of flammable gas is too low to sustain combustion, or when flaring is required for safety.

B. The following circumstances shall not justify flaring:

- (1) Inadequate water disposal capacity;
- (2) Undersized flowback equipment; or
- (3) Except for wildcat wells, lack of a pipeline connection.

C. When flaring is permitted during well completion, re-completions, or workovers of any well, the operator shall adhere to the following requirements:

(1) The operator shall either use a raised/elevated flare or an engineered combustion device with a reliable continuous ignition source, which has at least a 98 percent destruction efficiency of methane.

(2) No impoundment flaring is permitted.

(3) Flaring may not be used for more than 30 days on any wildcat well, unless the operator submits proof in a form acceptable to the Department that an extension of time is necessary.

(4) Flares shall be designed for and operated with no visible emissions, except for periods not to exceed a total of five minutes during any two consecutive hours.

.46 Noise.

A. Noise shall be reduced to the lowest practicable level.

B. An applicant for a drilling and operating permit shall provide to the Department a power plan that results in the lowest practicable noise impact from the choice of energy source, including consideration of the impact of noise from on-site generators.

C. Appropriate noise reduction devices shall be used and maintained on all equipment at the pad site.

D. Noise modeling shall be conducted prior to beginning operations to demonstrate that noise standards will be met and noise sensitive areas will be protected.

E. The operator shall conduct noise monitoring at least once during drilling and once during hydraulic fracturing, to confirm that noise standards are met.

F. The Department may require the operator to perform noise monitoring in response to complaints about noise.

.47 Lighting.

A. Night lighting:

- (1) May be used only when and where necessary;
- (2) Shall be directed downward; and
- (3) Shall use low pressure sodium light sources wherever possible.

B. If drill pads are located within 1,000 feet of aquatic habitat, screens or restrictions on the hours of operation may be required to reduce light pollution.

C. Light restrictions and management protocols shall minimize conflicts with recreational activities, in addition to minimizing stress and disturbance to sensitive aquatic and terrestrial communities

.48 Spill Prevention, Control and Countermeasures and Emergency Response Plan.

A. All spills shall be entered in the record required in Regulation .40D of this chapter.

B. In addition to any other notifications required by law or permit, an operator shall report to the Department immediately, but not later than 2 hours after detection, all spills and releases that are not contained on the well pad.

C. All spills and releases shall be immediately cleaned up and the waste properly disposed.

D. Each applicant for a drilling and operating permit shall prepare and submit to the Department for approval a site-specific emergency response plan for preventing the spills of oil and hazardous substances and addressing spills that occur.

E. Before preparing the plan, the operator shall:

(1) Consult with the governing body of the local jurisdiction in which the well is located to verify that local responders have appropriate equipment and training to respond to an emergency at a well;

(2) Identify the nearest downstream water system with a surface intake, the estimated time of travel of a spill from the well site to the intake of that downstream system under low, median and high flow conditions, the emergency contact information of the nearest downstream water supplier; and

(3) notify the nearest downstream water supplier regarding the location of the planned drilling by certified mail, return receipt requested.

F. The plan shall include, at a minimum:

(1) Using drip pans and secondary containment structures to contain spills;

(2) Conducting periodic inspections;

(3) Using signs and labels;

(4) Having appropriate personal protective equipment and appropriate spill response equipment at the facility;

(5) Training employees and contractors;

(6) Establishing a communication plan for providing notification, information and updates about spills and other incidents that:

(a) Contains contact names and telephone numbers; and

(b) Describes the process for informing:

(i) The public;

(ii) Local government;

(iii) Downstream water systems;

(iv) The Department; and

(v) The media; and

G. The operator shall have at least two vacuum trucks on standby at the site during drilling, fracturing, and flowback so that any spills occurring during those stages, which could be of significant volume, could be promptly removed from the pad.

H. The operator shall identify specially trained and equipped personnel who will respond to a well blowout, fire, or other incident that personnel at the site cannot manage. These specially trained and equipped personnel shall be capable of arriving at the site within 24 hours of the incident.

.49 Ongoing Monitoring and Corrective Measures.

A. If there is evidence of inadequate casing or cement integrity or methane migration, the operator shall notify the Department immediately and propose remedial action.

B. The operator shall monitor in accordance with the Department's standard protocols for environmental assessment monitoring, recordkeeping, and reporting during drilling, hydraulic fracturing, and production, as specified in the drilling and operating permit.

C. The Department and the Department of Natural Resources shall jointly develop standard protocols for ongoing monitoring and assessment for air and water quality, terrestrial and aquatic living resources, invasive species, geophysical assessments, and such additional information as may be required by the Department.

D. All information collected at the site and within the study area shall be reported according to the protocols.

E. The Department may require more extensive testing of air, surface water, and ground water in instances where elevated levels of pollutants are suspected or have been detected.

.50 Invasive Species.

A. The applicant shall submit a plan with every drilling and operating permit application for preventing the introduction of invasive species (plants and animals) and controlling any invasive species that is introduced.

B. The invasive species management plan required under §A of this regulation shall emphasize avoidance, early detection, and rapid response.

C. The plan required under §A of this regulation shall include, at a minimum:

(1) Flora and fauna inventory surveys of sites prior to operations, including water withdrawal sites;

(2) Procedures for avoiding the transfer of species by clothing, boots, vehicles, and water transfers, including assuring that the water withdrawal equipment is free from invasive species before use and before it is removed from the withdrawal site;

(3) Interim reclamation following construction and drilling to reduce opportunities for invasion;

(4) Annual monitoring and treatment of new invasive species populations as long as the well is active; and

(5) Post-activity restoration to pre-activity community structure and composition using seed that is certified free of noxious weeds.

D. Invasive species monitoring will be required at the appropriate times of the year to identify early infestations.

.51 Site Reclamation.

A. The operator shall provide the Department with pre-development and post-development photographic documentation to ensure site closure conditions are satisfied.

B. The operator shall reclaim the site in two stages:

(1) Interim reclamation following well completion to stabilize the ground and reduce opportunities for invasive species; and

(2) Final restoration using species native to the geographic range and seed that is certified free of noxious weeds.

C. Reclamation shall address all disturbed land, including the pad, access roads, ponds, pipelines, and locations of ancillary equipment.

D. Drilling and Operating Reclamation Plan.

(1) The reclamation plan shall describe how roads, well sites, and impoundments will be reclaimed.

(2) The reclamation plan shall include a:

(a) Proposed time schedule for each major step in the reclamation plan;

(b) Description of measures to be employed to dispose of debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard, and a description of the contingency plans which have been developed to preclude sustained combustion of these materials;

(c) Plan for backfilling, soil stabilization, compacting, grading, and controlling surface drainage following regrading, with contour maps at a scale of 1 inch equals 50 feet and cross sections that show the existing slope and the anticipated final surface configuration of the proposed permit area;

(d) Plan for removal, storage, and redistribution of topsoil, subsoil, or other materials, and revegetation to protect the site from erosion;

(e) Description, including appropriate cross sections and maps, of the measures to be used to plug, case, or manage wildcat wells, other wells, and other openings within the proposed permit area;

(f) Description of how contaminated materials will be disposed of in accordance with requirements of the Department;

(g) Plan for disposing of the cuttings by:

(i) Transporting to an approved disposal facility; or

(ii) Other methods of disposal as approved by the Department; and

(h) Plan for removing and reclaiming the fresh water surface impoundment.

.52 Wastes and Wastewater.

A. Wastes and wastewater shall be handled in accordance with applicable federal, State, and local laws and regulations and managed in a way that prevents pollution of the environment.

B. No drilling fluids, hydraulic fracturing fluid, flowback, produced water or other wastewater associated the exploration, development, or production of crude oil or natural gas may be delivered to a wastewater treatment facility that discharges to waters of this State unless the discharge permit for the wastewater treatment facility specifically allows it to accept that wastewater.

C. No flowback or produced brine may be applied to land or used for de-icing.

D. An operator shall keep a record of the volumes of wastes and wastewater generated on-site, the amount treated or recycled on-site, a record of each shipment off-site, and a confirmation that the amount of waste shipped was received at the designated facility.

E. All trucks, tankers, and dump trucks transporting liquid or solid wastes shall be fitted with GPS systems to track and record their travel routes and travel time.

F. Cuttings, drilling mud, flowback, produced water, residue from treatment of flowback and produced water, and any equipment where scaling is likely to occur or sludge is likely to collect shall be tested for radioactivity and disposed of in accordance with federal, State, and local laws and regulations.

G. If cuttings show no level of radioactivity beyond background, and meet other criteria established by the Department, including sulfates and salinity, the Department may permit on-site disposal of cuttings.

H. Records regarding wastes and waste shipments shall be maintained for a period of three years and shall be delivered to the Department upon request.

.53 Financial Assurances and Financial Test.

A. The applicant for a drilling and operating permit shall submit to the Department proof of financial assurance by satisfying the requirements of §B, §C, or §F of this regulation.

B. Unless the applicant submits proof in a form acceptable to the Department that the applicant meets the financial test under §C of this regulation, the applicant shall provide:

(1) A certificate of liability insurance showing personal injury and property damage liability coverage of at least \$1,000,000 for each person and \$5,000,000 for each occurrence or accident;

(2) A certificate of environmental pollution liability insurance in an amount not less than \$10,000,000 per loss for bodily injury and property damage to persons and for natural resource damage, including the costs of cleanup and remediation, caused by the sudden or nonsudden release of pollutants, including the costs and expenses incurred in the investigation, defense, or settlement of claims; and

(3) A performance bond, a blanket bond, cash, a certificate of deposit, or a letter of credit, satisfactory to the Department, of at least \$50,000 for each gas or oil well, including each well on a multiwell pad, but not less than the most recent closure cost estimate provided by the operator under the Environment Article, §14-105(a), Annotated Code of Maryland.

C. An applicant may satisfy the financial assurance requirements of this regulation by demonstrating that the applicant:

(1) Has been in continuous operation as a business entity for not less than the 5 years immediately preceding the application;

(2) Has net working capital and tangible net worth of at least \$30,000,000;

(3) Has assets located in the United States amounting to at least 90 percent of total assets or current assets of at least \$30,000,000; and

(4) Satisfies the criteria of either Test 1 as set forth in §D of this regulation or Test 2 as set forth in §E of this regulation:

D. To satisfy Test 1, the applicant shall demonstrate, based on current audited financial statements, that the applicant meets at least two of the following three ratios:

(1) A ratio of total liabilities to net worth less than 2.0;

(2) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1;

(3) A ratio of current assets to current liabilities greater than 1.5.

E. To satisfy Test 2, the applicant shall demonstrate, based on current audit financial statements, that the applicant has a current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard & Poor's Ratings Services or Aaa, Aa, A, or Baa as issued by Moody's Investors Services.

F. Gas Wells in Existence Before October 1, 2013.

(1) Except as provided in §F(2) of this regulation, a permittee for drilling and operating a gas well that was in existence on or before October 1, 2013, shall provide financial assurance by maintaining the same performance bond and liability insurance that is required for the holder's most recent permit or permit renewal issued on or before October 1, 2013.

(2) If a gas or oil well that was in existence on or before October 1, 2013, is modified after October 1, 2013, by recompletion, stimulation, deepening, or adding lateral extensions, the permittee shall comply with the requirements for financial assurance contained in §A of this regulation.

.54 Oil and Gas Correlative Rights.

A. Unless the drilling and operating permit provides for controlled directional drilling or estimated natural deviation, a well may not vary more than 3 degrees from the vertical.

B. If an operator needs to deviate more than 3 degrees from the vertical, the operator shall notify the Department. Deviations larger than 3 degrees from vertical may be permitted by the Department in order to straighten the hole, sidetrack impenetrables, or to correct other mechanical difficulties, if correlative rights are not in dispute.

C. The Department may require the deviation to be less than 3 degrees to protect correlative rights.

D. The Department shall have the right to require the operator to run a complete angular deviation and directional survey by a company knowledgeable about downhole surveys in directionally drilled wells at the operator's sole cost and risk.

E. If an angular deviation and directional survey verifies violations of the approved well location or spacing requirements, the Department may require the well to be redrilled or plugged and abandoned.

.55 Requirements for Plugging and Abandonment of Oil or Gas Wells.

A. An operator shall plug and abandon a well in accordance with this regulation.

B. Upon the abandonment or ending of operation of any dry hole, gas or oil well, storage well, pressure maintenance well, or stratigraphic well, the operator shall plug the hole in compliance with the plan approved by the Department.

C. The operator shall notify the Department at least 72 hours before beginning plugging operations.

D. A dry hole shall be plugged within 60 days of completion of the well or before removal of the drill or completion rig, whichever occurs first.

E. An oil or gas well shall be plugged within 60 days after primary production has stopped for 12 consecutive months.

F. The Department may grant an extension of time to begin plugging operations upon written request of the operator, if the Department determines that the request is reasonable.

G. Surface casing may not be recovered at any location, except by written approval of the Department.

H. After plugging a well, the operator shall erect a permanent marker over the plugged well which:

(1) Consists of a length of pipe with a minimum diameter of 6 inches, filled with concrete;

(2) Extends at least 30 inches above the surface;

(3) Extends at least 10 feet into the well and is set in concrete; and

(4) Has the Department and American Petroleum Institute well identification numbers stamped or welded on the marker in a permanent manner.

I. Upon written request by the operator or by the surface owner, the Department may allow an offset marker to replace the marker over a plugged well if the wellhead marker interferes with subsequent activities, such as agriculture or construction.

J. The area immediately around the surface casing and conductor pipe shall be permanently filled to the surface with nonporous material to keep surface water from entering the well bore.

K. For wells in noncoal areas, the operator shall plug the well as follows:

(1) If total depth is deeper than the cemented production casing seat, as in an open hole completion, the open hole portion of the well shall be filled with cement to a point 50 feet above the top of the uncased portion of the hole;

(2) In the cemented part of the production casing, cement plugs shall be set to extend from at least 50 feet below the base of each oil, gas, or water-bearing zone to a point at least 100 feet above the top of the zone;

(3) A mechanical plug, set at least 20 feet above the oil, gas, or water-bearing zone after filling the hole to that point with nonporous material, may be used instead of a cement plug;

(4) When multiple oil, gas, or water zones occur within 500 vertical feet of one another, they may be treated as one zone for plugging, unless one zone has greater than hydrostatic pressure;

(5) Following the plugging of the cemented portion of the production casing, the uncemented portion of the production casing may be separated from the cemented portion and recovered;

(6) A cement plug shall be set 50 feet below and 50 feet above the point of casing separation;

(7) If the uncemented portion of the production casing cannot be recovered, oil or gas zones behind the casing shall be plugged by perforating the casing and squeezing cement into the annular space;

(8) If the production casing is not set, a cement plug shall be set at least 50 feet below and 50 feet above each oil, gas, or water-bearing zone;

(9) A cement plug shall be set at least 50 feet below and 50 feet above the base of the surface casing;

(10) A cement plug of at least 50 vertical feet shall be placed in the top of the well;

(11) After placing the top plug, the operator may be required to cut the casing below plow depth to prevent interference with any subsequent agricultural activities; and

(12) Nonporous material shall be placed in all portions of the well between cement plugs.

L. If total depth cannot be reached in plugging a well with or without cemented production casing, the operator shall obtain written permission of the Department for an alternate means to plug the well.

M. If a mineable coal seam greater than 1 foot in thickness is encountered in the drilling of a well, the operator shall contact the Department to obtain additional plugging instructions.

N. The operator shall submit to the Department an affidavit, within 30 days after the plugging of the well, certifying that the well was plugged according to plans approved by the Department.

.56 Oil and Gas Bond Performance and Release Procedures.

A. The liability on the performance bond required in Regulation .53 of this chapter is conditioned on compliance with the law, regulations, permit, orders of the Department, and the regulations and approvals, if any, of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays under COMAR 27.01 and shall continue until the:

(1) The Department approves the transfer of the drilling and operating permit and the transferee satisfies the financial assurance requirements, at which time the transferor's bond shall be released;

(2) Department has approved the:

(a) Physical plugging of the well;

(b) Reclamation of the well site;

(c) Receipt of all logs, plugging records, and samples; and

(d) Performance of all requirements of these regulations and the drilling and operating permit; or

(3) Drilling and operating permit terminates because drilling was not started within 18 months, and the Department approves the reclamation of the site.

B. A bond or other security shall contain a provision that it cannot be cancelled by the surety, bank, or other issuing entity except after not less than 90 days written notice to the permittee and Department. At least 45 days before the cancellation date indicated in the notice, the permittee shall file with the Department a commitment from a surety, bank, or other issuing entity, to provide a substitute bond or other security which shall be effective on the cancellation date indicated in the notice.

C. The operator may apply for bond release from the Department upon meeting all the requirements of these regulations and the drilling and operating permit.

D. Upon written request by the operator, the Department shall notify the surety and the principal by certified mail, return receipt requested, when the liability under the bond has been terminated.

E. The performance bond shall be forfeited on failure of the operator to perform in a manner set forth in the authorized drilling and operating permit and the reclamation plan, or upon revocation of the permit.

F. The Department shall notify the operator by certified mail, return receipt requested, of its intention to initiate a forfeiture proceeding.

G. Following receipt of the forfeiture notice by the operator, the operator has 30 days to show cause why the bond should not be forfeited.

H. On the operator's showing of cause, the Department shall provide sufficient time for the operator to comply with all permit conditions.

I. On failure of the operator to show cause, the bond shall be forfeited nisi, the Department shall give notice by certified mail, return receipt requested, to the operator and surety of the forfeiture.

J. If the operator fails to comply with the permit conditions following forfeiture nisi within the time period set by the Department, the bond shall be forfeited absolute.

K. On an absolute forfeiture, the Department shall use the funds made available by the forfeiture to complete abandonment

procedures and reclaim the area authorized by the drilling and operating permit.

L. On an absolute forfeiture, any funds remaining after the Department completes the abandonment procedures and reclaims the area shall be deposited in the Oil and Gas Fund.

.57 Modification, Termination, or Transfer of Drilling and Operating Permits.

A. A person holding a valid drilling and operating permit, and who proposes to conduct any of the following operations not included in the person's current drilling and operating permit, in an effort to obtain or increase the production of oil or gas within the State, shall obtain a modification of the drilling and operating permit from the Department before the person:

(1) Recompletes a well in a different oil or gas reservoir or formation;

(2) Recompletes a well to commingle production from two or more oil or gas reservoirs within the same formation;

(3) Stimulates a zone that has been in production;

(4) Deepens a well;

(5) Skids a drill rig 75 feet or less; or

(6) Converts from one type of well to another.

B. A drilling and operating permit terminates 18 months after the date of issuance, if the proposed drilling has not started, unless the Department approves an extension for good cause shown.

C. A drilling and operating permit may not be transferred or assigned without prior written approval by the Department, and the satisfaction of the financial assurance requirements by the transferee or assignee; prior to approval of the transfer, the permittee shall maintain the financial assurance requirements.

D. The transfer or assignment of a drilling and operating permit shall be on a form provided by the Department, signed by both the transferor or assignor and the transferee or assignee, which contains provisions that the transferee or assignee acknowledges:

(1) Full awareness of the obligations, costs, and liabilities in performing reclamation, plugging, and other requirements of the drilling and operating permit and any other permit associated with the well; and

(2) The obligation to fulfill all requirements of the permit, Environment Article 14, Subtitle 1, Annotated Code of Maryland, and this chapter regardless of whether the transferor or assignor started the activity, or failed to properly perform the requirements before the transfer or assignment.

.58 Violations of Statutory, Regulatory, or Permit Requirements.

A. A person who violates or causes an act which violates a provision of Environment Article, §§14-101—14-120, Annotated Code of Maryland, or this chapter, or who violates or fails to comply with a permit issued under this chapter or an order of the Department when due notice is given, is guilty of a misdemeanor, and, upon conviction, the violator is subject to a fine not exceeding \$10,000 per day for each day of the offense, not to exceed a total fine of \$50,000, with costs imposed at the discretion of the court.

B. If the Department determines that there has been a violation of a provision of Environment Article, §§14-101—14-120, Annotated Code of Maryland, and this chapter, or a violation or failure to comply with a permit issued under this chapter, the Department may cause a written complaint to be served upon the alleged violator specifying the nature of the violation.

C. After or concurrent with service of the complaint, the Department may:

(1) Issue an administrative order requiring necessary corrective action, including stopping work and restoration, to be performed within the time prescribed, and providing the alleged violator with the opportunity to request a hearing before the Department within 10 days after receipt of the order;

(2) *Require the alleged violator to file a written report regarding the alleged violation; or*

(3) *Require the alleged violator to appear before the Department at a time and place the Department specifies to answer the charge outlined in the complaint.*

D. *A written complaint or an order the Department issues shall be served on the alleged violator personally, by certified mail, return receipt requested, or by any method allowed for service of a summons under the Maryland Rules.*

E. *Upon failure by the alleged violator to comply with the requirements of an administrative order, a permit may be modified or suspended by the Department.*

F. *Modification or suspension of a permit shall be effective without stay upon appropriate notice to the alleged violator.*

G. *An administrative action or a permit suspension or modification may not be stayed pending a hearing.*

H. *Under emergency conditions, such as violation or imminent violation of an applicable State requirement, a permit may be modified or suspended.*

I. *The Department may inspect a permitted site at any time in order to determine whether conditions of the permit have been satisfied or whether the permit should be modified, suspended, or revoked.*

J. *A permit may be revoked after notice to the permittee, if the Department determines that:*

(1) *The permittee or operator has failed to comply with the requirements of an administrative order;*

(2) *False or inaccurate information was contained in the application for the permit;*

(3) *Conditions or requirements of the permit have been or are about to be violated;*

(4) *Substantial deviation from plans, specifications, or requirements has occurred;*

(5) *The operator has failed to allow an authorized representative of the Department or the Department of Natural Resources upon presentation of proper credentials to:*

(a) *Enter at any reasonable time upon the permittee's premises where pertinent operations are conducted, or where records are required to be kept under terms and conditions of the permit;*

(b) *Have access to and copy any records required to be kept under terms and conditions of the permit;*

(c) *Inspect facilities to ensure compliance with the conditions of the permit; or*

(d) *Inspect any monitoring equipment or method required in the permit; or*

(6) *A change in any condition exists that requires temporary or permanent modification or elimination of the permitted operation.*

K. *The permittee has 10 calendar days to request, in writing, a hearing on the permit revocation to determine if the permit shall be reinstated.*

L. *The provisions of this Regulation may not be construed to limit or otherwise affect the authority of the Department to proceed against violators under any applicable federal or State law.*

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

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 04 INSURERS

31.04.14 Life and Health Insurance Guaranty Corporation Coverage — Notice Requirements

Authority: Insurance Article, §§2-109 and 9-414, Annotated Code of Maryland

Notice of Proposed Action

[15-006-P]

The Insurance Commissioner proposes to amend Regulation .03 under **COMAR 31.04.14 Life and Health Insurance Guaranty Corporation Coverage—Notice Requirements**.

Statement of Purpose

The purpose of this action is to update the physical address and telephone number of the Maryland Life and Health Insurance Guaranty Corporation in the notice required by Insurance Article, §9-414, Annotated Code of Maryland, and this regulation. The Maryland Life and Health Insurance Guaranty Corporation has moved locations and changed telephone numbers.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 Saint Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.03 Required Notice.

A. (text unchanged)

B. The notice required in §A of this regulation shall be in at least 12-point type and shall read as follows:

NOTICE OF PROTECTION PROVIDED BY MARYLAND LIFE AND HEALTH INSURANCE GUARANTY CORPORATION

This notice provides a brief summary of the Maryland Life and Health Insurance Guaranty Corporation (the Corporation) and the protection it provides for policyholders. This safety net was created under Maryland law, which determines who and what is covered and the amounts of coverage.

The Corporation is not a department or unit of the State of Maryland and the liabilities or debts of the Life and Health Insurance Guaranty Corporation are not liabilities or debts of the State of Maryland.

The Corporation was established to provide protection in the unlikely event that your life, annuity, or health insurance company becomes financially unable to meet its obligations and is taken over

by its Insurance Department. If this should happen, the Corporation will typically arrange to continue coverage and pay claims, in accordance with Maryland law, with funding from assessments paid by other insurance companies.

The basic protections provided by the Corporation are:

- Life Insurance
 - \$300,000 in death benefits
 - \$100,000 in cash surrender or withdrawal values
- Health Insurance
 - \$500,000 for basic hospital, medical, and surgical insurance or major medical insurance provided by health benefit plans
 - \$300,000 for disability insurance
 - \$300,000 for long-term care insurance
 - \$100,000 for a type of health insurance not listed above, including any net cash surrender and net cash withdrawal values under the types of health insurance listed above
- Annuities
 - \$250,000 in the present value of annuity benefits, including net cash withdrawal values and net cash surrender values
 - With respect to each payee under a structured settlement annuity, or beneficiary of the payee, \$250,000 in present value annuity benefits, in the aggregate, including any net cash surrender and net cash withdrawal values.
- The maximum amount of protection for each individual, regardless of the number of policies or contracts, is:
 - \$300,000 in aggregate for all types of coverage listed above, with the exception of basic hospital, medical, and surgical insurance or major medical insurance
 - \$500,000 in aggregate for basic hospital, medical, and surgical insurance or major medical insurance

NOTE: Certain policies and contracts may not be covered or fully covered. For example, coverage does not extend to any portion(s) of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. There are also various residency requirements and other limitations under Maryland law.

To learn more about the above protections, please visit the Corporation's website at www.mdlifeqa.org, or contact:

Maryland Life and Health
Insurance Guaranty Corporation
[9199 Reisterstown Road
P.O. Box 671—Suite 216C
Owings Mills, Maryland 21117
410-998-3907]
8817 Belair Road, Suite 208
Perry Hall, Maryland 21236
410-248-0407

Or,
Maryland Insurance
Administration
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21202
1-800-492-6116, ext. 2170

Insurance companies and agents are not allowed by Maryland law to use the existence of the Corporation or its coverage to encourage you to purchase any form of insurance. When selecting an insurance company, you should not rely on Corporation coverage. If there is any inconsistency between this notice and Maryland law, then Maryland law will control.

THERESE M. GOLDSMITH
Insurance Commissioner

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.42 Continuity of Health Care Notice

Authority: Insurance Article, §§2-109(a)(1), 15-140, and 15-10D-01, Annotated Code of Maryland and Ch. 159, §3, Acts of 2013

Notice of Proposed Action

[15-008-P]

The Insurance Commissioner proposes to adopt new Regulations .01—.04 under new chapter, **COMAR 31.10.42 Continuity of Health Care Notice**.

Statement of Purpose

The purpose of this action is to provide a standard notice regarding continuity of health care as required by Insurance Article, §15-140, Annotated Code of Maryland, and to provide guidance on when the standard notice is required to be provided.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

.01 Scope.

This chapter applies to each:

- A. Receiving carrier that issues or delivers individual or group health benefit plans in Maryland; and
- B. Receiving managed care organization that enrolls Program recipients in Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) "Carrier" means:

- (a) An insurer authorized to sell health insurance;
- (b) A nonprofit health service plan;
- (c) A health maintenance organization;
- (d) A dental plan organization; or
- (e) Any other entity providing a plan of health insurance, health benefits, or health services authorized under the Insurance Article of the Annotated Code of Maryland or the Affordable Care Act.

(2) "Enrollee" means a:

- (a) Person entitled to health care benefits from a carrier; or
- (b) Program recipient who is enrolled in a managed care organization.

(3) "Health benefit plan" has the meaning stated in Insurance Article, §15-140, Annotated Code of Maryland.

(4) “Managed care organization” means:

(a) A certified health maintenance organization that is authorized to receive medical assistance prepaid capitation payments;

(b) A corporation that:

(i) Is a managed care system that is authorized to receive medical assistance prepaid capitation payments;

(ii) Enrolls only Program recipients or individuals or families served under the Maryland Children’s Health Program; and

(iii) Is subject to the requirements of Health-General Article, §15-102.4, Annotated Code of Maryland.; or

(c) A prepaid dental plan that receives fees to manage dental services.

(5) “Program recipient” means an individual who receives benefits under the Maryland Medical Assistance Program.

(6) “Receiving carrier” means the carrier that issues the new health benefit plan when an enrollee transitions from another carrier or a managed care organization.

(7) “Receiving managed care organization” means the managed care organization that accepts the enrollee when the enrollee transitions from another managed care organization or a carrier.

(8) “Relinquishing carrier” means a carrier that issued the prior health benefit plan when an enrollee transitions to a new carrier or a managed care organization.

(9) “Relinquishing managed care organization” means a managed care organization in which an enrollee had been enrolled prior to the enrollee’s transition to a new managed care organization or a carrier.

(10) “Transitioning enrollee” means an enrollee:

(a) Who has an effective date of coverage with a receiving carrier or a receiving managed care organization on or after January 1, 2015, under a contract that is issued or renewed on or after January 1, 2015; and

(b) Whose coverage under the receiving carrier or receiving managed care organization began within 1 month of the date coverage terminated under the:

(i) Health benefit plan with a relinquishing carrier; or

(ii) Relinquishing managed care organization.

.03 Requirement to Provide Continuity of Health Care Notice.

A. A receiving carrier shall send a transitioning enrollee the Continuity of Health Care Notice set forth in Regulation .04A of this chapter:

(1) Except as provided in §A(2) of this regulation, within 30 days of the enrollee’s effective date of coverage; and

(2) If the enrollee’s coverage is made effective retroactively, within 30 days of the date the receiving carrier is notified of the enrollment.

B. A receiving managed care organization shall send a transitioning enrollee the Continuity of Health Care Notice set forth in Regulation .04B of this chapter:

(1) Except as provided in §B(2) of this regulation, within 30 days of the enrollee’s effective date of coverage; and

(2) If the enrollee’s coverage is made effective retroactively, within 30 days of the date the receiving managed care organization is notified of the enrollment.

C. The Continuity of Health Care Notices shall be in the language and format described in Regulation .04 of this chapter in not less than 12-point type.

.04 Continuity of Health Care Notice.

A. The following form is to be used by receiving carriers as the Continuity of Health Care Notice required by Regulation .03A of this chapter:

NOTE: The form referenced in this regulation appears at the end of the Proposed Action on Regulations section of this issue of the Maryland Register.

B. The following form is to be used by receiving managed care organizations as the Continuity of Health Care Notice required by Regulation .03B of this chapter:

NOTE: The form referenced in this regulation appears at the end of the Proposed Action on Regulations section of this issue of the Maryland Register.

THERESE M. GOLDSMITH
Insurance Commissioner

Subtitle 11 HEALTH INSURANCE — GROUP

Notice of Proposed Action

[15-007-P]

The Insurance Commissioner proposes to:

(1) Amend Regulation .03 and make technical amendments to the authority under **COMAR 31.11.01 Conversion of Group Health Insurance**;

(2) Repeal existing Regulation .08 and make technical amendments to the authority under **COMAR 31.11.02 Group Health Insurance—Continuation of Coverage of Divorced Spouses**;

(3) Repeal existing Regulation .08 and make technical amendments to the authority under **COMAR 31.11.03 Group Health Insurance—Continuation of Coverage of Surviving Spouses**;

(4) Repeal existing Regulation .08 and make technical amendments to the authority under **COMAR 31.11.04 Group Health Insurance—Continuation of Coverage for Terminated Employees**; and

(5) Adopt a new statutory reference to the enabling authority under **COMAR 31.11.05 Group Health Insurance Options for Alzheimer’s Disease and for Diseases of the Elderly**.

Statement of Purpose

The purpose of this action is to update and repeal certain regulatory provisions dealing with the conversion of group health insurance policies and to make certain technical changes, consistent with the repeal of Insurance Article, §§15-412 and 15-414, Annotated Code of Maryland, as well as the MIA’s Regulatory Review and Evaluation Act report on COMAR 31.11.

COMAR 31.11.01.03 is being amended to limit the scope of this chapter to policies issued or renewed prior to January 1, 2014, after which time carriers were no longer required to offer conversion coverage to individuals and dependents being terminated from group contracts because Insurance Article, §§15-412 and 15-414, Annotated Code of Maryland were repealed effective January 1, 2104 and July 1, 2014, respectively. The enabling authority for this chapter is also being amended to remove Insurance Article, §§15-412 and 15-414, Annotated Code of Maryland.

COMAR regulations 31.11.02.08, 31.11.03.08, and 31.11.04.08 are being repealed to remove conversion requirements that are no longer in effect due to the repeal of Insurance Article, §§15-412 and 15-414, Annotated Code of Maryland.

Technical amendments to the enabling authority for 31.11.02 and 31.11.03 are being made to reflect the repeal of Insurance Article, §15-412, Annotated Code of Maryland. The enabling authority for 31.11.03 is being further amended to remove references to Insurance Article, §§15-408 and 15-409, Annotated Code of Maryland, as the authority for these regulations is not derived from these statutes. The enabling authority for 31.11.04 is being further amended to remove references to the Labor and Employment Article, §§8-805 and 8-806, Annotated Code of Maryland, as the authority for these regulations is not derived from these statutes. Finally, Insurance Article, §14-124(b), Annotated Code of Maryland, is being added to the list of enabling authority for COMAR 31.11.05, as Insurance Article, §15-801, Annotated Code of Maryland, which this chapter implements, applies to nonprofit health service plans.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-268-2020. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

31.11.01 Conversion of Group Health Insurance

Authority: Insurance Article, [§§2-109], 15-412, and 15-414], Annotated Code of Maryland

.03 Applicability.

A. This chapter is applicable to [all] group health insurance policies issued or renewed in Maryland on or after October 1, 1983 and prior to January 1, 2014, except as provided in §§B—C of this regulation.

B.—C. (text unchanged)

31.11.02 Group Health Insurance — Continuation of Coverage of Divorced Spouses

Authority: Health-General Article, §19-703; Insurance Article, §§2-109[,] and 15-407—15-409[, and 15-412]; Annotated Code of Maryland

31.11.03 Group Health Insurance — Continuation of Coverage of Surviving Spouses

Authority: Health-General Article, §19-703; Insurance Article, §§2-109, 14-124(b), and 15-407[—15-409, and 15-412]; Annotated Code of Maryland

31.11.04 Group Health Insurance — Continuation of Coverage for Terminated Employees

Authority: Health-General Article, §19-703; Insurance Article, §§2-109, 14-124(b), and 15-409; [Labor and Employment Article, §§8-805 and 8-806;] Annotated Code of Maryland

31.11.05 Group Health Insurance Options for Alzheimer's Disease and for Diseases of the Elderly

Authority: Insurance Article, §§2-109, 14-124(b), and 15-801, Annotated Code of Maryland

THERESE M. GOLDSMITH
Insurance Commissioner

[Insert Receiving Carrier Name]
Continuity of Health Care Notice

You are receiving this notice because you are a new enrollee and may be moving from Maryland Medical Assistance or another company's health benefit plan or dental plan to *[insert receiving carrier name]* coverage. If you currently are receiving treatment, you have special rights in Maryland.

For example, if your old company gave you pre-approval to have surgery or to receive other services, you may not need to receive new approval from us to proceed with the surgery or to continue receiving the same services. Also, if you are seeing a doctor or other health care provider who is an in-network provider with your old company, and that provider is not an in-network provider under your new plan, you may continue to see your provider for a limited period of time as though the provider were an in-network provider with us.

The rules on how you can qualify for these special rights are described below.

Prior approval for health care or dental services.

- If you previously were covered under another company's plan, a prior approval (also called "preauthorization") for services that you received under your old plan may be used to satisfy a prior approval requirement for those services if they are covered under your new plan with us.
- **To be able to use the old prior approval under this new plan, you will need to contact us at *[insert contact information for receiving carrier]* to let us know that you have a prior approval for the services and provide us with a copy of the prior approval.** Your parent, guardian, designee, or health care provider may also contact us on your behalf about the prior approval.
- There is a time limit for how long you can rely on the prior approval. For all conditions other than pregnancy, the time limit is 90 days or until the course of treatment is completed, whichever is sooner. The 90-day limit is measured from the date your coverage starts under the new plan. For pregnancy, the time limit lasts through the pregnancy and the first visit to a health care practitioner after the baby is born.
- *Limitation on Use of Prior Approvals:* If your prior approval was for benefits or services provided through the Maryland Medical Assistance fee-for-service program, you may not use the prior approval unless it is for behavioral health or dental benefits authorized by a third-party administrator.

- If you do not have a copy of the prior approval, contact your old company and request a copy. Under Maryland law, your old company must provide a copy of the prior approval within 10 days of your request.

Right to use non-network providers.

- If you have been receiving services from a health care provider who was an in-network provider with your old company, and that provider is a non-network provider under your new health plan with us, you may be able to continue to see your provider as though the provider were an in-network provider. You must contact us at *[insert contact information for receiving carrier]* to request the right to continue to see the non-network provider as if the provider were an in-network provider with us. Your parent, guardian, designee, or health care provider may also contact us on your behalf to request the right for you to continue to see the non-network provider.
- This right applies only if you are being treated by the non-network provider for covered services for one or more of the following types of conditions:
 1. Acute conditions (including acute dental conditions);
 2. Serious chronic conditions (including serious chronic dental conditions);
 3. Pregnancy;
 4. Mental health conditions;
 5. Substance use disorders; or
 6. Any other condition upon which we and the out-of-network provider agree.
- Examples of the conditions listed above include bone fractures, joint replacements, heart attacks, cancer, HIV/AIDS and organ transplants.
- There is a time limit for how long you can continue to see a non-network provider and only need to pay cost-sharing as though the provider were an in-network provider. For all conditions other than pregnancy, the time limit is 90 days or until the course of treatment is completed, whichever is sooner. The 90-day limit is measured from the date your coverage starts under the new plan. For pregnancy, the time limit lasts through the pregnancy and the first visit to a health care practitioner after the baby is born.

Example of how the right to use non-network providers works:*[Examples are not required for stand-alone dental plans or stand-alone dental insurance]*

[Insert this example for enrollees covered under HMO plans] You broke your arm while covered under Company A's health plan and saw a Company A

network doctor to set your arm. You changed health plans and are now covered under Company B's HMO plan. Your doctor is not a network provider with Company B. You now need to have the cast removed and want to see the original doctor who put on the cast.

In this example, you or your representative need to contact Company B so that Company B can pay your claim as if you are still receiving care from a network doctor. Your non-network provider is not permitted to bill you for any amount other than a deductible, copayment or coinsurance. Your non-network provider is not permitted to bill you the difference between what the doctor normally charges and the amount that the HMO determines to be the allowable amount.

[Insert this example for PPO plans] You broke your arm while covered under Company A's health plan and saw a Company A network doctor to set your arm. You changed health plans and are now covered under Company B's plan. Your doctor is not a network provider with Company B. You now need to have the cast removed and want to see the original doctor who put on the cast.

In this example, you or your representative need to contact Company B so that Company B can pay your claim as if you are still receiving care from a network doctor. If the non-network doctor accepts Company B's rate of payment, the doctor is only permitted to bill you for the in-network cost-sharing amounts that apply to the service, such as copayments, coinsurance and deductible.

In this example, if the non-network doctor will *not* accept Company B's rate of payment, the doctor may decide *not* to provide services to you, or may continue to provide services to you and bill you not only for any copayment, coinsurance or deductible that applies, but also bill you for the difference between the doctor's fee and the allowable charge determined by Company B.

Limitation: With regard to dental benefits, the special rights described in this notice apply only to covered services for which a coordinated treatment plan is in progress.

Appeal Rights:

- If we deny your right to use a prior approval from your old company or your right to continue to see a provider who was an in-network provider with your old company, you may appeal this denial by contacting us at *[insert complaint contact information for carrier]*.

- If we deny your appeal, you may file a complaint with the Maryland Insurance Administration. To receive a complaint form from the Maryland Insurance Administration call 1-800-492-6116, select option 3, then option 2 or download a complaint form from the Maryland Insurance Administration's website at www.mdinsurance.state.md.us.
- If you have any questions about this notice, please contact us at *[insert toll-free telephone number for carrier]*.



[Insert Receiving Managed Care Organization Name]
Continuity of Health Care Notice

You are receiving this notice because you are a new enrollee and may be moving from another managed care organization (“MCO”) or another company’s health benefit plan to *[insert receiving managed care organization’s name]* coverage. If you currently are receiving treatment, you have special rights in Maryland.

For example, if your old company gave you pre-approval to have surgery or to receive other services, you may not need to receive new approval from us to proceed with the surgery or to continue receiving the same services. Also, if you are seeing a doctor or other health care provider who is an in-network provider with your old company, and that provider is not an in-network provider under your new plan, you may continue to see your provider for a limited period of time as though the provider were an in-network provider with us.

The rules on how you can qualify for these special rights are described below.

Prior approval for health care services.

- If you previously were covered under another company’s plan, a prior approval (also called “preauthorization”) for services that you received under your old plan may be used to satisfy a prior approval requirement for those services if they are covered under your new plan with us.
- **To be able to use the old prior approval under this new plan, you will need to contact us at *[insert contact information for receiving managed care organization]* to let us know that you have a prior approval for the services and provide us with a copy of the prior approval.** Your parent, guardian, designee, or health care provider may also contact us on your behalf about the prior approval.
- There is a time limit for how long you can rely on the prior approval. For all conditions other than pregnancy, the time limit is 90 days or until the course of treatment is completed, whichever is sooner. The 90-day limit is measured from the date your coverage starts under the new plan. For pregnancy, the time limit lasts through the pregnancy and the first visit to a health care practitioner after the baby is born.
- ***Limitation on Use of Prior Approvals:*** Your special right to use a prior approval does not apply to:

- Dental services;
 - Mental health services;
 - Substance use disorder services; or
 - Benefits or services provided through the Maryland Medical Assistance fee-for-service program.
- If you do not have a copy of the prior approval, contact your old company and request a copy. Under Maryland law, your old company must provide a copy of the prior approval within 10 days of your request.

Right to use non-network providers.

- If you have been receiving services from a health care provider who was an in-network provider with your old company, and that provider is a non-network provider under your new health plan with us, you may be able to continue to see your provider as though the provider were an in-network provider. You must contact us at *[insert contact information for receiving managed care organization]* to request the right to continue to see the non-network provider as if the provider were an in-network provider with us. Your parent, guardian, designee, or health care provider may also contact us on your behalf to request the right for you to continue to see the non-network provider.
- This right applies only if you are being treated by the non-network provider for covered services for one or more of the following types of conditions:
 1. Acute conditions;
 2. Serious chronic conditions;
 3. Pregnancy; or
 4. Any other condition upon which we and the out-of-network provider agree.
- Examples of the conditions listed above include bone fractures, joint replacements, heart attacks, cancer, HIV/AIDS and organ transplants.
- There is a time limit for how long you can continue to see a non-network provider. For all conditions other than pregnancy, the time limit is 90 days or until the course of treatment is completed, whichever is sooner. The 90-day limit is measured from the date your coverage starts under the new plan. For pregnancy, the time limit lasts through the pregnancy and the first visit to a health care practitioner after the baby is born.

Example of how the right to use non-network providers works:

You broke your arm while covered under Company A's health plan and saw a Company A network doctor to set your arm. You changed health plans and are now covered under Company B's plan. Your doctor is not a network provider with Company B. You now need to have the cast removed and want to see the original doctor who put on the cast.

In this example, you or your representative need to contact Company B so that Company B can pay your claim as if you are still receiving care from a network doctor. If the non-network doctor will *not* accept Company B's rate of payment, the doctor may decide *not* to provide services to you.

- *Limitation on Use of Non-Network Providers:* Your special right to use a non-network provider does not apply to:
 - Dental services;
 - Mental health services;
 - Substance use disorder services; or
 - Benefits or services provided through the Maryland Medical Assistance fee-for-service program.

Appeal Rights:

- If we deny your right to use a prior approval from your old company or your right to continue to see a provider who was an in-network provider with your old company, you may appeal this denial by contacting us at *[insert complaint contact information for managed care organization]*.
- If we deny your appeal, you may file a complaint with the Maryland Medical Assistance Program by calling the HealthChoice Help Line at 1-800-284-4510.
- If you have any questions about this notice, please contact us at *[insert toll-free telephone number for managed care organization]*.



Errata

COMAR 13A.14.14.01

At 41:26 Md. R. 1596 (December 26, 2014), column 1, following line 28 from the bottom:

Insert: *B. Process for application into the program;*
[15-01-40]

COMAR 21.13.01

At 41:26 Md. R. 1613 (December 26, 2014), column 1, lines 1 and 2 from the bottom:

For: SHELIA McDONALD
Executive Officer

Read: SHEILA McDONALD
Executive Secretary

[15-01-39]



Special Documents

DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Part 806, Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Final rule.

SUMMARY: This document contains final rules that would amend the regulations of the Susquehanna River Basin Commission (Commission) to clarify the water uses involved in hydrocarbon development that are subject to the consumptive use regulations, as implemented by the Approval by Rule (ABR) program.

DATES: Effective January 23, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Esq., Regulatory Counsel, telephone: 717-238-0423, ext. 1312; fax: 717-238-2436; e-mail: joyler@srbc.net. Also, for further information on the final rulemaking, visit the Commission's website at www.srbc.net.

SUPPLEMENTARY INFORMATION:

Comments and Responses to Proposed Rulemaking

Notice of proposed rulemaking was published in the Federal Register on September 26, 2014 (79 FR 57850); the New York Register on October 1, 2014; the Maryland Register on October 3, 2014; and the Pennsylvania Bulletin on November 1, 2014. The Commission convened a public hearing on November 6, 2014, in Harrisburg, Pennsylvania and a written comment period was held open through November 17, 2014.

General Comments

Comment: The Commission received comments supportive of the changes in the terms and definitions noted in the Rulemaking. The changes are reflective of the nature of the industry and are plainly straightforward.

Response: The Commission appreciates the comments.

Comment: One commenter asked that the rulemaking not be adopted because the proposed changes restrict Commission oversight.

Response: The Commission disagrees and notes that the proposed regulations strengthen its program and clarify a greater scope of water uses by the hydrocarbon development industry subject to the Commission's ABR program.

Comment: The regulations should provide for an appeal by an impacted stakeholder before a permit is issued.

Response: The ABR process provides for a comment period during which stakeholders may raise issues of concern regarding a project before an approval is issued. This public comment period is not changed by the rulemaking. No changes to the Commission's rules related to hearings and administrative appeals were proposed and are beyond the scope of this rulemaking. Further, allowing an appeal of a

Commission approval prior to the issuance of such an approval would run contrary to longstanding principles of administrative law.

Comments by Section, Part 806

Section 806.3—Definitions

Comment: Revise the definition of "construction" to include the pad sites, access roads, rights-of-way for pipelines and intake area clearings as such project activities affect the environment.

Response: The Commission's definition of construction is appropriate for regulation of the withdrawal and consumptive use of water and appropriate for the ABR program for the use of water by hydrocarbon development projects. The ABR program does not regulate all environmental impacts of hydrocarbon development, rather the environmental impacts to which the commenter refers are regulated by the appropriate member jurisdictions through various permitting programs, including erosion and sediment control and oil and gas management. The ABR Program supports the regulation of other aspects of hydrocarbon development projects by requiring in § 806.22(f)(7) that the project sponsor obtain all necessary permits or approvals required for the project from other federal, state or local government agencies.

Comment: The term "drilling pad site" should be changed to "well pad site" because many of the activities that are regulated on the pad site go beyond just drilling.

Response: The term "drilling pad site" is currently used in the Commission's regulations, but was not defined. The term is used in several sections and subsections not subject to the proposed rulemaking. For this reason, the Commission declines to make this change in this final rule. However, the Commission believes the comment has merit and will consider it in a forthcoming comprehensive rulemaking that is currently under development.

Comment: In the definition of "hydrocarbon development project," the term "hydro-seeding" is used. It is recommended to use the term "hydroseeding or other revegetation activities" instead.

Response: The Commission agrees with the comment and has made the change in the final rule.

Comment: Language should be added clarifying that all water use on-site requires Commission approval.

Response: The definition of "hydrocarbon development project" contains language that covers all water-related activities and facilities on the drilling pad site, including activities and facilities associated with the production, maintenance, operation, closure, plugging and restoration of wells or drilling pad sites that would require consumptive water usage. The use of water for these activities will be subject to Commission approval through the ABR program.

Comment: The Commission is to be applauded for revising its definitions to include water used not only for well development and drilling, but also for infrastructure.

Response: The Commission appreciates the comment. The final rule retains the language extending the ABR approvals to specific water uses off the drilling pad site, which are water used for hydro-seeding or other revegetation activities, dust suppression, and hydro-excavation of access roads and underground lines, as well as tank cleanings, related to a drilling pad site or centralized impoundments.

Comment: The Commission should extend its review to beyond the well pad.

Response: The definition of "hydrocarbon development project" includes specified facilities and activities off the drilling pad site as noted in the prior response.

Comment: A commenter opposes the Commission's responsibility for oversight ending once a gas well has been plugged.

Response: The definition of "hydrocarbon development project" provides such a project continues "until all post-plugging restoration is completed in accordance with all applicable member jurisdiction requirements." The Commission finds that this is an appropriate time for the Commission's jurisdiction under § 806.22(f) to cease as the project sponsor's consumptive water use ceases at that point.

Comment: The definition of "project" should be expanded to go beyond any "independent activity."

Response: The Commission declines to expand the scope of the definition of "project." The term "project" as defined matches the definition in Section 1.2 of the Susquehanna River Basin Compact, P.L. 91-575. The rulemaking provides specific definitions for "hydrocarbon development project" and "unconventional natural gas development project" to add clarity to how these activities trigger the Commission's oversight and jurisdiction.

Comment: The definition of "project" contains a typographical error. The word "additional" should be "addition."

Response: The Commission agrees and the correction is made in the final rulemaking.

Section 806.15—Notice of Application

Comment: Section 806.15(e) should be amended to require notice in a newspaper of general circulation "serving the" area which the water obtained from such source will be initially used, replacing the existing language of a newspaper of general circulation "in each" area.

Response: This specific change was not a part of the proposed rulemaking. The Commission believes the existing language is adequate.

Section 806.22—Standards for consumptive uses of water

Comment: The term for approval under section 806.22(e)(7) should be 5 years instead of 15 years.

Response: The Approval by Rule in subsection 806.22(e) relates to projects where the sole source of water is from a public water supply. This type of ABR approval currently has a term of 15 years, and the Commission did not propose or contemplate any changes to this term in the proposed rulemaking. The Commission declines to make any change to the term provided in subsection 806.22(e)(7).

Comment: The wording of subsection 806.22(f)(4) should be changed from "per gas well" to "per oil and gas well" because hydrocarbon development projects under the ABR program can relate to oil wells, gas wells or both.

Response: The Commission agrees with the comment and has made the change in this final rulemaking.

Comment: The change to subsection 806.22(f)(4) from "dust control" to "other project related activity" is an attempt to obfuscate an industry practice of using hydrofracturing wastewater by spraying it on the roads for dust suppression by folding into a broader term.

Response: The Commission disagrees with the comment. The term "dust control" in subsection 806.22(f)(4) has been replaced with the broader term "other project related activity" to appropriately reflect the broader scope of the consumptive water uses regulated by the Commission. The final regulations clarify that any consumptive uses of water for dust control on roads related to a drilling pad site must be accounted for under the project sponsor's ABR approval. Whether a project sponsor can use waste water for dust suppression on roads is a matter regulated by the Commission's member jurisdictions, and is beyond the scope of this rulemaking.

Comment: In subsection 806.22(f)(10), the Commission noted that it was considering whether to change the duration of approvals issued

under the ABR program from 5 years to a longer term of up to 15 years and specifically sought public comment regarding such change. Some commenters expressed support for a change to 15 years out of interest in greater flexibility for the industry in planning and suggested that a longer term would potentially result in fewer sources being permitted for use. One commenter recommended an initial term of five year and renewal terms of 15 years. Other commenters opposed any extension of the current 5-year term noting: Shorter terms allow the Commission to better consider evolving technologies and changes in industry practices; longer terms reduce opportunities for public input into ABRs; and shorter terms allow the Commission to more frequently adjust necessary management practices, procedures and reporting requirements.

Response: The rulemaking as proposed retained the 5-year term currently in subsection 806.22(f)(10). Based on its deliberations, including the public comment, the Commission has decided to retain the 5-year term in this final rulemaking.

Transition Issues

This rulemaking takes effect on January 23, 2015. The Commission recognizes that project sponsors may have let ABRs expire for currently operating projects that, based on the clarifications provided in this final rule, will need to be covered under an ABR approval. The Commission encourages project sponsors to submit applications for these previously approved hydrocarbon development projects in a timely fashion. If application is made prior to June 30, 2015, the application may be made at the fee for ABR renewals. Any applications made after June 30, 2015, for currently operating projects that allowed their ABR approvals to expire will be made at the fee for new ABR applications and will be subject to active compliance efforts by the Commission, up to and including the assessment of civil penalties.

List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 806 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

1. The authority citation for Part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

Subpart A – General Provisions

2. In § 806.3:

- a. Revise the definition for "Construction";
- b. Add, in alphabetical order, a definition of "Drilling pad site";
- c. Remove the definition for "Hydrocarbon development" and add in its place, in alphabetical order, the definition of "Hydrocarbon development project";
- d. Revise the definition of "Project"; and
- e. Remove the definition for "Unconventional natural gas development" and add in its place, in alphabetical order, the definition of "Unconventional natural gas development project".

The revisions and additions read as follows:

§ 806.3 Definitions.

Construction. To physically initiate assemblage, installation, erection or fabrication of any facility, involving or intended for the withdrawal, conveyance, storage or consumptive use of the waters of the basin. For purposes of unconventional natural gas development projects subject to review and approval pursuant to § 806.4(a)(8), initiation of construction shall be deemed to commence upon the drilling (spudding) of a gas well, or the initiation of construction of any water impoundment or other water-related facility to serve the project, whichever comes first.

Drilling pad site. The area occupied by the equipment or facilities necessary for or incidental to drilling, production or plugging of one or more hydrocarbon development wells and upon which such drilling has or is intended to occur.

Hydrocarbon development project. A project undertaken for the purpose of extraction of liquid or gaseous hydrocarbons from geologic formations, including but not limited to the drilling, casing, cementing, stimulation and completion of unconventional natural gas development wells, and all other activities and facilities associated with the foregoing or with the production, maintenance, operation, closure, plugging and restoration of such wells or drilling pad sites that require water for purposes including but not limited to, re-stimulation and/or re-completion of wells, fresh water injection of production tubing, use of coiled tubing units, pumping, cement hydration, dust suppression, and hydro-seeding or other revegetation activities, until all post-plugging restoration is completed in accordance with all applicable member jurisdiction requirements. The project includes water used for hydro-seeding or other revegetation activities, dust suppression and hydro-excavation of access roads and underground lines, as well as cleaning of tanks, related to a drilling pad site and centralized impoundments.

Project. Any work, service, activity or facility undertaken, which is separately planned, financed or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources, which can be established and utilized independently, or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation.

Unconventional natural gas development project. A hydrocarbon development project undertaken for the purpose of extraction of gaseous hydrocarbons from low permeability geologic formations utilizing enhanced drilling, stimulation or recovery techniques.

3. In § 806.15, revise paragraph (e) to read as follows:

§ 806.15 Notice of application.

(e) For applications submitted under § 806.22(f)(13) for a wastewater discharge source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in each area within which the water obtained from such source will initially be used for hydrocarbon development.

4. In § 806.22, revise paragraphs (e)(7), (f) introductory text, (f)(1), (f)(4), (f)(10), (f)(11) introductory text, and (f)(12) to read as follows:

§ 806.22 Standards for consumptive uses of water.

(e) * * *

(7) Approval by rule shall be effective upon issuance by the Executive Director to the project sponsor, shall expire 15 years from the date of such issuance, and supersede any previous consumptive use approvals to the extent applicable to the project.

(f) Approval by rule for consumptive use related to unconventional natural gas and other hydrocarbon development projects.

(1) Any unconventional natural gas development project subject to review and approval under § 806.4(a)(8), or any other hydrocarbon development project subject to review and approval under §§ 806.4, 806.5, or 806.6, shall be subject to review and approval by the Executive Director under this paragraph (f) regardless of the source or sources of water being used consumptively.

(4) The project sponsor shall comply with metering, daily use monitoring and quarterly reporting as specified in § 806.30, or as otherwise required by the approval by rule. Daily use monitoring shall include amounts delivered or withdrawn per source, per day, and amounts used per oil or gas well or drilling pad site, per day, for well drilling, hydrofracture stimulation, hydrostatic testing, and other project-related activity. The foregoing shall apply to all water,

including stimulation additives, flowback, drilling fluids, formation fluids and production fluids, utilized by the project. The project sponsor shall also submit a post-hydrofracture report in a form and manner as prescribed by the Commission.

(10) Approval by rule shall be effective upon issuance by the Executive Director to the project sponsor, shall expire five years from the date of such issuance, and supersede any previous consumptive use approvals to the extent applicable to the project.

(11) In addition to water sources approved for use by the project sponsor pursuant to § 806.4 or this section, a project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize any of the following water sources at the drilling pad site, subject to such monitoring and reporting requirements as the Commission may prescribe:

(12) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize a source of water approved by the Commission pursuant to § 806.4(a), or by the Executive Director pursuant to paragraph (f)(14) of this section, and issued to persons other than the project sponsor, provided any such source is approved for use in hydrocarbon development, the project sponsor has an agreement for its use, and at least 10 days prior to use, the project sponsor registers such source with the Commission on a form and in the manner prescribed by the Commission.

Dated: December 16, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[15-01-22]

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at December 5, 2014, Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on December 5, 2014, in Annapolis, Maryland, the Commission took the following actions: 1) approved or tabled the applications of certain water resources projects; 2) accepted settlements in lieu of penalty from Lion Brewery, Inc.; LHP Management, LLC; and Southwestern Energy Production Company; and 3) took additional actions, as set forth in the Supplementary Information below.

DATES: December 5, 2014

ADDRESSES: Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Regulatory Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Regular mail inquiries may be sent to the above address. See also Commission website at www.srbc.net.

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the business meeting: 1) adoption of a resolution honoring retiring staff member Richard A. Cairo, General Counsel; 2) an informational presentation from SRBC staff member Aaron Henning on recent water quality and biological characterizations SRBC has undertaken

for the reservoirs on the lower Susquehanna River; 3) adoption of a resolution urging the President and Congress to provide full funding for the National Streamflow Information Program, thereby supporting the Susquehanna Flood Forecast & Warning System; 4) approval of a rulemaking action pertaining to clarification of the water uses involved in hydrocarbon development that are subject to SRBC's consumptive use regulations, as implemented by the Approval by Rule program; 5) delegation of authority to the Executive Director to enter into certain settlement agreements; 6) approval/ratification of two grants, one grant amendment, and one contract; 7) approval of a request from Sunbury Generation LP for a transfer of approval to Hummel Station LLC; and 8) denial of a request from Future Power PA, LLC for a waiver of 18 CFR §§ 806.3 and 806.4.

Compliance Matters:

The Commission approved settlements in lieu of civil penalty for the following projects:

Lion Brewery, Inc., City of Wilkes-Barre, Luzerne County, Pa. - \$50,000.

LHP Management, LLC (Muncy Creek), Muncy Creek Township, Lycoming County, Pa. - \$3,000.

Southwestern Energy Production Company (Borough of Bellefonte's Wastewater Treatment Plant), Borough of Bellefonte, Centre County, Pa. - \$4,500.

Project Applications Approved:

The Commission approved the following project applications:

Project Sponsor and Facility: Anadarko E&P Onshore LLC (Pine Creek), Watson Township, Lycoming County, Pa. Renewal of surface water withdrawal of up to 0.720 mgd (peak day) (Docket No. 20101201).

Project Sponsor and Facility: Geary Enterprises (Buttermilk Creek), Falls Township, Wyoming County, Pa. Renewal of surface water withdrawal of up to 0.099 mgd (peak day) (Docket No. 20100907).

Project Sponsor and Facility: Heidelberg Township Municipal Authority, Heidelberg Township, Lebanon County, Pa. Renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from existing public water supply Well 5 (Docket No. 19820602).

Project Sponsor and Facility: IBM Corporation, Village of Owego, Tioga County, N.Y. Groundwater withdrawal of up to 0.800 mgd (30-day average) from Well 415.

Project Sponsor and Facility: Jay Township Water Authority, Jay Township, Elk County, Pa. Groundwater withdrawal of up to 0.265 mgd (30-day average) from Byrnedale Well #1.

Project Sponsor and Facility: LHP Management, LLC (Muncy Creek), Muncy Creek Township, Lycoming County, Pa. Renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20120607).

Project Sponsor and Facility: New Morgan Borough Utilities Authority, New Morgan Borough, Berks County, Pa. Groundwater withdrawal of up to 0.275 mgd (30-day average) from Well PW-1.

Project Sponsor and Facility: New Morgan Borough Utilities Authority, New Morgan Borough, Berks County, Pa. Groundwater withdrawal of up to 0.108 mgd (30-day average) from Well PW-3.

Project Sponsor and Facility: New Oxford Municipal Authority, Oxford Township, Adams County, Pa. Groundwater withdrawal of up to 0.144 mgd (30-day average) from Oxen Country Meadows Well 1.

Project Sponsor and Facility: Somerset Regional Water Resources, LLC (Salt Lick Creek), New Milford Township, Susquehanna County, Pa. Renewal of surface water withdrawal of up to 0.720 mgd (peak day) (Docket No. 20100905).

Project Sponsor and Facility: Southwestern Energy Production Company (Susquehanna River), Eaton Township, Wyoming County, Pa. Surface water withdrawal of up to 2.000 mgd (peak day).

Project Sponsor and Facility: SWEPI LP (Cowanesque River), Nelson Township, Tioga County, Pa. Renewal of surface water withdrawal of up to 0.533 mgd (peak day) (Docket No. 20100604).

Project Sponsor and Facility: Talisman Energy USA Inc. (Seeley Creek), Wells Township, Bradford County, Pa. Renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20100914).

Project Sponsor and Facility: Talisman Energy USA Inc. (Wyalusing Creek), Stevens Township, Bradford County, Pa. Renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20100915).

Project Sponsor and Facility: Tenaska Resources, LLC (Cowanesque River), Westfield Township, Tioga County, Pa. Renewal of surface water withdrawal of up to 0.400 mgd (peak day) (Docket No. 20100910).

Project Sponsor and Facility: Upper Halfmoon Water Company, Halfmoon Township, Centre County, Pa. Groundwater withdrawal of up to 0.206 mgd (30-day average) from Well 6.

Project Application Approved Involving a Diversion:

The Commission approved the following project application involving a diversion:

Project Sponsor: Seneca Resources Corporation. Project Facility: Impoundment 1, receiving groundwater from Seneca Resources Corporation Wells 5H and 6H and Clermont Wells 1, 3, and 4, Norwich Township, McKean County, Pa. Into-basin diversion from the Ohio River Basin of up to 1.473 mgd (peak day).

Project Applications Tabled:

The Commission tabled action on the following project applications:

Project Sponsor and Facility: EQT Production Company (West Branch Susquehanna River), Greenwood Township, Clearfield County, Pa. Application for surface water withdrawal of up to 0.900 mgd (peak day).

Project Sponsor and Facility: Keister Miller Investments, LLC (West Branch Susquehanna River), Mahaffey Borough, Clearfield County, Pa. Application for surface water withdrawal of up to 2.000 mgd (peak day).

Project Sponsor: Pennsylvania Department of Environmental Protection – South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.590 mgd (30-day average) from Stoltzfus Well.

Project Sponsor: Pennsylvania Department of Environmental Protection – South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.432 mgd (30-day average) from Township Well.

AUTHORITY: Pub.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 17, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[15-01-23]

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 January 29, 2015, in Harrisburg, Pennsylvania. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for March 5, 2015, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects. The deadline for the submission of written comments is February 9, 2015.

DATES: The public hearing will convene on January 29, 2015, at 2:30 p.m. The public hearing will end at 5 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is February 9, 2015.

ADDRESSES: The public hearing will be conducted at the Pennsylvania State Capitol, Room 8E-B, East Wing, Commonwealth Avenue, Harrisburg, Pa.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, Regulatory Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436. Information concerning the applications for these projects is available at the SRBC Water Resource Portal at www.srb.net/wrp. Materials and supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at www.srb.net/pubinfo/docs/2009-02_Access_to_Records_Policy_20140115.pdf.

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects:

Projects Scheduled for Action:

Project Sponsor and Facility: Leonard and Jean Marie Azaravich (Meshoppen Creek), Springville Township, Susquehanna County, Pa. Application for renewal and modification to increase surface water withdrawal by an additional 0.251 mgd (peak day), for a total of up to 0.500 mgd (peak day) (Docket No. 20101206).

Project Sponsor and Facility: Carrizo (Marcellus), LLC (Mosquito Creek), Karthaus Township, Clearfield County, Pa. Application for surface water withdrawal of up to 0.720 mgd (peak day).

Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Braintrim Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20110303).

Project Sponsor and Facility: Chief Oil & Gas LLC (Martins Creek), Hop Bottom Borough, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.360 mgd (peak day) (Docket No. 20110304).

Project Sponsor and Facility: EQT Production Company (West Branch Susquehanna River), Greenwood Township, Clearfield County, Pa. Application for surface water withdrawal of up to 0.900 mgd (peak day).

Project Sponsor and Facility: Keister Miller Investments, LLC (West Branch Susquehanna River), Mahaffey Borough, Clearfield County, Pa. Application for surface water withdrawal of up to 2.000 mgd (peak day).

Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (West Branch Susquehanna River), Curwensville Borough, Clearfield County, Pa. Application for renewal of surface water withdrawal reduced from originally approved 2.000 mgd (peak day) to up to 1.500 mgd (peak day) (Docket No. 20101204).

Project Sponsor and Facility: Linde Corporation (Lackawanna River), Fell Township, Lackawanna County, Pa. Application for renewal of surface water withdrawal of up to 0.905 mgd (peak day) (Docket No. 20101207).

Project Sponsor and Facility: Samson Exploration, LLC (Plum Grove Cameron 5 Strip Mine Pond), Shippen Township, Cameron County, Pa. Application for renewal of surface water withdrawal of up to 0.090 mgd (peak day) (Docket No. 20110308).

Project Sponsor and Facility: Shadow Ranch Resort, Inc. (Tunkhannock Creek), Tunkhannock Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20110310).

Project Sponsor and Facility: Shrewsbury Borough, York County, Pa. Application for renewal and modification to increase groundwater withdrawal by an additional 0.024 mgd (30-day average), for a total of up to 0.089 mgd (30-day average) from the Blouse Well (Docket No. 19820103).

Project Sponsor and Facility: Shrewsbury Borough, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.099 mgd (30-day average) from the Smith Well (Docket No. 19811203).

Project Sponsor and Facility: Southwestern Energy Production Company (Martins Creek), Brooklyn and Harford Townships, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.997 mgd (peak day) (Docket No. 20110312).

Project Sponsor and Facility: SWEPI LP (Cowanesque River), Westfield Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.375 mgd (peak day) (Docket No. 20101203).

Project Sponsor and Facility: Warwick Township Municipal Authority, Warwick Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.288 mgd (30-day average) from Rothsville Well 2.

Opportunity to Appear and Comment:

Interested parties may appear at the hearing to offer comments to the Commission on any project listed above. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Ground rules will be posted on the Commission's website, www.srb.net, prior to the hearing for review. The presiding officer reserves the right to modify or supplement such rules at the hearing. Written comments on any project listed above may also be mailed to Mr. Jason Oyler, Regulatory Counsel, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <http://www.srb.net/pubinfo/publicparticipation.htm>. Comments mailed or electronically submitted must be received by the Commission on or before February 9, 2015, to be considered.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 23, 2014.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[15-01-32]

FINAL CALENDAR YEAR 2015 STANDARD PERMIT APPLICATION TURNAROUND TIMES

As required by Section 1-607(A)(2) of the Environment Article, the Maryland Department of the Environment (MDE) has established, in consultation with interested parties, the following standard turnaround times for all types of permit applications.

MDE has made the following changes to the 2014 turnaround times for calendar year 2015.

Oil Operations Permits – increasing from 90 days to 180 days. This is due to a reduction in staff available to process these applications.

Oil Operations Permits for Oil Contaminated Soils – increasing 90 days to 180 days. This is due to a reduction in staff available to process these applications.

Sewage Sludge Utilization Permits for Research Projects – increasing from 45 days to 120 days. This change is to accurately reflect the time necessary to complete the administrative review, send the permit application to the County Government and wait for the commenting period to end. This time also includes the technical review.

Also, the individual types of sewage sludge utilization permits have been renamed and recategorized to reflect recent changes in applicable regulations.

MDE reviews and adjusts these turnaround times annually to give permit applicants current information regarding the processing time.

Please note the following important points about these standard times:

- 1) These standards refer to the time between MDE's receipt of a complete permit application and MDE's issuance or denial of the permit, excluding delays caused by factors beyond MDE's control. Many applications are incomplete when they first arrive at MDE. The appropriate MDE permit writer can provide guidance on how to ensure that an application is complete when submitted.
- 2) In most permitting programs, each application has unique characteristics that influence its processing time. For each program listed, the standard time represents the time in which 90% of applications can be processed. Many applications will require less time; a few will require more time due to unusual circumstances.

Program Name	2015 Standard Application Processing Time
Air and Radiation Management Administration	
General Permit to Construct	30 days
Air Quality Permit to Construct	3 months - without expanded public review
	4 months – synthetic minor permits without expanded public review
	6 months - with expanded public review but limited public interest
	11 months - with expanded public review and extensive public interest
New Source Review Approval	12 months
Prevention of Significant [air quality] Deterioration	12 months
Air Quality State Permit to Operate	3 months
Part 70 (Title V) Permit to Operate	18 months for new permits
	12 months for renewals
Asbestos Contractor License	60 days
Asbestos Training Provider Approval	3 months
Incinerator Operator Certification	30 days
Incinerator Training Course Approval	60 days
Fleet Inspection Station License	30 days
Certified Emissions Repair Facility Certification	30 days
Master Certified Emissions Technician Certificate	30 days
Radiation Machine Facility Registration	90 days for dental and veterinary machines
	6 months for all other machines
Certification of Machines Emitting Radiation	6 months
Radioactive Materials License	7 months
	45 days for amendments and terminations
Private Inspector License For Inspecting X-Ray Machines	60 days
Reciprocal Recognition of Out-of-State Radioactive Material Licenses	21 days

Land Management Administration	
Refuse Disposal Permit	7 months for transfer stations
	9 months for processing facilities
	9 months for processing facilities & transfer stations
	12 months for incinerators
	12 months for land-clearing debris landfills
	24 months for industrial landfills

Program Name	2015 Standard Application Processing Time
	36 months for rubble landfills
	36 months for municipal landfills
Groundwater Discharge Permit for Rubble Landfill	18 months
Sewage Sludge Utilization Permit	120 days – research project
	4 months – transportation
	5 months – utilization or disposal at a sanitary landfill, energy generation or incineration
	6 months – marketing
	10 months – land application
	23 months – treatment, composting, distribution facility, or storage
	36 months – sewage sludge landfill
	24 months – innovative projects
General Discharge Permit for Animal Feeding Operations	180 days
Natural Wood Waste Recycling Facility Permit	9 months
Natural Wood Waste Recycling Facility General Permit	60 days
Scrap Tire Hauler	60 days
Scrap Tire Collection Facilities (General and Secondary)	60 days
Scrap Tire Solid Waste Acceptance Facility	7 months
Scrap Tire TDF/Substitute Fuel Facility	7 months
Scrap Tire Primary Collection Facility	9 months
Scrap Tire Recyclers	9 months
Oil Operations Permit	180 days
Oil Operations Permit for Oil-Contaminated Soils	180 days
Oil Transfer License	30 days
General Permits for Oil Control Program Wastewater Discharge Permit	30 days
Surface Water Discharge Permit for Oil Terminals	180 days
Ground Water Discharge Permit for Oil Terminals	180 days
Underground Storage Tank (UST) Technician, Remover, and Inspector Certifications	40 days
Controlled Hazardous Substances Facility Permit	26 months
Hazardous Waste; EPA Identification Number	30 days
Controlled Hazardous Substances Hauler and Vehicle Certifications	60 days
Special Medical Waste (SMW) Hauler and Vehicle Certifications	60 days
Coal Mining Permit	12 months
Surface Coal Mining Blaster Certification	immediately on passing exam
Coal Mining Operator License	30 days
Non-Coal Mining Permit	7 months
Non-Coal Mining License	30 days
Oil and Gas Exploration and Production	5 months
Lead Paint Accreditations	60 days
Lead Paint Training Course Approvals	60 days
Lead Paint Instructor Approvals	60 days
Voluntary Cleanup Program	45 days to determine if application is accepted
	75 days to review action plan

Water Management Administration	
General Discharge Permit Registrations (excluding Construction Activities and Animal Feeding Operations)	120 days for all general permits
Individual Permit for Wastewater Discharges	12 months for new minor surface facilities
	18 months for new surface major facilities
	24 months for renewal surface discharge facilities
	18 months for new groundwater discharge facilities
	34 months for renewal groundwater discharge facilities
Toxic Materials Permit	45 days
Water and Sewerage Construction Permit	3 months
Water Appropriation and Use Permit	120 days for under 10,000 gallons per day
	24 months for over 10,000 gallons per day
Well Construction Permit	30 days
Drinking Water Laboratory Certification	4 months
Nontidal Wetlands and Waterway Construction (Nontidal Wetlands)	10 months for minor projects

Program Name	2015 Standard Application Processing Time
and Waterways Permits)	12 months for major projects
Tidal Wetland Licenses and Permits	90 days for minor projects
	8 months for major projects
	11 months for major projects with a public informational hearing
Erosion/Sediment Control and Stormwater Management Plan Approvals	6 months
Erosion and Sediment Control - Responsible Personnel Certification	2 weeks
Erosion and Sediment Control - Responsible Personnel Training Program Approval	4 weeks
General Permit for Stormwater Associated with Construction Activity	60 days for projects less than 3 acres
	90 days for projects between 3 and 150 acres
Individual Permit for Stormwater Associated with Construction Activity	6 months
Municipal Separate Storm Sewer Permit	18 months
Dam Safety Permit	6 months
Waterworks and Waste Systems Operator Certification	30 days for all licenses
Well Driller License	6 months for new licenses
	30 days for renewals

[15-01-38]

MARYLAND HEALTH CARE COMMISSION

PROJECTED ADULT CARDIAC SURGERY CASES BY HEALTH PLANNING REGION, CY2013—CY2018

In accordance with COMAR 10.24.17.08, the Maryland Health Care Commission (MHCC) publishes the following notice of projected cardiac surgery cases by health planning region. These utilization projections will apply in the review of Certificate of Need (CON) applications acted on by MHCC during the period during which these projections are in effect. These published projections remain in effect until MHCC publishes updated projections.

Projected Adult Cardiac Surgery Case Volume by Health Planning Region, CY 2013-18

Region	Year					
	2014	2015	2016	2017	2018	2019
Baltimore Upper Shore	2,885	2,798	2,703	2,613	2,528	2,445
Lower Shore	414	405	396	389	382	376
Washington Metropolitan	1,936	1,881	1,819	1,760	1,704	1,650
Western	156	150	144	138	133	129
Total for All Regions	5,391	5,234	5,062	4,900	4,747	4,600

Sources: MHCC staff analysis of Health Services Cost Review Commission discharge abstract data for CY2007-CY2012 and District of Columbia discharge abstract data. Cardiac surgery discharges included in calculations are those records that indicate patient age of 15 years or older and include one or more of the following ICD-9 procedure codes 35.00-35.09; 35.10-35.14; 35.20-35.28; 35.31-35.35; 35.39, 35.41, 35.42, 35.50, 35.51, 35.53-35.55; 35.60-35.63; 35.70-35.73; 35.81-35.84; 35.91-35.95; 35.97-35.99; 36.03, 36.10-36.17; 36.19, 36.31, 36.91, 36.99, 37.10, 37.11, 37.32, 37.33, and 37.37. The Maryland population data used in calculations is from the Maryland Department of Planning (July 2014). The District of Columbia population data is from the U.S. Census Bureau for years 2000 and 2010-2013. For years 2014 and 2019, MHCC purchased data from Nielsen, a commercial vendor, and interpolated the intervening years, assuming the same rate of change from year-to-year.

Region Definitions

Baltimore Upper Shore: Anne Arundel, Baltimore, Caroline, Carroll, Cecil, Harford, Howard, Kent, Queen Anne's, and Talbot Counties, and Baltimore City.

Lower Shore: Dorchester, Somerset, Wicomico, and Worcester Counties.

Washington Metropolitan: Calvert, Charles, Frederick, Montgomery, Prince George's, and St. Mary's Counties, and the District of Columbia.

Western: Allegany, Garrett, and Washington Counties.

[15-01-35]

DEPARTMENT OF STATE POLICE

HANDGUN ROSTER BOARD

Proposed Additions to Handgun Roster and Notice of Right to Object or Petition

The following is a list of handguns that the Handgun Roster Board proposes to add to the official handgun roster. These handguns will be officially placed on the Handgun Roster if no timely objection is received or if all timely objections are dismissed.

Under the Public Safety Article, §5-405, Annotated Code of Maryland, and COMAR 29.03.03.13 and .14, any person may object to the placement of any of those handguns on the Handgun Roster. Objections must be filed within 30 days after **January 9, 2015**. In addition, any person may petition for the placement of an additional handgun on the Handgun Roster. Forms for objections or petitions may be obtained from: Marlene Jenkins, Administrator, Handgun Roster Board, 1201 Reisterstown Road, Pikesville, Maryland 21208.

With regard to short-barrel rifles included on the Handgun Roster, please note that a semi-automatic rifle with an overall length of less than 29" is a "copycat weapon" and is not eligible for sale to the general public (unless the purchaser had a purchase order for, or a completed application to purchase, the firearm prior to October 1, 2013). See, Sections 4-301 through 4-303 of the Criminal Law Article, Annotated Code of Maryland.

Overall length is measured between the extreme ends of the rifle along a line parallel to the center line of the bore. An attachment to the barrel, such as a muzzle brake or flash suppressor, should not be included in the measurement unless it is permanently affixed.

Manufacturer	Model Name	Model Number	Caliber
Beretta USA	(BU) Pico		.380 ACP, .32 ACP
Boberg (Model Addition)	XR9-L		9mm
Bond Arms	Backup		.45 ACP
Engage Armament LLC (Caliber Additions)	E4		9mm, .22 LR, 5.7X28mm
Excel Arms (Caliber Addition)	Accelerator	MP 5.7	5.7X28 mm
Heckler & Koch (Short Barrel Rifle)	MR 556 A1		5.56X45
Intratec	Sport 22		.22 LR
Israel Weapon Industries (IWI)	Barak	SP-21	9mm
Keystone Sporting Arms	Chipmunk Hunter		.22 LR, .22 WMR
Kimber	Custom TLE II, Custom TLE II (TFS)		.45 ACP, 9mm
Kimber	Micro Carry, Micro Carry (STS) Stainless		.380 ACP
Metro Arms	SPS Pantera	SPP40 BC, SPP45 BC	.40 S&W, .45 ACP
Nite Scout LLC	Nite Scout A3		9mm
Patriot Ordnance Factory, Inc (POF) (Short Barrel Rifle)	P-308		.308
Radical Firearms (With Aero Precision Lower Model X-15)	M4		5.56
Remington Arms Co., Inc. (Short Barrel Shotgun) (Model Addition)	870		12 Gauge, 20 Gauge, 410 Gauge
Shooters Arm Mnfr (American Tactical)	Fatboy	FX 45	.45 ACP
Sig Sauer/Sigarms Inc.	P 716		.308 Winchester, 7.62X51mm
Sig Sauer/Sigarms Inc. (Caliber Additions)	1911	1911	9mm, .38 Super, .40 S&W
Sig Sauer/Sigarms Inc. (Caliber Addition)	P-938		.22 LR
Sig Sauer/Sigarms Inc. (Model & Caliber Additions)	P556 XI		7.62X39, .300 Blackout
Smith & Wesson	Pro Series	986	9mm
Springfield Armory/Inc.	XD-S 45 4.0		.45 ACP
Springfield Armory/Inc. (Model Addition)	XD-9 Mod. 2	Sub-Compact	9mm, .40 S&W
Sturm Ruger (Model Addition)	LCR	5456	9mm
Sturm Ruger (Model Addition)	GP-100	1753 (HGP 331-NVK)	.357 Mag
Sturm Ruger (Model Addition)	LC9	3242	9mm
Sturm Ruger (Model Addition)	KMK III	10161	.22 LR
Sturm Ruger (Model Addition)	KLCR	5456	9mm
Taurus	PT 111-G2 Millennium-G2		9mm
Wilson Combat	X-Tac, X-Tac Compact		.45 ACP

[15-01-25]

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

BOARD OF ARCHITECTS

Subject: Public Meeting
Date and Time: January 28, 2015, 10 a.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Pamela J. Edwards (410) 230-6262

[15-01-34]

ATHLETIC COMMISSION

Subject: Public Meeting
Date and Time: January 28, 2015, 2 — 4 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patrick Pannella (410) 230-6223

[15-01-16]

BOARD OF AUDIOLOGISTS, HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS

Subject: Public Meeting
Date and Time: January 15, 2015, 4 — 6 p.m.
Place: Metro Executive Bldg., 4201 Patterson Ave., Baltimore, MD
Contact: Christopher Kelter (410) 764-4723

[15-01-04]

COMPTROLLER OF THE TREASURY/ADMINISTRATION AND FINANCE

Subject: Reduction of Bond Authorization Announcement
Add'l. Info: Pursuant to State Finance and Procurement Article, §8-128, Annotated Code of Maryland, which provides that, if within 2 years after the date of an authorization of State debt, no part of the project or program for which the enabling act authorized the State debt is under contract and the Board of Public Works has not committed money for any part of the project or program, the authorization terminates unless:

(1) The enabling act provides otherwise; or

(2) In an emergency, the Board unanimously grants a temporary exception for a period of 1 year.

Therefore, with Board of Public Works approval of items #7 and #8 dated

December 17, 2014, we submit for publication the following cancellation of bond authorizations in accordance with the above referenced articles:

Star-Spangled Banner Flag House Loan of 2011: Ch. 396, Acts of 2011; \$75,000; authorized the funds for planning, design, repair, renovation, reconstruction, and capital equipping of the Star-Spangled Banner Flag House, located in Baltimore City.

Broad Creek Memorial Scout Reservation Loan of 2012: Ch. 444, Acts of 2012, amended by Ch. 430, Acts of 2013; \$200,000; authorized the funds for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Broad Creek Memorial Scout Reservation, located in Whiteford.

Riverdale Park Youth and Community Center Loan of 2012: Ch. 444, Acts of 2012, amended by Ch. 430, Acts of 2013; \$150,000; authorized the funds for the design, engineering, and construction of a youth and community center, located in Riverdale Park.

Riverdale Park Youth and Community Center Loan of 2012: Ch. 444, Acts of 2012, amended by Ch. 430, Acts of 2013; \$133,000; authorized the funds for the design, engineering, and construction of a youth and community center, located in Riverdale Park.

Knights of St. John Woodville School Building Loan of 2012: Ch. 444, Acts of 2012; \$50,000; authorized the funds for the renovation and reconstruction of the Knights of St. John Woodville School Building, located in Aquasco.

Harbor Lights Community Development Center Loan of 2012: Ch. 444, Acts of 2012, amended by Ch. 430, Acts of 2013; \$40,000; authorized the funds for the design, construction, and renovation of the Harbor Lights Community Development Center, located in Fort Washington.

Fort Foote Elementary School Marquee Project Loan of 2012: Ch. 444, Acts of 2012, amended by Ch. 430, Acts of 2013; \$8,000; authorized the funds the planning, design, and construction of the Fort Foote Elementary School Marquee Project, located in Fort Washington.

MacDonald Knolls Center Loan of 2002: Ch. 440, Acts of 2002, amended by Ch. 290, Acts of 2002, and Ch. 707, Acts of 2009; \$175,000; authorized the funds for

the construction, reconstruction, repair, renovation, and capital equipping of the MacDonald Knolls Center, located in Silver Spring.

St. Agnes Healthcare Loan of 2007: Ch. 488, Acts of 2007; \$57,446.50; authorized the funds the planning, design, renovation, expansion, repair, construction, and capital equipping of the birthing center and neonatal intensive care unit at St. Agnes Hospital, located in Baltimore City.

Roland Park Fire Station Loan of 2009: Ch. 485, Acts of 2009, amended by Ch. 396, Acts of 2011, and Ch. 430, Acts of 2013; \$14,394.93; authorized the funds for the repair and renovation of the Roland Park Fire Station, including the repair and renovation of heat pumps, located in Baltimore City.

Woodlawn High School Loan of 2010: Ch. 483, Acts of 2010, amended by Ch. 396, Acts of 2011; \$11,210; authorized the funds for the construction, restoration, and capital equipping of the Woodlawn High School, located in Baltimore County.

Maryland Multi-Cultural Youth Center Loan of 2007: Ch. 488, Acts of 2008; \$10,451.69; authorized the funds for the renovation of the Center for Educational Partnerships, located in Riverdale.

Randallstown High School Loan of 2010: Ch. 483, Acts of 2010; \$8,349; authorized the funds for the construction, renovation, and capital equipping of the dark room, located in Baltimore County.

Historic Laurel Mill Ruins Loan of 2007: Ch. 488, Acts of 2007; \$7,727; authorized the funds for the repair, stabilization, and reconstruction of the Historic Laurel Mill Ruins, located in Laurel.

Domestic Violence Center Loan of 2013: Ch. 424, Acts of 2013; \$1,420; authorized the funds for the acquisition, planning, design, construction, renovation, and capital equipping of a residential property for The Domestic Violence Center of Howard County, Inc.

Re Rentuma

Fiscal Specialist

Administration and Finance

Contact: Re Rentuma (410) 260-7909

[15-01-20]

BOARD OF COSMETOLOGISTS

Subject: Public Meeting
Date and Time: February 2, 2015, 10 a.m.
Place: 200 St Paul Pl., 3rd Fl., Baltimore, MD
Contact: Shirley Leach (410) 230-6195
 [15-01-15]

BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS

Subject: Public Meeting
Date and Time: February 4, 2015, 10 a.m. — 3 p.m.
Place: Howard Co. Bureau of Utilities, 8720 Old Montgomery Rd., Columbia, MD
Add'l. Info: The Board may discuss/vote on proposed regulations. A portion of the meeting may be held in closed session.
Contact: James T. Merrow (410) 764-3511
 [15-01-18]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subject: Public Meeting
Date and Time: January 22, 2015, 4 — 6 p.m.
Place: 201 W. Preston St., Conf. Room L1, Baltimore, MD
Contact: Ashley Fried (410) 767-5121
 [15-01-14]

BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting
Date and Time: January 14, 2015, 10:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., Baltimore, MD
Contact: Robin Bailey (410) 230-6160
 [15-01-12]

BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS (HVACR)

Subject: Public Meeting
Date and Time: February 11, 2015, 10:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Robin Bailey (410) 203-6160
 [15-01-13]

HOME IMPROVEMENT COMMISSION

Subject: Public Meeting
Date and Time: February 5, 2015, 10 a.m. — 12 p.m.
Place: 500 N. Calvert St., 2nd Fl. Conf. Rm., Baltimore, MD
Contact: John Papavasiliou (410) 230-6169
 [15-01-01]

FACILITIES ADVISORY BOARD-JUVENILE SERVICES

Subject: Public Meeting
Date and Time: January 20, 2015, 6 — 8 p.m.
Place: Western Maryland Children's Center, 18420 Roxbury Rd., Hagerstown, MD
Contact: Mark Bishop (301) 745-6071
 [15-01-31]

BOARD OF EXAMINERS OF LANDSCAPE ARCHITECTS

Subject: Public Meeting
Date and Time: January 20, 2015, 1:30 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Add'l. Info: The Board will take final action to adopt the Continuing Professional Competency Regulations.
Contact: Pamela J. Edwards (410) 230-6262
 [15-01-33]

MARYLAND STATE LOTTERY AND GAMING CONTROL COMMISSION

Subject: Public Meeting
Date and Time: January 22, 2015, 10 a.m. — 12 p.m.
Place: Montgomery Park Business Center, 1800 Washington Blvd., Ste. 330, Baltimore, MD
Contact: Marie A. Torosino (410) 230-8790
 [15-01-19]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: January 15, 2015, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
 [15-01-09]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: February 19, 2015, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Conf. Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
 [15-01-10]

MARYLAND HEALTH CARE COMMISSION

Subject: Formal Start of Review
Add'l. Info: The Maryland Health Care Commission (MHCC) hereby gives notice of docketing of the following application for Certificate of Need:

Adventist HealthCare, Inc., d/b/a Washington Adventist Hospital — Matter No. 13-15-2349 — Relocation and construction of a new 201-bed general hospital to 12100 Plum Orchard Drive, Silver Spring, Montgomery County. Washington Adventist Hospital proposes that, if the relocation of its existing hospital is approved, its 40-bed acute psychiatric unit will be renovated in its current Takoma Park location and be operated as a licensed special hospital-psychiatric. This contingent project will be considered within this review cycle.

Estimated Cost: \$330,829,524 for the relocation and replacement of the general hospital and \$5,223,506 for the renovation of existing hospital space to a special hospital for behavioral health services. Total: \$336,053,030.

MHCC shall review the application under Health-General Article, §19-101 et seq., Annotated Code of Maryland, COMAR 10.24.01, and the applicable State Health Plan standards.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the application(s). All further notices of proceedings on the application(s) will be sent only to affected persons who have registered as interested parties.

Persons desiring to become interested parties in the Commission's review of the above-referenced application must meet the requirements of COMAR 10.24.01.01B(2) and (20) and must also submit written comments to the Commission no later than close of business February 9, 2015. These comments must state with particularity the State Health Plan standards or review criteria that you believe have not been met by the applicant as stated in COMAR 10.24.01.08F.

Please refer to the Matter/Docket Number listed above in any

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correspondence on the application. Copies of the application are available for review in the office of MHCC during regular business hours by appointment. All correspondence should be addressed to Paul E. Parker, Director, Center for Health Care Facilities Planning & Development, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276
[15-01-21]

MARYLAND PUBLIC TELEVISION

Subject: Public Meeting
Date and Time: January 27, 2015, 8:30 a.m. — 10:30 a.m.
Place: 11767 Owings Mills Blvd., Owings Mills, MD
Contact: Laura Taylor (410) 581-4141
[15-01-24]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting
Date and Time: January 16, 2015, 8:30 a.m. — 2 p.m.
Place: Spring Grove Hospital Center, 55 Wade Ave., Catonsville, MD
Add'l. Info: Health Occupations Article, Title 10, Annotated Code of Maryland, and COMAR 10.46 amendments, additions, and revisions, including fee changes, may be discussed/voted on. Budget information may also be discussed. It may be necessary to go into executive session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 1-800-735-2255.
Contact: Marilyn Pinkney (410) 402-8556
[15-01-36]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: February 12, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-01-02]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: March 12, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-01-26]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: April 9, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-01-27]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: May 14, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-01-28]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: June 11, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-01-29]

BOARD OF PODIATRIC MEDICAL EXAMINERS

Subject: Public Meeting
Date and Time: July 9, 2015, 1 p.m.
Place: 4201 Patterson Ave., Rm. 110, Baltimore, MD
Contact: Sheri Henderson (410) 764-4785
[15-01-30]

BOARD OF PUBLIC ACCOUNTANCY

Subject: Public Meeting
Date and Time: February 3, 2015, 9 a.m. — 12 p.m.
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Linda Rhew (410) 230-6180
[15-01-08]

STATE ADVISORY COUNCIL ON QUALITY CARE AT THE END OF LIFE

Subject: Public Meeting
Date and Time: January 16, 2015, 10 a.m. — 12 p.m.
Place: Department of Aging, 301 W. Preston St., Rm. 1007, Baltimore, MD
Contact: Paul Ballard (410) 767-6918
[15-01-06]

RETIREMENT AND PENSION SYSTEM — ADMINISTRATIVE COMMITTEE

Subject: Public Meeting
Date and Time: February 3, 2015, 9:30 a.m.
Place: SunTrust Bldg., 120 E. Baltimore St., 16th Fl., Board Rm., Baltimore, MD
Add'l. Info: Meeting date and location are subject to change. Anyone interested in attending should contact the Retirement Agency for confirmation. Please note, the meeting may include a closed session. Sign language interpreters and/or appropriate accommodations for qualified individuals with disabilities will be provided upon request. Please call 410-625-5609 or 1-800-735-2258 TTY.
Contact: Angie Jenkins (410) 625-5609
[15-01-03]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: February 25, 2015, 9 a.m. — 4 p.m.
Place: MDE, 1800 Washington Blvd., Terra Conf. Rm. 1006, Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Willie Everett (410) 537-3644
[15-01-07]

WORKERS' COMPENSATION COMMISSION

Subject: Public Meeting on Regulations
Date and Time: February 12, 2015, 9 — 11 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may be held in closed session. During this meeting, the Commission will consider final adoption of amendments to COMAR 14.09.15.02 and 14.09.16.03 and .13 for the sole purpose of updating now-obsolete COMAR references.
Contact: Amy Lackington (410) 864-5300
[15-01-11]

COMAR IN PDF — ORDER FORM

Titles		Agency Name	Price ¹	Subscription ²	Quantity	Total
Complete set of COMAR PDF format			\$1,000	\$500	_____	_____
Title 01	Executive Department		\$35	\$24	_____	_____
Title 02	Office of the Attorney General		\$22	\$13	_____	_____
Title 03	Comptroller of the Treasury		\$30	\$20	_____	_____
Title 04	General Services		\$16	\$10	_____	_____
Title 05	Housing and Community Development		\$78	\$50	_____	_____
Title 07	Human Resources		\$80	\$53	_____	_____
Title 08	Natural Resources		\$78	\$51	_____	_____
Title 09	Labor, Licensing and Regulation		\$89	\$60	_____	_____
Title 10	Health & Mental Hygiene (All parts) **		\$272	\$180	_____	_____
Title 10	Part 1 **		\$48	\$32	_____	_____
Title 10	Part 2 **		\$75	\$50	_____	_____
Title 10	Part 3 **		\$75	\$50	_____	_____
Title 10	Part 4 **		\$50	\$35	_____	_____
Title 10	Part 5 **		\$69	\$50	_____	_____
Title 11	Transportation (All parts) **		\$106	\$75	_____	_____
Title 11	Part 1 (Transportation) **		\$42	\$25	_____	_____
Title 11	Parts 2 & 3 (MVA)**		\$74	\$50	_____	_____
Title 12	Public Safety and Correctional Services		\$67	\$43	_____	_____
Title 13A	Board of Education		\$63	\$42	_____	_____
Title 13B	Higher Education Commission		\$25	\$15	_____	_____
Title 14	Independent Agencies		\$80	\$53	_____	_____
Title 15	Agriculture		\$48	\$30	_____	_____
Title 16	Juvenile Service		\$23	\$15	_____	_____
Title 17	Budget and Management		\$28	\$16	_____	_____
Title 18	Assessments and Taxation		\$20	\$12	_____	_____
Title 19A	State Ethics Commission		\$24	\$14	_____	_____
Title 20	Public Service Commission		\$49	\$32	_____	_____
Title 21	State Procurement Regulations		\$48	\$30	_____	_____
Title 22	State Retirement and Pension System		\$22	\$13	_____	_____
Title 23	Board of Public Works		\$18	\$11	_____	_____
Title 24	Business and Economic Development		\$34	\$20	_____	_____
Title 25	State Treasurer		\$16	\$9	_____	_____
Title 26	Environment (All parts) **		\$189	\$125	_____	_____
Title 26	Part 1 **		\$54	\$35	_____	_____
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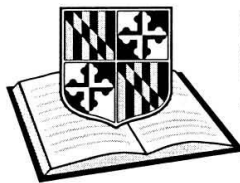
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