

Maryland Register

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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before January 4, 2016, 5 p.m.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 January 4, 2016.

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



Information About the Maryland Register and COMAR

MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

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

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

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Lawrence J. Hogan, Jr., Governor; **John C. Wobensmith**, Secretary of State; **Brian Morris**, Administrator; **Gail S. Klakring**, Senior Editor; **Mary D. MacDonald**, Editor, Maryland Register and COMAR; **Elizabeth Ramsey**, Editor, COMAR Online, and Subscription Manager; **Tami Cathell**, Help Desk, COMAR and Maryland Register Online.

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**Availability of Monthly List of
 Maryland Documents**

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

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

CLOSING DATES AND ISSUE DATES through JULY 22, 2016

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

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

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

** Note closing date changes

*** Note issue date and closing date changes

The regular closing date for Proposals and Emergencies is Monday.

COMAR Online

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

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

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

REGULATIONS CODIFICATION SYSTEM

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

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

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

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

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

Table of Pending Proposals

The table below lists proposed changes to COMAR regulations. The proposed changes are listed by their COMAR number, followed by a citation to that issue of the Maryland Register in which the proposal appeared. Errata 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.

<p>02 OFFICE OF THE ATTORNEY GENERAL</p> <p>02.06.03.01—,10 • 42:13 Md. R. 798 (6-26-15)</p> <p>05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT</p> <p>05.16.01.03,04 • 43:2 Md. R. 131 (1-22-16) (ibr)</p> <p>07 DEPARTMENT OF HUMAN RESOURCES</p> <p>07.01.06.02—,06 • 41:25 Md. R. 1489 (12-12-14) 07.02.07.01—,26 • 42:2 Md. R. 148 (1-23-15) 07.02.12.01—,09 • 43:2 Md. R. 132 (1-22-16) 07.02.14.01—,14 • 43:2 Md. R. 143 (1-22-16) 07.02.26.01—,15 • 42:2 Md. R. 159 (1-23-15) 07.07.08.03 • 42:21 Md. R. 1304 (10-16-15) 07.07.09.05 • 42:21 Md. R. 1305 (10-16-15)</p> <p>08 DEPARTMENT OF NATURAL RESOURCES</p> <p>08.02.01.05 • 42:25 Md. R. 1548 (12-11-15) 08.02.03.07,12,14,15 • 43:2 Md. R. 147 (1-22-16) 08.02.04.11 • 43:2 Md. R. 148 (1-22-16) 08.02.04.15 • 42:24 Md. R. 1509 (11-30-15) 08.02.05.03 • 42:24 Md. R. 1510 (11-30-15) 08.02.05.08 • 43:1 Md. R. 16 (1-8-16) 08.02.05.24 • 43:2 Md. R. 149 (1-22-16) 08.02.14.13 • 42:24 Md. R. 1510 (11-30-15) 08.02.15.07 • 42:26 Md. R. 1598 (12-28-15) 08.02.25.02,03 • 42:26 Md. R. 1599 (12-28-15) 08.03.02.01—,29,31—,38 • 42:26 Md. R. 1600 (12-28-15) 08.03.08.01,04—,09,15 • 43:2 Md. R. 152 (1-22-16) 08.03.10.09 • 42:26 Md. R. 1605 (12-28-15) 08.04.01.01 • 43:2 Md. R. 159 (1-22-16) 08.04.16.01—,03 • 43:2 Md. R. 162 (1-22-16) 08.07.01.01,02 • 42:24 Md. R. 1510 (11-30-15) 08.07.02.02,02-1 • 42:24 Md. R. 1510 (11-30-15) (ibr)</p>	<p>08.07.04.01,03 • 42:24 Md. R. 1511 (11-30-15) 08.07.05.02,04 • 42:24 Md. R. 1512 (11-30-15) 08.18.01.03 • 43:2 Md. R. 164 (1-22-16) 08.18.11.01—,06 • 43:2 Md. R. 168 (1-22-16) 08.18.18.06 • 43:2 Md. R. 168 (1-22-16) 08.18.24.01—,07 • 43:2 Md. R. 169 (1-22-16) 08.18.25.02,05 • 43:2 Md. R. 174 (1-22-16)</p> <p>09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION</p> <p>09.01.12.01—,08 • 42:26 Md. R. 1606 (12-28-15) 09.03.06.02,24,25 • 42:2 Md. R. 170 (1-23-15) 09.03.06.23 • 42:21 Md. R. 1307 (10-16-15) 09.03.09.07 • 42:21 Md. R. 1308 (10-16-15) 09.03.12.09 • 42:21 Md. R. 1309 (10-16-15) 09.09.02.01 • 41:25 Md. R. 1500 (12-12-14) 09.10.03.01-1 • 42:23 Md. R. 1440 (11-13-15) 09.12.21.02 • 43:2 Md. R. 175 (1-22-16) 09.12.31 • 43:2 Md. R. 176 (1-22-16) 09.12.42.01 • 42:26 Md. R. 1607 (12-28-15) 09.12.43.01 • 42:26 Md. R. 1608 (12-28-15) 09.12.44.01,02 • 42:1 Md. R. 25 (1-9-15) 09.12.81.01-1,04-1 • 42:2 Md. R. 173 (1-23-15) 09.14.04.01,02,04 • 42:1 Md. R. 26 (1-9-15) 09.19.05.01 • 42:26 Md. R. 1608 (12-28-15) 09.21.01.04 • 43:2 Md. R. 177 (1-22-16) 09.23.04.03 • 41:25 Md. R. 1500 (12-12-14)</p> <p>10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE</p> <p>Subtitles 01—08 (1st volume)</p> <p>10.02.03.01 • 42:26 Md. R. 1609 (12-28-15) 10.03.02.01—,03 • 42:26 Md. R. 1609 (12-28-15) 10.05.01.05 • 42:26 Md. R. 1611 (12-28-15) 10.05.02.04—,12 • 42:24 Md. R. 1512 (11-30-15) 10.05.05.01 • 42:26 Md. R. 1611 (12-28-15)</p>
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The Judiciary

COURT OF APPEALS OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by an Order of the Court of Appeals dated January 5, 2016, **APRIL JUANITA SANDS**, 4655 Huntley Drive, Ellicott City, Maryland 21043, has been indefinitely suspended by consent, effective immediately, from the further practice of law in this State, and her name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 16-772(d)).

[16-02-42]

NOTICE TO MEMBERS OF THE MARYLAND BAR

The following banks have been approved by the Attorney Grievance Commission of Maryland to receive escrow accounts of attorneys under the Chapter 600 Rules on Attorney Trust Accounts (formerly BU Rules) effective January 1, 1989. If your bank does not appear on this list, we suggest you contact it immediately.

(Revised January 15, 2016)

APPROVED INSTITUTIONS

Access National Bank
Amalgamated Bank
American Bank
Bank of America
Bank of Charles Town
Bank of Delmarva
Bank of Georgetown
Bank of Glen Burnie
Bank of Hampton Roads, DBA Shore Bank
Bank of Ocean City
Bay Bank
Bay-Vanguard Federal Savings Bank
BB&T
BBCN Bank
BlueRidge Bank
Burke & Herbert Bank & Trust Company
Calvin B. Taylor Banking Company, Inc.
Capital Bank
Capital One Bank
Cardinal Bank, N.A.
Carroll Community Bank
Cecil Bank
CFG Community Bank
Chain Bridge Bank, NA
Chesapeake Bank & Trust Company
Chesapeake Bank of Maryland
Citibank, N.A.
Clear Mountain Bank
CNB
ColomboBank
Columbia Bank
Community Bank of the Chesapeake

Congressional Bank
County First Bank
Damascus Community Bank
EagleBank
Eastern Savings Bank
Essex Bank
Farmers Bank of Willards
Farmers & Merchants Bank
First Citizens Bank
First Mariner Bank
First National Bank of Pennsylvania
First Shore Federal Savings & Loan
First United Bank & Trust
First Virginia Community Bank
Fraternity Federal Savings & Loan Association
Frederick County Bank
Hamilton Bank
Harbor Bank of Maryland
Harford Bank
Hebron Savings Bank
Hopkins Federal Savings Bank
Howard Bank
HSBC Bank USA, N.A.
Industrial Bank
Jefferson Security Bank
John Marshall Bank
Liberty Bank of Maryland
MainStreet Bank
M & T
Middletown Valley Bank
Midstate Community Bank
Monument Bank
National Capital Bank of Washington
National Penn Bank
New Windsor State Bank
Northwest Savings Bank
Old Line Bank
Orrstown Bank
Patapsco Bank
Peoples Bank
Peoples Bank, A Codorus Valley Co.
PNC Bank
Premier Bank, Inc.
Presidential Bank
Provident State Bank
Queenstown Bank of Maryland
Regal Bank & Trust
Revere Bank
Sandy Spring Bank
Santander Bank, N.A.
Severn Savings Bank, FS
Sonabank, N.A.
Standard Bank
SunTrust
Susquehanna Bank
Sykesville Federal Savings Bank
Talbot Bank
TD Bank
United Bank
Virginia Commerce Bank
Maryland Partners Bank (a division of Virginia Partners Bank)

Washington First Bank
Wells Fargo Bank, N.A.
Woodsboro Bank
Woori America Bank
1880 Bank

The following bank(s) have either terminated their agreement, merged with another bank, or had their agreement terminated since the previous list was published.

Easton Bank & Trust

[16-02-35]



Regulatory Review and Evaluation

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

Title 11

DEPARTMENT OF TRANSPORTATION

Subtitle 02 TRANSPORTATION SERVICE HUMAN RESOURCES SYSTEM

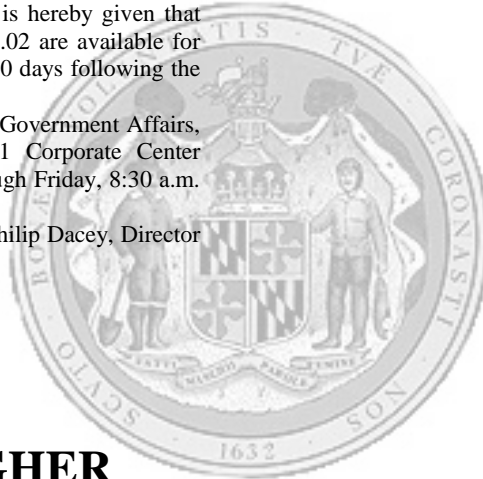
Notice of Availability of Evaluation Report

Pursuant to Executive Order 01.01.2003.20, Implementation of the Regulatory Review and Evaluation Act, notice is hereby given that the Evaluation Reports concerning COMAR 11.02 are available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed at the Office of Government Affairs, Maryland Department of Transportation, 7201 Corporate Center Drive, Hanover, Maryland 21076, Monday through Friday, 8:30 a.m. to 4:30 p.m., except holidays.

Information may be obtained by contacting Philip Dacey, Director of Government Affairs at 410-865-1090.

[16-02-34]



TITLE 13B

MARYLAND HIGHER EDUCATION COMMISSION

Notice of Availability of Evaluation Report

Pursuant to State Government Article, §10-135(b)(1), Annotated Code of Maryland, Regulatory Review and Evaluation Act, and Executive Order 01.01.2003.20, notice is hereby given that the Evaluation Reports regarding COMAR 13B.01.01, 13B.01.02, 13B.02.01, 13B.02.02, 13B.02.03, 13B.02.04, 13B.06.01, 13B.07.01, 13B.07.02, 13B.07.03, 13B.07.04, and 13B.07.05 are available for public inspection and comment for a period of 60 days following the date of this notice.

This report may be reviewed by appointment at the Maryland Higher Education Commission, 6 North Liberty Street, Baltimore, MD 21201. Information and appointments may be obtained by contacting Lee Towers, Director of Legislative Affairs, at 410-767-3059 or by email at lee.towers@maryland.gov.

[16-02-36]

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 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 10 RACING COMMISSION

09.10.01 Thoroughbred Rules

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

Notice of Final Action

[15-332-F]

On December 15, 2015, the Maryland Racing Commission adopted amendments to Regulation **.17** under **COMAR 09.10.01 Thoroughbred Rules**. This action, which was proposed for adoption in 42:22 Md. R. 1382 (October 30, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

J. MICHAEL HOPKINS
Executive Director

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.23 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services

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

Notice of Final Action

[15-370-F]

On January 4, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.07** under **COMAR 10.09.23 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services**. This action, which was proposed for adoption in 42:23 Md. R. 1448-1449 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.24 Medical Assistance Eligibility

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

Notice of Final Action

[15-340-F]

On January 4, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulation **.08-1** under **COMAR 10.09.24 Medical Assistance Eligibility**. This action, which was proposed for adoption in 42:23 Md. R. 1449—1450 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 34 BOARD OF PHARMACY

10.34.10 Pharmacist, Pharmacy Intern, and Pharmacy Technician Code of Conduct

Authority: Health Occupations Article, §§12-205 and 12-601, Annotated Code of Maryland

Notice of Final Action

[15-361-F]

On January 4, 2016, the Secretary of Health and Mental Hygiene adopted new Regulation **.10** under **COMAR 10.34.10 Pharmacist, Pharmacy Intern, and Pharmacy Technician Code of Conduct**. This action, which was proposed for adoption in 42:23 Md. R. 1454 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 34 BOARD OF PHARMACY

10.34.19 Sterile Pharmaceutical Compounding

Authority: Health Occupations Article, §§12-205, 12-403, 12-503, 12-505, 12-6C-01 and 12-6C-03, Annotated Code of Maryland

Notice of Final Action

[15-373-F]

On January 4, 2016, the Secretary of Health and Mental Hygiene adopted amendments to Regulations **.03**, **.05—,07**, and **.09** and new Regulations **.17—,19** under **COMAR 10.34.19 Sterile Pharmaceutical Compounding**. This action, which was proposed for adoption in 42:23 Md. R. 1454-1456 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

**Title 11
DEPARTMENT OF
TRANSPORTATION**

**Subtitle 04 STATE HIGHWAY
ADMINISTRATION**

Notice of Final Action
[15-320-F]

On December 11, 2015, the Administrator of the State Highway Administration adopted amendments to:

- (1) Regulations .01 and .02 under **COMAR 11.04.05 Commercial-Industrial or Subdivision Street Permits (All Entrance Permits Other than Residential)**; and
- (2) Regulation .01 under **COMAR 11.04.06 Residential Entrance Permits**.

This action, which was proposed for adoption in 42:21 Md. R. 1322—1323 (October 16, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

GREGORY C. JOHNSON
Administrator

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

**Subtitle 04 POLICE TRAINING
COMMISSION**

12.04.01 General Regulations

Authority: Correctional Services Article, §2-109; Public Safety Article, §3-208(a); Annotated Code of Maryland

Notice of Final Action
[15-243-F]

On January 6, 2016, the Secretary of Public Safety and Correctional Services, in cooperation with the Police Training Commission, adopted amendments to Regulations .01, .05, .08, .09, .11, .15, and .16 under **COMAR 12.04.01 General Regulations**. This action, which was proposed for adoption in 42:18 Md. R. 1194—1195 (September 4, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

STEPHEN T. MOYER
Secretary of Public Safety and Correctional Services

**Title 31
MARYLAND INSURANCE
ADMINISTRATION**

**Subtitle 02 POWERS AND DUTIES —
HEARINGS**

31.02.01 Hearings

Authority: Insurance Article, §§2-109 and 2-205—2-215; State Government Article, §10-206; Annotated Code of Maryland

Notice of Final Action
[15-344-F]

On December 29, 2016, the Insurance Commissioner adopted amendments to Regulation .02 under **COMAR 31.02.01 Hearings**. This action, which was proposed for adoption in 42:23 Md. R. 1471 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

ALFRED W. REDMER, JR.
Insurance Commissioner

**Subtitle 02 POWERS AND DUTIES —
HEARINGS**

31.02.05 Public Information Act Requests

Authority: *General Provisions Article, Title 4*; Insurance Article, §§2-109 and 2-112; Annotated Code of Maryland

Notice of Final Action
[15-333-F]

On January 5, 2016, the Insurance Commissioner adopted amendments to Regulations .01—, .04, .06, .08, and .09 under **COMAR 31.02.05 Public Information Act Requests**. This action, which was proposed for adoption in 42:22 Md. R. 1403—1404 (October 30, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

ALFRED W. REDMER, JR.
Insurance Commissioner

**Subtitle 03 INSURANCE PRODUCERS
AND OTHER INSURANCE
PROFESSIONALS**

31.03.05 Bail Bonds

Authority: Insurance Article, §§2-108, 2-109, 10-126, and Title 10, Subtitle 3, Annotated Code of Maryland

Notice of Final Action
[15-203-F]

On January 5, 2016, the Insurance Commissioner adopted amendments to Regulations .01 — .07, amendments to and the recodification of existing Regulations .08, .09, .10, and .11 to be Regulations .10, .11, .13, and .14, respectively, the repeal of existing Regulation .12, and new Regulations .08, .09, and .12 under **COMAR 31.03.05 Bail Bonds**. This action, which was proposed for adoption in 42:16 Md. R. 1085—1088 (August 7, 2015) and

reproposed in 42:23 Md. R. 1471—1472 (November 13, 2015), has been adopted as reproposed.

Effective Date: March 22, 2016.

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 15 UNFAIR TRADE PRACTICES

Notice of Final Action

[15-343-F]

On January 22, 2016, the Insurance Commissioner adopted amendments to:

- (1) Regulation **.01** under **COMAR 31.15.06 Filing or Service Fees in Connection with Certificates of Financial Responsibility**;
- (2) Regulation **.02** under **COMAR 31.15.07 Payment of Claims Under Property and Casualty and Title Insurance Policies**;
- (3) The **authority line** under **COMAR 31.15.08 Payment of Claims Under Life and Health Policies and Annuity Contracts**;
- (4) Regulation **.04** under **COMAR 31.15.10 Homeowner's Insurance and Private Passenger Motor Vehicle Insurance — Standards for Cancellation and Nonrenewal**;
- (5) Regulation **.07** under **COMAR 31.15.11 Use of Credit History in Underwriting and Rate Making**.

This action, which was proposed for adoption in 42:23 Md. R. 1472—1473 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

ALFRED W. REDMER, JR.
Insurance Commissioner

Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY

Subtitle 01 GENERAL PROVISIONS

36.01.03 Voluntary Exclusion and Responsible Gaming

Authority: State Government Article, §9-1A-24(e), Annotated Code of Maryland

Notice of Final Action

[15-351-F]

On January 4, 2016, the Maryland State Lottery and Gaming Control Agency adopted amendments to Regulation **.03** under **COMAR 36.01.03 Voluntary Exclusion and Responsible Gaming**. This action, which was proposed for adoption in 42:23 Md. R. 1482—1483 (November 13, 2015), has been adopted as proposed.

Effective Date: February 1, 2016.

GORDON MEDENCIA
Director

Withdrawal of Regulations

Title 10
DEPARTMENT OF HEALTH
AND MENTAL HYGIENE
Subtitle 09 MEDICAL CARE
PROGRAMS

**10.09.26 [Community Based Services for
Developmentally Disabled Individuals
Pursuant to a 1915(c) Waiver] *Community
Pathways Waiver Program for Individuals with
Developmental Disabilities***

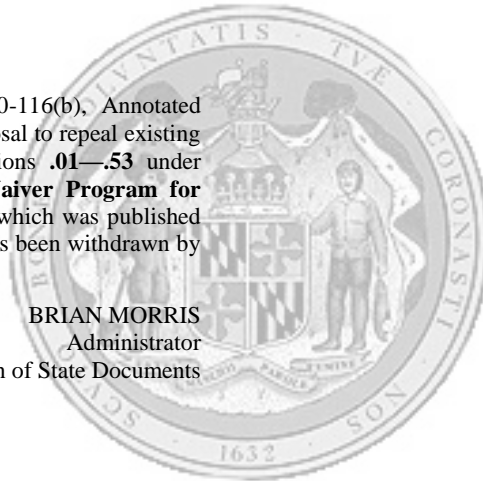
Authority: Health-General Article, §§2-104(b), 15-103, and 15-105,
Annotated Code of Maryland

Notice of Withdrawal

[15-041-W]

Pursuant to State Government Article, §10-116(b), Annotated Code of Maryland, notice is given that the proposal to repeal existing Regulations **.01—.17** and adopt new Regulations **.01—.53** under **COMAR 10.09.26 Community Pathways Waiver Program for Individuals with Developmental Disabilities**, which was published in 42:3 Md. R. 328—354 (February 6, 2015), has been withdrawn by operation of law.

BRIAN MORRIS
Administrator
Division of State Documents



Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 05

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 16 MARYLAND BUILDING REHABILITATION CODE

05.16.01 Maryland Building Rehabilitation Code Regulations

Authority: Public Safety Article, §§12-1004 and 12-1007, Annotated Code of Maryland

Notice of Proposed Action

[16-034-P-I]

The Secretary of Housing and Community Development proposes to amend Regulations .03 and .04 under COMAR 05.16.01 Maryland Building Rehabilitation Code Regulations.

Statement of Purpose

The purpose of this action is to update the Maryland Building Rehabilitation Code as required by Public Safety Article, §§12-1004 and 12-1007, Annotated Code of Maryland, by adopting the 2015 edition of the International Existing Building Code (IEBC), as modified by the Department as the Maryland Building Rehabilitation Code, and correcting a referenced section of the IEBC listed in the Department's modifications to the IEBC.

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 Ed Landon, Codes Administration, Division of Credit Assurance, Department of Housing and Community Development, 7800 Harkins Road, Lanham, MD 20706, or call 301-429-7650, or email to ed.landon@maryland.gov. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

Editor's Note on Incorporation by Reference

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

- (1) 2015 International Building Code;
- (2) 2015 International Residential Code for One- and Two-Family Dwellings;
- (3) 2015 International Energy Conservation Code;
- (4) 2015 International Mechanical Code;
- (5) 2015 International Plumbing Code;
- (6) 2015 International Existing Building Code; and
- (7) 2015 International Property Maintenance Code.

For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 43:1 Md. R. 10 (January 8, 2016), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.03 Incorporation by Reference.

A. The [2012] 2015 International Existing Building Code (International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, DC 20001), as described in this chapter, is incorporated by reference.

B. The [2012] 2015 International Existing Building Code, as described in this chapter, shall constitute the Maryland Building Rehabilitation Code.

C. Modifications to the [2012] 2015 International Existing Building Code.

(1) — (8) (text unchanged)

(9) Chapter 4. Delete Section [410.8.9] 410.8.8 Type B dwelling or sleeping units.

.04 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (4) (text unchanged)

(5) “International Existing Building Code (IEBC)” means the [2012] 2015 International Existing Building Code, as incorporated by reference under Regulation .03 of this chapter.

(6) — (8) (text unchanged)

KENNETH C. HOLT

Secretary of Housing and Community Development

Title 07

DEPARTMENT OF HUMAN RESOURCES

Subtitle 02 SOCIAL SERVICES ADMINISTRATION

07.02.12 Adoption

Authority: Education Article, §15-106.1; Human Services Article, §4-207; Family Law Article, Title 5, Subtitle 3, Subtitle 3A, Subtitle 3B, Subtitle 4, Subtitle 4A, §§5-101, 5-501, 5-524, 5-525, 5-525.1, 5-525.2 and 5-530; Annotated Code of Maryland; Ch. 444, Acts of 2007; 25 U.S.C. §§1901—1963, 42 U.S.C. §670 et seq.; 45 CFR 1355, 1356.40, and 1356.41

Notice of Proposed Action

[15-429-P]

The Secretary of Human Resources proposes to repeal existing Regulations .01—.09 and adopt new Regulations .01—.09 under COMAR 07.02.12 Adoption.

Statement of Purpose

The purpose of this action is to clarify the conditions when placing a child for adoption, determining eligibility for adoption assistance, post adoption assistance and nonrecurring adoption expenses. This proposed action also outlines a client’s right to appeal a decision, when a denial, reduction, suspension or termination of adoption assistance is warranted.

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 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 Garvey, Regulation Coordinator, Department of Human Resources, Office of

Government Affairs, 311 W. Saratoga Street, Suite 265, Baltimore, Maryland 21201, or call 410-767-2149, or email to andrea.garvey@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Purpose.

Adoption services are provided to:

A. *Effect a permanent plan, through adoption, at the earliest possible time, for a child in out-of-home placement who cannot or should not be reunited with the child’s birth parent;*

B. *Protect a child from unnecessary separation from the birth parent;*

C. *Provide, in the shortest time possible, an adoptive family who will ensure a child’s safety and well-being;*

D. *Permit adoption of a child only by individuals who are qualified for the responsibility; and*

E. *Protect, as appropriate, the confidentiality of the adoption process and share nonidentifying medical information to permit an adopted child and adoptive family to grow and develop undisturbed.*

.02 Definitions.

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

B. *Terms Defined.*

(1) *“Administration” means the Social Services Administration of the Department of Human Resources.*

(2) *“Adoptee” means an individual:*

(a) *Whose adoption decree was issued by a Maryland court;*

or

(b) *Who was placed for adoption by a:*

(i) *Maryland licensed child placement agency; or*

(ii) *Local department.*

(3) *“Adoption” means a legal proceeding:*

(a) *By which an individual becomes the child of an adoptive family; and*

(b) *Which confers on the adopted child all the legal rights and privileges to which a child born to the adoptive family is entitled.*

(4) *“Adoption assistance” means funds or services provided by a local department to the adoptive family on behalf of an adopted child, which may include:*

(a) *Monetary payment;*

(b) *Medical care;*

(c) *Medical assistance; or*

(d) *Special services.*

(5) *“Adoption placement” means the placement of a legally free child with an approved adoptive family or individual who has signed an Adoption Placement Agreement.*

(6) *“Adoptive family” means an adoptive parent or legal guardian who is eligible to receive adoption assistance on behalf of a child.*

(7) *“Aid to Dependent Families (AFDC)” means the federal standard for aid as described in COMAR 07.02.11.30.*

(8) *“Birth father” means the biological father of a child.*

(9) *“Birth mother” means the biological mother of a child.*

(10) *“Birth parent” means the biological mother or father of a child, and may include both jointly or individually as is applicable.*

(11) *“Birth sibling” means an individual who shares at least one birth parent with an adoptee.*

(12) *“Dissolution” means the parental rights of the adoptive parent have been terminated.*

(13) *“Dual approval” means:*

(a) *The approval of a prospective family as a resource for both foster care and adoption; or*

(b) *The approval of a prospective family as a resource for both foster care and day care.*

(14) *“Guardianship” means guardianship with the right to consent to adoption or long-term care short of adoption as conferred by a court on the executive head of a child placement agency, and terminates the rights, duties and obligations of the birth parent.*

(15) *“Independent adoption” means an adoption pursuant to Family Law Article, Title 5, Subtitle 3B, Annotated Code of Maryland.*

(16) *“Indian child” means a Native American child as defined in the federal Indian Child Welfare Act of 1978.*

(17) *“Intercountry adoption” means the adoption by a Maryland resident of a child from a country other than the United States.*

(18) *“Intermediate care rate” means a payment rate above the regular rate paid to a resource family home for a child requiring extra care and supervision because of special physical, emotional or behavioral needs, as defined in COMAR 07.02.11.*

(19) *“IV-E” means Title IV, Part E of the Social Security Act.*

(20) *“Local department” means the department of social services in a county or in Baltimore City, and the Montgomery County Department of Health and Human Services.*

(21) *“Mediation” means the consensual process whereby the parties are assisted by one or more impartial mediators to voluntarily arrive at a plan or agreement to expedite permanency or to decide the nature and extent of future contact between the birth parent, adoptee, and adoptive family.*

(22) *“Medically fragile child” means a child who:*

(a) *Depends at least part of each day on mechanical ventilation;*

(b) *Requires prolonged intravenous administration of nutritional substances or drugs;*

(c) *Depends on other device-based respiratory or nutritional support, including tracheostomy tube care, suctioning, oxygen support, or tube feeding on a daily basis; or*

(d) *Depends on other medical devices that compensate for vital body functions and requires daily or near daily nursing care, including a child who requires:*

(i) *Renal dialysis as a consequence of chronic kidney failure; or*

(ii) *Other mechanical devices such as catheters or colostomy bags as well as substantial nursing care in connection with the disabilities.*

(23) *“Minor parent” means a parent who is younger than 18 years old.*

(24) *“Nonidentifying information” means information including medical and birth family history information that does not disclose or permit disclosure of the identity or location of the birth parent or adoptee.*

(25) *Nonrecurring Adoption Expenses.*

(a) *“Nonrecurring adoption expenses” means expenses incurred by the adoptive parent of a special needs child involved in a public agency, private agency, independent, or intercountry adoption, or through a child placement agency licensed in another state if the family is not applying for or receiving adoption assistance from that state.*

(b) *Nonrecurring adoption expenses include:*

(i) *Reasonable and necessary adoption fees;*

(ii) *Court costs;*

(iii) *Attorney’s fees;*

(iv) *The adoption home study costs, including health and psychological examinations;*

(v) *Supervision of the placement before adoption;*

(vi) *Transportation; and*

(vii) *The reasonable costs of lodging and food for the child and adoptive parent incurred during preplacement visits.*

(26) *“Open adoption” means an adoption in which it is the expressed intent of all parties to the adoption that the child maintains contact, including the possibility of visitation, with the birth parent or other birth relatives.*

(27) *Out-of-Home Placement.*

(a) *“Out-of-Home Placement” means placement of a child into foster care, kinship care, group care, or residential treatment care.*

(b) *“Out-of-Home Placement” includes an adoptive placement.*

(28) *“Parent” means the legal mother or father of a child or the biological mother or father whose rights have not been terminated, or a legal guardian other than a local department.*

(29) *“Permanency plan” has the meaning stated in COMAR 07.02.11.*

(30) *“Post adoption assistance” means a monthly adoption assistance authorized after finalization of an adoption based on a condition that was present but not known or discovered at the time of the adoption.*

(31) *“Post placement services” means services provided after adoptive placement to a child and the child’s adoptive family after placement but before entry of a final decree of adoption.*

(32) *“Private agency” means an organization licensed by the Administration for the placement of children in homes or with individuals.*

(33) *“Public agency” means a local department of social services.*

(34) *“Regular care rate” means the rate paid for a child in foster care who requires regular care and supervision.*

(35) *“Special needs factor” means a condition specific to a child that prevents the child’s placement without the provision of adoption assistance or medical benefits, including:*

(a) *A child 6 to 17 years old;*

(b) *Physical or mental disease or disability;*

(c) *Emotional disturbance;*

(d) *Membership in a sibling group;*

(e) *Recognized high risk of physical or mental disability or disease; or*

(f) *Race or ethnicity if combined with any of these factors.*

(36) *“Termination of parental rights” means the legal process of ending the rights and responsibilities of the parent.*

(37) *“Treatment foster care” means a program designed and implemented by a local department or 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 07.02.11.*

.03 Placement for Adoption.

A. *The decision to select a particular family for a child shall be based on the child’s best interests and shall include consideration of:*

(1) *The needs of the child;*

(2) *The ability of a prospective adoptive family to meet the child’s overall physical, mental, emotional, and psychological needs, as well as any identified special needs; and*

(3) *The capacity of the prospective adoptive family to address the child’s needs based on the child’s cultural, ethnic, and racial background.*

B. *The local department may not delay or deny the placement of a child for adoption on the basis of race, color, or national origin of the prospective adoptive family or the child involved.*

C. Selection of an Adoptive Home for a Child.

(1) In an adoptive placement of an Indian child, the local department shall give preference to placement as set forth in the federal Indian Child Welfare Act of 1978.

(2) When a child is in need of an adoption placement, the local department shall take the following steps to recruit adoptive families who can meet the child's individual needs:

(a) Use the following documented information in the child's agency record about the child to identify potential adoptive families:

- (i) Identifying information;
- (ii) History;
- (iii) Current behavioral issues; and
- (iv) An accurate description of the child's personality, recreational interests, and ties to birth relatives.

(b) Within 15 working days of a change in the permanency plan by the court to adoption, determine whether there is an appropriate adoptive family, approved by the local department, who is committed to adopt the child when the termination of parental rights petition is granted using the criteria set forth in §E(2)(a) of this regulation;

(c) Consistent with the best interests of the child, consider the following adoptive placement options in order of priority:

- (i) Adoption by a relative;
- (ii) Adoption by the current foster parent with whom a child has resided continually for at least 12 months or for a sufficient length of time to establish positive relationships and family ties; or
- (iii) Adoption by another adoptive family;

(d) If no appropriate local department approved family resource is identified within 15 working days of the change in the permanency plan, provide a strengths-based narrative, as described in §E(3) of this regulation, to the AdoptUSKids to identify prospective adoptive families; and

(e) Continue to engage in recruitment efforts until a permanent placement is achieved for the child unless there is a change in the child's permanency plan.

(3) The AdoptUSKids narrative shall be a strengths-based narrative that:

(a) Is respectful of the child's confidentiality concerns regarding the child's:

- (i) Identifying information;
 - (ii) History;
 - (iii) Current behavioral issues; and
- (b) Provides an accurate description of the child's:
- (i) Personality;
 - (ii) Recreational interests; and
 - (iii) Ties to birth relatives.

D. Documentation in the case record of efforts to locate a family for a child shall include:

- (1) Photolisting;
- (2) Dates and descriptions of events attended by the child that provide an opportunity for the child to meet potential adoptive parents; and
- (3) Written descriptions of the child used to promote the adoption.

E. Child Specific Recruitment Efforts.

(1) Some children may need child-specific recruitment efforts to recruit an adoptive family because of:

- (a) Unique emotional needs that require families with parenting experience;
- (b) Membership in a sibling group, and it would be in the children's best interests to be placed together;
- (c) Physical, mental, or medical conditions indicating that the child will need a family with the capacity and the ability to make use of community resources and to advocate on behalf of a child with special needs; or

(d) Race or ethnicity, although the child's membership in a minority race or ethnic group alone does not qualify for child specific recruitment.

(2) *Aggressive Recruitment and Placement of Siblings.*

(a) Aggressive recruitment efforts shall be made to locate an appropriate family willing to adopt a sibling group for whom the Department has determined that placement together is in the siblings' best interest.

(b) If aggressive recruitment efforts fail to locate an appropriate family willing to adopt the siblings, preference for the separate placement of the siblings shall be given to families who are willing to assist the children in maintaining contact with each other.

(3) When difficulty in locating an appropriate adoptive family for a child is anticipated, the child shall be listed with, AdoptUSKids and other adoption exchanges before the 15th working day mandatory deadline in order to extend the parameters of the search as early as possible.

F. Open Adoption.

(1) Open adoption may permit contact between an adopted child and the child's birth relatives, including:

- (a) Birth parents;
- (b) Grandparents; or
- (c) Siblings.

(2) A local department may explore an open adoption when:

(a) Older children in out-of-home care have formed significant emotional attachments to their birth parent or other birth relatives; or

(b) It is otherwise appropriate and in the child's best interests to maintain contact with the child's birth parent or birth relatives.

(3) Open adoption arrangements may be flexible to address the desires of the parties and the needs of the child and may include:

- (a) Face-to-face contacts;
- (b) Communication using electronic mail and social networking sites; and
- (c) The exchange of cards, letters, or phone calls, either directly or through a third party.

(4) If mediation is used to facilitate an open adoption or adoption finalization, the local department shall:

- (a) Provide information to all parties regarding the mediation process; and
- (b) Make any necessary referrals so that mediation may occur.

G. Adoption Placement Plan.

(1) If the resource family that provided out-of-home services to the child has been selected as the adoptive family of the child, the family shall sign an Intent to Adopt Placement Agreement.

(2) When a non-related resource family with whom the child has not previously lived is selected as the adoptive family, the child and family shall:

- (a) Have pre-placement visits prior to the day of placement; and
- (b) The family shall sign an Intent to Adopt Placement Agreement.

H. Postplacement Services.

(1) *Goals of Postplacement Service.* The local department shall:

- (a) Sustain permanence for children placed with adoptive families prior to finalization of the adoption;
- (b) Help resolve any adjustment problems that may occur during postplacement; and
- (c) Promote the integration of the family and child as a single-family unit.

(2) *Duration.*

(a) *The child must live with the adoptive family for at least 6 months or shorter period allowed by the juvenile court on recommendation of the local department as set forth in FL 5-349;*

(b) *Postplacement services may be extended by mutual agreement of the family and local department based on the needs of the child and the family.*

(3) *Requirements for Service. The agency caseworker shall:*

(a) *Clarify with the family the mutual rights and responsibilities in regard to the placement at the beginning of the placement as set forth in COMAR 07.02.25.07., .08, and .17;*

(b) *Provide postplacement services to all children and families before an adoption is finalized to strengthen and support the family functioning and integration.*

(4) *Content of Services. The agency shall:*

(a) *Provide evaluative, supportive, and educational services geared to adoptive family development with emphasis on the unique nature of adoption;*

(b) *Place special emphasis on the integrity and continuity of the child's heritage and genetic histories as to the continuing growth and development of the child as an individual, and to the development of the family as an integrated unit; and*

(c) *Maintain ultimate responsibility for other services set forth in COMAR 07.02.11.16G(4)(a) until the adoption is finalized by the Court.*

(5) *Frequency of Contact and Length of Service. The agency caseworker shall:*

(a) *Visit the adoptive family as often as indicated but at least monthly in accordance with requirements in COMAR 07.02.11.17 and .05 and FL§5-349;*

(b) *Use observations during the visits in determining the frequency of visits and the family's readiness for finalization of the adoption; and*

(c) *Include the child in these visits according to the child's age and capability.*

(6) *Removal of a Child from Adoptive Home. The local department may remove a child before a final decree of adoption is issued if, in the opinion of the local department, conditions in the adoptive home impair the child's security in the family and jeopardize the physical safety or emotional development of the child;*

(7) *Decision to Finalize Adoption. The caseworker shall assess the readiness of the family to finalize the adoption based on the following indications:*

(a) *The family's indication that they are ready to adopt.*

(b) *The worker's recommendation that the adoption is in the child's best interest and that the family is ready to adopt;*

(c) *The child's indicated readiness in the following ways:*

(i) *A child over 10 years of age consents; or*

(ii) *A child under 10 years of age does not object.*

(8) *Once the family and the caseworker have determined that it is time to finalize the adoption, the caseworker shall:*

(a) *Prepare the necessary documents to support the family's finalization of the adoption; and*

(b) *Acquire the local department director's consent to the adoption.*

I. Termination of Postplacement Services. Postplacement Services are terminated when the adoption decree is finalized by the Court.

.04 Post Adoption Services.

A. Post adoption services may be provided to support the adoptive placement after adoption finalization in accordance with available staff resources.

B. Upon request of the adoptive family, the local department may make the following services available:

(1) *Short-term adoption related counseling;*

(2) *Information and referral services; and*

(3) *Provision of any additionally acquired medical, social, psychological, and genetic history of the minor adoptee to the adoptive family.*

C. The agency shall provide services to the birth parent of an adopted individual until the adoptee is 21 years old:

(1) *Providing a birth parent the opportunity to update agency records with the appropriate birth family history;*

(2) *Providing a birth parent the opportunity to release the agency from the confidentiality requirements relating to identifying information requested by the adult adoptee at some later date;*

(3) *Accepting from a birth parent medical information critical to the adoptee's growth and development, and making full effort to communicate this to the adoptive family or the adult adoptee, as appropriate;*

(4) *Accepting from an adoptee or the adoptive family medical information which may be critical to the birth family, and making efforts to communicate this to the birth family; and*

(5) *Providing information and referral, when appropriate, regarding services available through the Mutual Consent Voluntary Adoption Registry and search, contact, and reunion services as set forth in COMAR 07.02.13.*

D. The local department shall provide information to the adoptive family regarding the following:

(1) *Counseling in support of the placement and to prevent dissolution of the adoption;*

(2) *Post Adoption Permanency Program services as described in §F of this regulation;*

(3) *Referral services; and*

(4) *The Maryland Tuition Waiver and the Maryland Education and Training Voucher program as set forth in COMAR 07.02.11.*

E. Release of Nonidentifying Information.

(1) *Upon request of an adoptee, or the adoptive or birth parent, a local department shall release all non-identifying medical and birth family history information contained in the closed adoption file to the requestor.*

(2) *When a local department has no medical information, local department staff shall inform the requestor of the:*

(a) *Lack of the requested information; and*

(b) *Right to petition the court to appoint a special intermediary to gather the needed medical information if the adoptee or a blood relative of the adoptee or birth parent has an urgent need for the medical information.*

(3) *When an adoptee or birth parent petitions the court for medical information, a local department shall attempt to locate the adoptee or the birth parent in order to obtain the needed medical information after the court:*

(a) *Makes a judicial determination that there is an urgent need for the medical information; and*

(b) *Appoints the local department as the intermediary.*

(4) *When a local department has been appointed intermediary and the adoptee or birth parent has been located, the local department:*

(a) *Shall advise the individual of the need for the medical information without revealing any identifying information about the adoptee or birth parent:*

(b) *May not encourage or discourage contact between the adoptee and the individual's birth parent; and*

(c) *Shall file a confidential report with the court addressing the efforts to contact the adoptee and the birth parent and the results when efforts to locate the adoptee or birth parent are completed.*

(5) *A local department shall:*

(a) *Provide all the available information on the location of the birth parent to anyone who has been court ordered to act as intermediary; and*

(b) Place a copy of the court order appointing the intermediary in the records of the individuals involved.

F. Post Adoption Permanency Program Services.

(1) The purpose of the Post Adoption Permanency Program services is to provide post adoption assistance in the form of services to children adopted through a public agency or a licensed private agency and their adoptive families.

(2) A local department shall notify families of the availability of post adoption support services during the adoption orientation process.

(3) Upon the request of an adoptive parent for available post adoption support services, the local department of social services shall:

(a) Obtain a copy of the adoption decree from the adoptive family requesting support services;

(b) Conduct a clinical assessment of the needs of the child and the adoptive family; and

(c) Determine whether the adopted child is at risk of coming into of out-of-home placement, or foster care placement and in need of post adoption support services not available from other resources.

(4) Upon determining that an adopted child and adoptive family are in need of post adoption support services the local department shall:

(a) Develop with the family a proposed post adoption support services plan that:

(i) Identifies treatment goals;

(ii) Suggests treatment modalities; and

(iii) Recommends services;

(b) Select appropriate vendors from those providers approved by the local department; and

(c) Submit the plan to the Administration for review and funding plan approval.

(5) Upon submission of the proposed support services plan, the Executive Director or designee shall determine whether to approve the service plan and the funding necessary to implement the plan.

(6) The Administration shall notify the local department of the status of the proposed service plan within 15 days of receipt of the service plan request.

(7) Funds available for the provision of post adoption support services shall be:

(a) Limited to the maximum amount established by the Maryland General Assembly; and

(b) Provided during a fixed year until allocated funds are expended.

(8) The local department shall provide the post adoption support services to the adopted child or the adoptive family upon approval and release of funds by the Administration.

(9) Services may include:

(a) Short-term adoption-related counseling;

(b) Medical treatment;

(c) Mental health services;

(d) Crisis intervention services; and

(e) Information and referral services.

.05 Title IV-E Monthly Adoption Assistance.

A. Adoption assistance is medical benefits, and in appropriate cases a monthly payment, provided to adoptive families on behalf of eligible children to help the family defray the costs of meeting a child's special needs.

B. The Administration shall offer adoption assistance to the parent of an eligible child that meets the eligibility criteria for an applicable child or a nonapplicable child.

C. An eligible child shall be under the guardianship of a local department or a licensed private placement agency, or have been

adopted in a consensual adoption pursuant to Family Law Article, §5-338, Annotated Code of Maryland.

D. IV-E Child Eligibility Criteria.

(1) A child who is not a citizen or resident of the United States and who was either adopted outside the United States or brought to the United States for the purpose of being adopted may not be considered an applicable child, unless:

(a) The adoption dissolves or the adoptive parent dies; and

(b) The child is subsequently adopted from out-of-home placement.

(2) The Administration shall determine that a child is an applicable child, has special needs, and meets certain placement or medical criteria prior to an adoption in order for a child to receive IV-E adoption assistance.

(3) A child is an applicable child if:

(a) The child is:

(i) 6 years old or older in fiscal year 2015;

(ii) 4 years old or older in fiscal year 2016; or

(iii) In federal fiscal year 2017, when a child of any age will meet the criterion;

(b) The child has been in foster care under the responsibility of the Title IV-E agency for at least 60 consecutive months; or

(c) The child is the sibling of a child that meets either the age or time in foster care requirements in §§D(3)(a) and (b) of this regulation, and the siblings are placed in the same adoptive placement.

(4) Special needs for an applicable child exist when the child cannot or should not be returned to the home of the parent and:

(a) The child meets all medical or disability requirements for SSI, or one of the special needs factors exist; and

(b) Reasonable but unsuccessful efforts have been made to place the child without assistance, unless the child is being adopted by their foster parent and has significant emotional ties with that person.

(5) An applicable child meets placement or medical criteria if:

(a) The child is in the care of a public agency or a licensed child placement agency or tribe pursuant to:

(i) An involuntary removal in accordance with a judicial determination that it is contrary to the child's welfare to remain in the home;

(ii) A voluntary placement agreement; or

(iii) A voluntary relinquishment;

(b) The child meets all medical and disability eligibility requirements of SSI;

(c) The child was residing in a foster family home or childcare institution with their minor parent, and the minor parent was removed from the home pursuant to either:

(i) An involuntary removal in accordance with a judicial determination that it was contrary to the child's welfare to remain in the home; or

(ii) A voluntary placement agreement or a voluntary relinquishment; or

(d) The child was eligible for adoption assistance in a prior adoption and is now being subsequently adopted because the adoptive parents have died or their parental rights have been terminated.

E. Nonapplicable Child Eligibility Criteria.

(1) A nonapplicable child is a child that does not meet the applicable child criteria as detailed in §D of this regulation.

(2) A nonapplicable child will be eligible for IV-E adoption assistance if the child is a special needs child and the child meets certain placement or medical criteria prior to the adoption.

(3) Special needs for a nonapplicable child exist when:

(a) The child cannot or should not be returned to the home of the parent;

(b) One of the special needs factors exists; and

(c) Reasonable but unsuccessful efforts have been made to place the child without adoption assistance, unless the child is being adopted by their foster parent who provided foster care services and has significant emotional ties with that person.

(4) A nonapplicable child meets the placement or medical criteria prior to the adoption if:

(a) The child is Aid to Families with Dependent Children eligible at the time of removal pursuant to:

(i) An involuntary removal in accordance with a judicial determination it is contrary to the child's welfare to remain in the home; or

(ii) A voluntary placement agreement wherein the child received IV-E foster care payments in that placement;

(b) The child is eligible for SSI;

(c) The child's minor parent was in foster care and received foster care maintenance payments that covered the minor parent and the child; or

(d) The child was eligible for adoption assistance in a prior adoption and is now being subsequently adopted because the adoptive parents have died or their parental rights have been terminated.

F. Payments.

(1) The adoption assistance payment shall be determined through negotiation and agreement between the local department and the adoptive parent.

(2) The adoption assistance payment may be combined with the parent's financial resources to assist with meeting the child's identifiable, quantifiable current and future needs.

(3) The amount and duration of the payment:

(a) Shall be based on the needs of the child and the circumstances of the family; and

(b) May not exceed the foster care payment received by the foster parents for the child.

(4) The amount of the adoption assistance payment for a medically fragile child adopted by his or her treatment foster parents may not exceed the foster care payment received by the treatment foster parents up to a maximum of \$2,000.

(5) The local department may determine a \$0 payment is appropriate in certain circumstances, including:

(a) Adoption assistance is not needed by the parent at the time the adoption is finalized to defray the cost of meeting the child's special needs; or

(b) The child is at risk of developing a physical or mental disease or disability, but is not currently symptomatic.

(6) Allowances, paid to the resource parents in addition to the foster care payment, such as those for transportation, day care, or camp, or differential amounts paid to resource parents in certain counties, may not be included in the negotiated adoption assistance rate.

(7) Negotiation.

(a) The local department shall negotiate the amount of the adoption assistance based upon the:

(i) Needs of the child;

(ii) The circumstances of the family; and

(iii) The family's ability to incorporate the child into their household.

(b) As a part of the negotiation process, the local department shall assess the child's needs based on:

(i) Documentation in the record;

(ii) Documentation provided by the adoptive family; and

(iii) Any additional relevant information.

(c) The negotiation process shall include a discussion of:

(i) The child's needs and the family's circumstances; and

(ii) The assistance the local department may provide to help the family assume primary financial responsibility for the child.

(d) The local department and the adoptive parent shall explore the availability of other resources such as SSI and other Social Security benefits, adoption tax credits, educational or vocational training assistance, and community supports that may be available to meet the child's needs on an ongoing basis after the adoption is finalized.

(8) Concurrent Receipt of Benefits.

(a) The local department shall advise the family that, if the nonapplicable child receives SSI and adoption assistance at the same time, the SSI benefits will be reduced on a dollar-for-dollar basis in the amount of the IV-E adoption assistance.

(b) If a child receives other Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the amount of these benefits may be considered when negotiating the amount of the adoption assistance.

(c) The adoptive family shall report their receipt of adoption assistance to the Social Security Administration.

(d) The family shall report their receipt of benefits to the Administration while the adoption assistance agreement is in effect.

(9) Adoption assistance payments shall become effective on the date the adoption is finalized.

(10) If the local department makes an overpayment through error or some other means, the local department may recover the over payment.

G. Adoption Assistance Agreement.

(1) An adoption assistance agreement shall be:

(a) In writing;

(b) Binding on all parties;

(c) On a form approved and distributed by the Administration; and

(d) Signed by the director of the local department or designee and the adoptive parent prior to the finalization of the adoption.

(2) If the Maryland adoptive parent and the child move to another state:

(a) The adoption assistance agreement shall remain in effect;

(b) The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in the adoptive parent's state of residence; and

(c) The local department shall provide the state of residence with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence.

H. Medical Benefits.

(1) A child who has an adoption assistance agreement in effect is eligible for Medicaid benefits under the state Medicaid plan in his or her state of residence.

(2) Children who have an adoption assistance agreement that provides for a \$0 monthly payment shall be eligible for Medicaid.

I. Interstate Adoption.

(1) If the State public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that State shall be responsible for entering into the adoption assistance agreement with the family, provided the child is an eligible child.

(2) If the State public child welfare agency does not have responsibility for placement and care of a child, the adoption assistance agreement should be applied for and made in the adoptive parents' State of residence. In that event, the public child welfare agency in the adoptive parents' State of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement and paying the

subsidy, consistent with the way public benefits are paid in other programs.

(3) An adoption assistance payment shall not exceed the foster care payment received by the foster parents for the child.

(4) In order to protect the interests of the child, the local department shall follow the procedures established by the Interstate Compact on Adoption Medical Assistance to facilitate the interstate coordination of benefits.

(a) The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in their state of residence or tribal service area.

(b) The local department shall provide the state of residence or tribal service area with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence, or tribal service area.

J. Death of Adoptive Parents or Dissolution of the Adoption. If a child is receiving IV-E adoption assistance and the adoptive parents die or the parental rights of the adoptive parents are terminated, the adoption assistance may be paid on behalf of the child:

(1) In a subsequent adoption; and

(2) If the child continues to meet the special needs factor criteria; and

(3) The Adoption Assistance Agreement is signed by the Director or designee and the subsequent adoptive parent prior to the finalization of the adoption.

K. Annual Redetermination.

(1) A local department shall review a child's continued eligibility for adoption assistance on an annual basis.

(2) The adoptive parent shall notify the local department of circumstances that would make them ineligible for adoption assistance payments or for adoption assistance payments in a different amount.

(3) A local department shall send a redetermination packet to the adoptive family at least 90 days prior to the annual renewal due date.

(4) At least 60 days prior to the annual renewal due date, an adoptive family shall submit documentation to the local department to enable the department to confirm the child's continued eligibility for adoption assistance at the current adoption assistance rate.

(5) Education, vocational training, and disability documentation for a child younger than 18 years old includes:

(a) Proof of routine medical care provided to the child within 6 months prior to the renewal date for the child who is not required to attend school due to age;

(b) Proof of enrollment and attendance for the child who is of the age where school attendance is compulsory in the form of:

(i) A current report card;

(ii) Documentation of current participation in a home and hospital educational program approved by the educational agency in the child's place of residence; or

(iii) Documentation that the child is currently incapable of attending school on a full-time basis due to a documented medical condition of the child; or

(iv) Proof of current enrollment in the program and proof of routine medical care provided to the child within 6 months prior to the renewal date for the child who is enrolled in a home school program approved by the educational agency in the child's place of residence.

(6) Education, vocational training, and disability documentation for a child 18 years old or older includes:

(a) Documentation of a current mental or physical disability that warrants the continuation of adoption assistance; or

(b) If the child began receiving adoption assistance after reaching 16 years of age, documentation of:

(i) Enrollment in school;

(ii) Participation in a program or activity that promotes or reduces barriers to employment;

(iii) Employment for at least 80 hours per month; or

(iv) A medical condition due to which the child is incapable of any of these activities.

(7) If an adoptive family's failure to return the required information for renewal to the local department leads the Department to conclude that one of the bases for terminating the adoption assistance as stated in §M of this regulation exists, the local department may terminate the adoption assistance. The family must be given a letter of intended action that contains a statement regarding the right to appeal the determination.

L. Renegotiation of Adoption Assistance.

(1) The amount of the adoption assistance may be renegotiated at the request of the adoptive parent or the local department at any time while the adoption assistance agreement is in effect.

(2) To assist in the renegotiation process, the local department shall request information from the adoptive family regarding any changes in circumstances that would justify an adjustment in the amount of adoption assistance, such as the child's entry into out-of-home placement, and such information may include:

(a) School reports;

(b) Psychological evaluations;

(c) Medical reports;

(d) Costs and descriptions of services needed for the child, including documentation that services are not covered by the current adoption assistance amount or by medical assistance or community resources; and

(e) The amount of the adjustment requested.

(3) The renegotiated adoption assistance amount may not exceed the foster care payment the foster parent received when the child was in foster care.

(4) Changes in the adoption assistance amount shall be agreed to by the adoptive parent and approved by the Administration.

(5) If a child receives other Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the IV-E monthly adoption assistance payment may not be reduced to reflect receipt of this resource unless the adoptive parent agrees to the reduction.

M. Termination of IV-E Adoption Assistance.

(1) IV-E adoption assistance for an adoptive child shall be terminated when the adoptive child is 18 years old unless:

(a) The adoptive child who the local department has determined to have a mental or physical disability that warrants the continuation of assistance may continue to receive IV-E adoption assistance until age 21; or

(b) The adoptive child who was 16 years old or older when the adoption assistance payments began may continue to receive IV-E adoption assistance until age 21 provided that subsequent to the child's 18th birthday the child is:

(i) The child is completing secondary education or a program leading to an equivalent credential;

(ii) The child is enrolled in an institution which provides post-secondary or vocational education;;

(iii) The child is participating in a program or activity designed to promote, or remove barriers to, employment;

(iv) The child is employed for at least 80 hours per month; or

(v) The child is incapable of doing any of the above described activities due to a medical condition.

(2) IV-E adoption assistance shall be terminated when:

(a) The adoptive parents or the adoptive child dies;

(b) The adoptive parent is no longer legally responsible for the child; or

(c) The adoptive parent is no longer providing any financial support to the child.

(3) At least 30 days before the planned termination, the local department shall send the adoptive parent a notice that includes:

(a) The intent to terminate the adoption assistance;

(b) The specific regulations providing grounds for termination; and

(c) A statement describing the adoptive family's right to appeal.

.06 State-Funded Monthly Adoption Assistance.

A. State-funded adoption assistance is medical benefits, and in appropriate cases a monthly payment, to adoptive families on behalf of eligible adoptive children with special needs that is intended to help defray the cost of raising such children.

B. An eligible child:

(1) Is not eligible for a IV-E monthly adoption assistance;

(2) Is in the guardianship of a public or private agency or is going to be adopted in a consensual adoption pursuant to Family Law Article, §5-338, Annotated Code of Maryland; and

(3) Has a special needs factor as set forth in Regulation .02B(35) of this chapter.

C. A child is not eligible for adoption assistance if being adopted by a biological parent whose rights were previously terminated.

D. Payments.

(1) The adoption assistance payment shall be determined through negotiation and agreement between the local department and the adoptive parent.

(2) The adoption assistance payment may be combined with the parent's financial resources to assist with meeting the child's identifiable, quantifiable current and future needs.

(3) The amount and duration of the payment:

(a) Shall be based on the needs of the child and the circumstances of the family; and

(b) May not exceed the foster care payment received by the foster parents for the child.

(4) The amount of the adoption assistance payment for a medically fragile child adopted by his or her treatment foster parents may not exceed the foster care payment received by the treatment foster parents up to a maximum of \$2,000.

(5) Additional allowances, such as those for transportation, day care, camp, or other differential amounts paid to resource parents in certain counties, that may be paid to a resource parent in addition to the board rate may not be included in the adoption assistance rate.

(6) Negotiation.

(a) A local department shall negotiate the amount of the adoption assistance based upon the needs of the child and the circumstances of the family and the family's ability to incorporate the child into their household.

(b) As part of the negotiation process, a local department shall assess a child's needs based on documentation in the record or provided by the adoptive family and any additional relevant information.

(c) The negotiation process shall include a discussion of the child's needs, the family's circumstances, and the assistance a department may provide to help a family assume primary financial responsibility for a child.

(d) The local department and the adoptive parent shall explore the availability of other resources, such as SSI and other Social Security benefits, adoption tax credits, tuition waivers, educational or vocational training assistance, and community supports that may be available to meet the child's needs on an ongoing basis after the finalization of the adoption.

(7) Concurrent Receipt of Benefits or Other Income.

(a) If a child receives SSI and State-funded adoption assistance, the SSI shall be reduced dollar for dollar in the amount of the adoption assistance.

(b) If a child receives other Social Security benefits, such as disability, survivor's benefits or retirement benefits, or other income, the monthly adoption assistance payment may be reduced to reflect the receipt of the additional resources.

(c) The family shall report their receipt of benefits to the Local Department while the Adoption Assistance Agreement is in effect.

(8) Adoption assistance payments shall become effective on the date the adoption is finalized.

(9) If the local department makes an overpayment through error or some other means the local department may recover the over payment.

E. Adoption Assistance Agreement.

(1) An adoption assistance agreement shall be in writing, and binding on all parties.

(2) An adoption assistance agreement shall be on a form approved and distributed by the Administration.

(3) An adoption assistance agreement shall be signed by the director of a local department, or designee, and the adoptive parent prior to the finalization of the adoption.

F. Medical Benefits.

(1) A child who is eligible for State-funded adoption assistance is eligible for Medicaid under Maryland's Medicaid State plan.

(2) A child with an adoption assistance agreement that provides for a \$0 monthly payment shall be eligible for Medicaid under Maryland's Medicaid State plan.

(3) A State-funded adoption assistance recipient who moves to another state may be eligible for Medicaid in the new state of residence if the state offers reciprocity for children from Maryland who have a State-funded adoption assistance agreement.

G. Interstate Adoption.

(1) If the State public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that state shall be responsible for entering into the adoption assistance agreement with the family, provided the child is an eligible child.

(2) If the State public child welfare agency does not have responsibility for placement and care of a child, the adoption assistance agreement should be applied for and made in the adoptive parents' state of residence. In that event, the public child welfare agency in the adoptive parents' state of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.

(3) An adoption assistance payment shall not exceed the foster care payment received by the foster parents for the child.

(4) The adoption assistance agreement shall remain in effect if the Maryland adoptive parent and the child move to another state.

(5) In order to protect the interests of the child, the local department shall follow the procedures established by the Interstate Compact on Adoption Medical Assistance to facilitate the interstate coordination of benefits.

(a) The adoptive parent shall be referred by the local department to the appropriate federal Title XIX and Title XX agencies in their state of residence or tribal service area.

(b) The local department shall provide the state of residence or tribal service area with documentation regarding the child's eligibility for Medicaid and Title XX services as provided by the state of residence, or tribal service area.

H. Death of Parents and Dissolution of the Adoption.

(1) Adoption assistance may not be denied to a child whose adoption has dissolved or whose adoptive parents have died if the child:

(a) Received adoption assistance during the child's prior adoption; and

(b) Continues to meet the special needs eligibility criteria set forth in §B of this regulation.

(2) The adoption assistance may be paid on behalf of the child to a subsequent caretaker if:

(a) The caretaker assumes legal custody and/or guardianship of the child; and

(b) The local department has determined that the caretaker is able to provide appropriate care for the child.

(3) Adoption assistance may not be paid on behalf of an adoptive child to a biological parent who has been awarded legal custody and/or guardianship of the child.

I. Annual Redetermination.

(1) The local department shall confirm annually the child's continued eligibility for adoption assistance.

(2) At least 90 days prior to the renewal due date, the local department shall send the adoptive family a written request for the required information necessary for redetermination.

(3) At least 60 days prior to the annual renewal due date, the adoptive family shall submit documentation to enable the local department to determine that:

(a) The family is still legally and financially responsible for the care of the child at the time of the redetermination;

(b) The child continues to meet the special needs criteria; and

(c) The current amount of the adoption assistance payment is appropriate.

(4) The family shall submit the following documents:

(a) If the child is younger than 18 years old and not required to attend school due to age, proof of routine medical care provided to the child within 6 months prior to the renewal date;

(b) If the child is younger than 18 years old and of the age where school attendance is compulsory:

(i) A current report card;

(ii) Documentation of current participation in a home and hospital educational program approved by the educational agency in the child's place of residence; or

(iii) Documentation that the child is currently incapable of attending school on a full-time basis due to a documented medical condition of the child;

(c) If the child is enrolled in a home school program approved by the educational agency in the child's place of residence, proof of current enrollment in the program and proof of routine medical care provided to the child within 6 months prior to the renewal date; or

(d) If the child is 18 years old or older:

(i) Documentation that the child has a mental or physical disability warranting the continuation of assistance; or

(ii) Completing secondary education or a program leading to an equivalent credential; or

(iii) Enrolled in an institution which provides post-secondary or vocational education; or

(iv) Participating in a program or activity designed to promote, or remove barriers to employment; or

(v) Employed at least 80 hours per month; or

(vi) Incapable of doing any of the above described activities due to a medical condition.

(5) Suspension.

(a) A local department shall suspend the adoption assistance because of the following:

(i) the adoptive family's failure to return the required information for renewal to the department;

(ii) a child who was adopted re-enters out-of-home care.

(b) At least 30 days in advance of the planned suspension of the adoption assistance payments, a local department shall send the adoptive parent a:

(i) Notice that includes the intent to suspend the adoption assistance;

(ii) Statement of the specific regulations cited as grounds for suspension; and

(iii) Statement describing the adoptive family's right to appeal the decision to the local department.

(c) If the payment is suspended due to family's failure to return the required information for renewal to the local department, the payment shall be reinstated on the date the adoptive family provides the required documentation, and a separate intended action letter must be sent to the family.

J. Renegotiation of Adoption Assistance.

(1) The amount of the adoption assistance may be renegotiated at the request of the adoptive parent or the local department at any time while the adoption assistance agreement is in effect.

(2) To assist in the renegotiation process, the local department shall request information from the adoptive family regarding any changes in circumstances that would justify an adjustment in the amount of adoption assistance, such information may include:

(a) School reports;

(b) Psychological evaluations;

(c) Medical reports;

(d) Costs and descriptions of services needed for the child, including documentation that services are not covered by the current adoption assistance amount or by medical assistance or community resources; and

(e) The amount of the adjustment requested.

(3) The renegotiated adoption assistance amount may not exceed the foster care payment the adoptive parent received when the child was in out-of-home care.

(4) Changes in the adoption assistance amount shall be approved by the Administration.

(5) If a child receives Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the State-funded monthly adoption assistance payment may be reduced to reflect receipt of this resource.

K. Termination of Adoption Assistance.

(1) State-funded adoption assistance may be terminated upon the occurrence of any of the following conditions:

(a) A child re-enters out-of-home placement;

(b) A legally responsible adoptive parent no longer provides the child's primary financial support;

(c) An adoptive parent's rights have been terminated;

(d) An adoptive parent dies and there is no suitable subsequent caregiver; or

(e) The child's 18th birthday if the child does not meet the conditions of §J(2) of this regulation.

(2) The adoptive child may continue to receive adoption assistance until their 21st birthday provided that subsequent to the child's 18th birthday the child has a mental or physical disability warranting the continuation of the assistance; or the child is:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution which provides post-secondary or vocational education; or

(c) Participating in a program or activity designed to promote, or remove barriers to, employment; or

(d) Employed for at least 80 hours per month; or

(e) Incapable of doing any of the above described activities due to a medical condition.

(3) At least 30 days before the planned termination, a local department shall send the adoptive parent a notice that includes:

- (a) The intent to terminate the adoption assistance;
- (b) A statement of the specific regulations cited as grounds for termination; and
- (c) A statement describing the adoptive family's right to appeal.

.07 Post Adoption Assistance.

A. Post adoption assistance payment is a State Medicaid benefits and/or a State-funded monthly payment to adoptive families on behalf of adoptive children who have a condition that would have made them eligible for adoption assistance had the condition been known prior to finalization of their adoption.

B. A child may be eligible for post adoption assistance if:

- (1) The child was in the guardianship of a Maryland public or Maryland private agency at the time of the adoption; and
- (2) The child has a documented condition that existed at the time of finalization of the adoption but had not been "discovered or diagnosed," and if the condition had been known at the time of the finalization of the adoption it would have made the child eligible for adoption assistance.

C. Payments.

(1) A post adoption assistance payment shall be determined through negotiation and agreement between a local department and the adoptive parent.

(2) The post adoption assistance payment may combine with the parent's financial resources to assist with meeting the child's identifiable, quantifiable current and future needs.

(3) The amount of a post adoption assistance payment may not exceed the foster care payment the parent would have received for the child if the child were in foster care at the time the adoption was finalized.

(4) The local department may determine a \$0 payment is appropriate for an eligible child who otherwise qualifies for the adoption assistance, if the Administration determines that:

- (a) Post adoption assistance is not needed by the parent to defray the cost of meeting the special needs of the child at the time the post adoption agreement is entered into; or
- (b) The child had a physical or mental disease or disability at the time of finalization, but is not currently symptomatic.

(5) Negotiation.

(a) A local department shall negotiate the amount of the post adoption assistance based upon the needs of the child and the circumstances of the family, and the family's ability to incorporate the child into their household.

(b) As part of the negotiation process, a local department shall assess the child's needs based on documentation in the record or provided by the adoptive family and any additional relevant information.

(c) The negotiation process shall include a discussion of the child's needs, the family's circumstances, and the assistance the local department may provide to help the family provide for the special needs of the child.

(d) The local department and the family shall explore the availability of other resources to meet the child's needs on an ongoing basis, such as SSI and other Social Security benefits, adoption tax credits, tuition waivers, and community supports that may be available.

(6) Concurrent Receipt of Benefits or Other Income.

(a) The family shall notify the Administration if the child receives other benefits while the adoption assistance agreement is in effect.

(b) If a child is eligible for SSI and State-funded post adoption assistance, the SSI shall be reduced dollar for dollar in the amount of the post adoption assistance.

(c) If the SSI Program does not reduce the SSI grant, the local department of social services shall reduce the amount of the post adoption assistance grant dollar for dollar in the amount of the SSI payment.

(d) If a child receives Social Security benefits, such as survivor's benefits or retirement benefits, or other income, the monthly post adoption assistance may be reduced to reflect this resource.

(7) Post adoption assistance payments begin at the time the adoption assistance agreement is signed by the parties.

D. Post Adoption Assistance Agreement.

(1) A post adoption assistance agreement shall be in writing, binding on all parties, and between a local department and the family and the relevant agencies.

(2) The post adoption assistance agreement shall be on a form approved and distributed by the Administration.

(3) The adoption assistance agreement shall be signed by the director of the local department, or designee, and the family prior to payment.

E. Medical Benefits.

(1) A child who is eligible for State-funded post adoption assistance is eligible for Medicaid under Maryland's Medicaid State plan.

(2) A State-funded post adoption assistance recipient who moves to another state may be eligible for Medicaid in the new state of residence if the state offers reciprocity for children from Maryland who have a State-funded post adoption assistance agreement.

(3) A child with an adoption assistance agreement that provides for a \$0 monthly payment shall be eligible for Medicaid benefits under the Maryland Medicaid State plan.

F. Interstate Adoption.

(1) If the state public child welfare agency has responsibility for placement and care of a child prior to finalization of the adoption, that state shall be responsible for entering into the post adoption assistance agreement with the family, provided the child is an eligible child.

(2) If the State public child welfare agency did not have responsibility for placement and care of a child prior to finalization of the adoption, the post adoption assistance agreement should be applied for and made in the adoptive parents' state of residence.

(3) The post adoption payment shall not exceed the applicable board rate in Maryland or the applicable board rate in the state of residence while the child was in foster care, whichever was higher.

(4) If the Maryland family and the child move to another state, the post adoption assistance agreement shall remain in effect.

(5) In order to protect the interests of the child, a local department shall follow the procedures established by the Interstate Compact on Adoption and Medical Assistance to facilitate the interstate coordination of benefits.

(a) The adoptive parents shall be referred by a local department to the appropriate federal Title XIX and Title XX agencies in their state of residence.

(b) The local department shall provide the state of residence with documentation regarding the child's eligibility for Maryland Medicaid and Title XX services.

G. Death of Parents and Dissolution of an Adoption.

(1) Post adoption assistance may not be denied to a child whose adoption has dissolved or whose adoptive parents have died if the child:

- (a) Received an adoption assistance during the child's prior adoption; and

(b) Continues to meet the special needs eligibility criteria set forth in §B of this regulation.

(2) If an adoption dissolves or the parents die, post adoption assistance may be paid on behalf of a child to a subsequent caretaker if:

- (a) The child continues to meet the special needs criteria;
- (b) The caretaker assumes guardianship of the child; and
- (c) A local department determines that the caretaker is able to provide appropriate care for the child.

H. Annual Redetermination.

(1) A local department shall confirm a child's continued eligibility for post adoption assistance annually.

(2) At least 90 days prior to the renewal due date, a local department shall send a written request for the required information necessary for redetermination.

(3) At least 60 days prior to the annual renewal due date, an adoptive family shall submit documentation to enable the local department to determine that:

- (a) The family is still legally and financially responsible for the care of the child at the time of the redetermination;
- (b) The child continues to meet the special needs criteria; and

(c) The current amount of the post adoption assistance payment is appropriate.

(4) The family shall submit the following documents:

(a) If the child is younger than 18 years old and not required to attend school due to age, proof of routine medical care provided to the child within 6 months prior to the renewal date;

(b) If the child is younger than 18 years old and of the age where school attendance is compulsory:

- (i) A current report card;
- (ii) Documentation of current participation in a home and hospital educational program approved by the educational agency in the child's place of residence; or
- (iii) Documentation that the child is currently incapable of attending school on a full-time basis due to a documented medical condition of the child;

(c) If the child is enrolled in a home school program approved by the educational agency in the child's place of residence, proof of current enrollment in the program and proof of routine medical care provided to the child within 6 months prior to the renewal date; or

(d) If the child is 18 years old or older:

- (i) Documentation that the child has a mental or physical disability warranting the continuation of the assistance; or
- (ii) Completing secondary education or a program leading to an equivalent credential; or
- (iii) Enrolled in an institution which provides post-secondary or vocational education; or
- (iv) Participating in a program or activity designed to promote, or remove barriers to employment; or
- (v) Employed at least 80 hours per month; or
- (vi) Incapable of doing any of the above described activities due to a medical condition.

(5) Suspension.

(a) A local department shall suspend the post adoption assistance because of the following:

- (i) The adoptive family's failure to return the required information for renewal to the department;
- (ii) A child who was adopted re-enters foster care.

(b) At least 30 days before the planned suspension, the local department shall send the adoptive parent a notice that includes:

- (i) The intent to suspend the adoption assistance;

(ii) The specific regulations providing grounds for suspension; and

(iii) A statement describing the adoptive family's right to appeal.

(c) If the payment is suspended due to family's failure to return the required information for renewal to the local department, the payment shall be reinstated on the date the adoptive family provides the required documentation.

I. Renegotiation of Post Adoption Assistance.

(1) The amount of the post adoption assistance may be renegotiated at the request of the adoptive parent or the local department at any time while the post adoption assistance agreement is in effect.

(2) To assist in the renegotiation process, the local department shall request information from the adoptive family regarding any changes in circumstances that would justify an adjustment in the amount of post adoption assistance, such information may include:

- (a) School reports;
- (b) Psychological evaluations;
- (c) Medical reports;
- (d) Costs and descriptions of services needed for the child, including documentation that services are not covered by the current post adoption assistance amount or by medical assistance or community resources; and

(e) The amount of the adjustment requested.

(3) The renegotiated post adoption assistance amount may not exceed the foster care payment the adoptive parent received when the child was in out-of-home care.

(4) Changes in the adoption assistance amount shall be approved by the Administration.

(5) If a child receives Social Security benefits, such as survivor's benefits, retirement benefits, or old age benefits, the State-funded monthly post adoption assistance payment may be reduced to reflect receipt of this resource.

J. Termination of Post Adoption Assistance.

(1) State-funded post adoption assistance may be terminated upon the occurrence of any of the following conditions:

- (a) A child re-enters out-of-home placement;
- (b) A legally responsible adoptive parent no longer provides significant financial support to the child;
- (c) An adoptive parent's rights have been terminated;
- (d) The adoptive parent dies and there is no suitable subsequent caregiver;

(e) The child's 18th birthday if the child does not meet the conditions of §J(2) of this regulation.

(2) The adoptive child may continue to receive post adoption assistance until their 21st birthday provided that subsequent to the child's 18th birthday the child has a mental or physical disability warranting the continuation of the assistance; or the child is:

- (a) Completing secondary education or a program leading to an equivalent credential;
- (b) Enrolled in an institution which provides post-secondary or vocational education;
- (c) Participating in a program or activity designed to promote, or remove barriers to, employment;
- (d) Employed at least 80 hours per month; or
- (e) Incapable of doing any of the above described activities due to a medical condition.

(3) At least 30 days before the planned termination, the local department shall send the adoptive parent a notice that includes:

- (a) The intent to terminate the adoption assistance;
- (b) A statement of the specific regulation cited as ground for termination; and
- (c) A statement describing the adoptive family's right to appeal.

.08 Adoption Assistance for Nonrecurring Expenses of Adoption.

A. In a domestic adoption, an adoptive parent of a child who meets the special needs criteria as delineated in Regulation .05(D)(4) or (E)(3) of this chapter may be eligible for reimbursement for certain nonrecurring expenses directly related to the legal process of adoption.

B. In an intercountry adoption, an adoptive parent of a child who meets the definition of a child with special needs may be eligible for reimbursement of certain nonrecurring expenses directly related to the legal process of adoption provided if the child is:

- (1) 5 years old or younger in federal fiscal year 2015;
- (2) 3 years old or younger in federal fiscal year 2016; or
- (3) 1 years old or younger in federal fiscal year 2017

C. As of October 1, 2017, children in an intercountry adoption will not be eligible for this subsidy.

D. In Maryland public agency adoptions, the local department shall determine that the child meets the definition of special needs prior to the adoption in order for the child to receive nonrecurring expense reimbursement adoption assistance.

E. In an independent or intercountry adoption, at least 60 days prior to finalization of the adoption, the family shall supply an official copy and official English translations of the following documentation necessary to enable the Administration to determine if the child meets the definition of a child with special needs:

(1) A court order terminating the parental rights of the birth mother and birth father, or in the case of an orphaned child, a death certificate for the child's birth mother and birth father;

(2) Current psychological or medical reports or evaluations, or testing results that document the existence of one of the special needs factors; and

(3) Documentation that reasonable, but unsuccessful efforts have been made to place the child in an adoptive home without providing adoption assistance, including:

(a) A notarized affidavit signed by the prospective adoptive parent stating that they will not adopt the child without the adoption assistance; and

(b) Photolisting, registration on one or more adoption registries, or other attempts on behalf of the child to identify other prospective adoptive parents in addition to those applying for the adoption assistance.

F. A lump sum maximum payment up to \$2,000 may be paid on behalf of the adoptive parents for documented expenses related to the legal process of adopting a child, including:

- (1) Homestudy fees;
- (2) Medical information required to complete the homestudy;
- (3) Legal fees;
- (4) Post placement supervision; or
- (5) Travel to meet the child.

G. A local department shall maintain documentation of reimbursement of nonrecurring expenses in an adoptive family's adoption case record.

H. Nonrecurring Expenses Adoption Assistance Agreement. An agreement for the payment of nonrecurring expenses shall be:

- (1) In writing;
- (2) Binding on all parties;
- (3) Between the local department and the prospective adoptive parent;
- (4) On a form approved by the Administration; and
- (5) Approval by the Administration.

.09 Right to Appeal.

A. Each applicant for adoption assistance or family who is receiving adoption assistance has the right to appeal the denial, reduction, suspension, or termination of adoption assistance.

B. The local department shall:

- (1) Notify the applicant or family of the right to appeal the local department's decision in writing; and
- (2) Provide information as to the procedure to be followed in making an appeal.

SAM MALHOTRA
Secretary of Human Resources

**Subtitle 02 SOCIAL SERVICES
ADMINISTRATION**

07.02.14 In-Home Aide Services

Authority: Human Services Article, §§6-501—6-505; Family Law Article, §§5-524, and 5-710; Annotated Code of Maryland
(Agency Note: Federal Regulatory Reference—45 CFR 1357)

Notice of Proposed Action

[15-428-P]

The Secretary of Human Resources proposes to repeal existing Regulations .01—.10 and adopt new Regulations .01—.14 under **COMAR 07.02.14 In-Home Aide Services.**

Statement of Purpose

The purpose of this action is to clarify the conditions of determining eligibility for in-home aide services, define the local department's responsibility in administering fees for service, and establish a new process for handling emergency suspensions and maintaining a wait list. The proposed action also outlines the circumstances that may trigger a local department's adverse actions involving a client's right to appeal a decision, when a termination or reduction in service is warranted.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

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

This program serves individuals with disabilities. It provides personal care and chore services to individuals with disabilities who meet the program eligibility criteria.

Opportunity for Public Comment

Comments may be sent to Andrea Garvey, Regulations Coordinator, Department of Human Resources, Office of Government, Corporate, and Community Affairs, 311 West Saratoga Street, Baltimore, MD 21201, or call 410-767-2149, or email to andrea.garvey@maryland.gov, or fax to 410-333-0637. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Purpose.

The purpose of the In-Home Aide Services Program ("IHAS") is to supplement other social services programs by providing specific services to individuals of all ages in the community in order to:

- A. Prevent or reduce the length of institutional placement of vulnerable adults;
- B. Prevent or reduce the length of out-of-home placement of children;

- C. Prevent or reduce the risk of abuse, neglect, self-neglect, and exploitation;
- D. Promote self-sufficiency;
- E. Provide in-home aide services to adults with functional disabilities;
- F. Provide therapeutic support services to families;
- G. Promote a safe environment; and
- H. Engage existing formal and informal natural supports.

.02 Definitions.

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

B. Terms Defined.

- (1) "Abuse" has the meaning stated in COMAR 07.02.11.03B (2) and COMAR 07.02.15.02B(1).
- (2) "Administration" means the Social Services Administration of the Department of Human Resources.
- (3) "Case management" has the meaning stated in COMAR 07.02.15.02B (7).
- (4) "Client" means an eligible individual receiving In-Home Aide Services.
- (5) "Emergency suspension" means any action that, as determined by the IHAS supervisor or RN, involves the suspension of services because of an event or situation which imminently threatens the IHAS aide's health, safety, or welfare, based upon Regulation .12A of this chapter.
- (6) "Exploitation" means any actions which involves the misuse of an IHAS client's funds, property, or person.
- (7) "Functional disability" means difficulty in performing activities of daily living because of:
 - (a) A physical, cognitive, or psychiatric condition; or
 - (b) Environmental factors.
- (8) "Hearing" means a contested case hearing as defined in State Government Article, §10-202(d), Annotated Code of Maryland.
- (9) Home.
 - (a) "Home" means a place where a client resides; and
 - (b) "Home" does not include an acute care hospital, an emergency room, a psychiatric hospital, an assisted living facility, a Project Home/CARE Home, a home of an aide, or any other facility that provides care or supervision for clients.
- (10) "IHAS personal care plan" means an individualized written plan that indicates:
 - (a) Measurable goals;
 - (b) Tasks to be performed;
 - (c) Frequency of contact; and
 - (d) Hours per day.
- (11) "Institutionalization" means placement in a hospital, psychiatric hospital, or nursing home.
- (12) "Intensive services" means requiring more than 14 hours of services per week with the approval of the delegating nurse that such services can be delivered safely.
- (13) "Local department" means the Department of Social Services in a Maryland county or Baltimore City, or its designee where the applicant resides.
- (14) "Natural supports" means the informal use of family, faith community, neighbors, friends, or any alternative assistance or resources identified as part of the case management Service plan.
- (15) Neglect.
 - (a) "Neglect" in the case of a child has the meaning stated in COMAR 07.02.11.03B(34).
 - (b) "Neglect" in the case of an adult has the meaning stated in COMAR 07.02.15.02B(17).
- (16) "Reconsideration" means a comprehensive reassessment of a client's medical and functional status by a case manager or a

registered nurse to determine if the IHAS personal care plan remains appropriate and effective.

(17) "Redetermination" means a comprehensive reassessment of a client's income and assets for eligibility and determination whether the client is required to pay a fee for service.

(18) "Registered nurse" has the meaning stated in COMAR 10.27.11.02B (17).

(19) "Safe environment" means that a client is able to remain in their living situation and negotiate the living environment independently with supports to gain access to groceries, medications, medical appointments, transportation, and with limited assistance with personal care.

(20) "Self-neglect" has the meaning stated in COMAR 07.02.15.02B (20).

(21) "Service Plan" has the meaning stated in COMAR 07.02.15.02B (21) and is related to the case management services provided to the client.

(22) "Supervising nurse" has the meaning stated in COMAR 10.27.11.02.22 and includes the process of critical watching, directing and evaluating another's performance.

(23) "Therapeutic services" means supportive services by a specially trained aide designed to effect behavioral changes, improvement in care giving skills or in-home management skills to prevent out-of-home placement or to expedite reunification.

.03 Eligibility.

A. An individual is eligible for IHAS if the individual:

- (1) Has a functional disability;
- (2) Is receiving case management in a social service program from the local department, which has meaning as set forth in Regulation .02B(3) of this chapter or from a social service agency through an arrangement with the administration, and requires the service as a part of a case management service plan to:
 - (a) Prevent and remedy the risk of abuse, neglect, self-neglect, or exploitation;
 - (b) Promote a safe environment;
 - (c) Promote self-sufficiency;
 - (d) Engage existing formal and informal supports;
 - (e) Provide in-home aide services to adults with functional disabilities;
 - (f) Provide therapeutic support services to families;
 - (g) Prevent or reduce the length of institutional placement;
- or
- (h) Prevent or reduce the length of out-of-home placement of children.
- (3) Is unable to obtain the necessary paraprofessional services from another resource;
- (4) Is willing to accept IHAS;
- (5) Meets financial eligibility requirements of the case managed social service program including income and assets;
- (6) Agrees to pay any fee required in a fee schedule published by the Administration; and
- (7) Requires care that does not exceed the scope of the program, or is temporarily receiving services through a child protective services or adult protective services program.

B. The proposed IHAS services may not exceed 14 hours per week or 364 hours for a 6-month period.

.04 Fees for Service.

A. The local department shall determine the client's income and assets and whether the client is required to pay a fee for services as indicated in a fee schedule published by the Administration.

B. The director of a local department or the Director's designee may waive a fee for service for applicants or clients who require

services as a part of a service plan to prevent or remedy abuse, neglect, self-neglect, or exploitation.

C. The continued need for a waiver of program fees shall be reviewed, and approved or denied by the Director or the Director's designee at least every 6 months, in conjunction with the redetermination process.

.05 Applications for Service.

A. The local department shall screen a complete referral for in-home aide services, submitted by a case manager in a local department or other social service agency on the required forms prescribed by the administration that includes:

- (1) An assessment of the individual's functional capacity;
- (2) A ranking scale of risk factors determined by the administration;
- (3) A copy of the case manager's proposed service plan which includes a request for IHAS;
- (4) Income and asset documentation;
- (5) An application for IHAS signed by the individual or the individual's representative; and
- (6) A medical evaluation by the individual's health care provider, if required and/or is beneficial to service delivery.

B. If, after screening, the applicant is found not eligible, the local department shall send written notification to the applicant that includes the reason for the decision and the right to appeal.

C. If, after screening, the applicant is found eligible, the local department shall:

- (1) Determine if a service slot is available;
- (2) If a service slot is not available, place the applicant on the IHAS waiting list and send written notification to the applicant of this action; and
- (3) If a service slot is available:
 - (a) Inform the applicant of the date the registered nurse will make their initial home visit;
 - (b) Provide the client with a copy of the case manager's suggested IHAS personal care plan that was submitted with the IHAS application packet.
 - (c) Hold a case consult with input from client, in-home aide and the case manager regarding service delivery within 60 days of case opening; and
 - (d) Put into action the IHAS supervisor approved, final IHAS personal care plan within 60 days of start of service with an update provided at least every 6 months.

.06 Waiting List.

A. Local departments shall keep a waiting list if they are unable to serve eligible clients immediately.

B. Local departments shall use a waiting list for clients who have been found eligible for in-home aide services which includes the use of a ranking scale of risks factors, a standardized scoring tool provided by the administration, to determine the condition and service needs of the client.

C. Local departments shall provide services to applicants with the highest ranking score first. When there is a waiting list and scores are equal, those with earlier dates of application are served first.

D. Individuals on the waiting list shall be served as staff and funding resources become available.

E. If a rescoring is required by Regulation.06B of this chapter, the local department shall score the client based on the current case manager's assessment of the client's condition, if IHAS were not in place.

F. Persons placed on the waiting list will be provided written notification of the action and the client's eligibility with a re-evaluation of level of need for service at least once a year.

.07 Scope of Service.

A. If funds and/or staff are available; the local department may provide IHAS by:

- (1) Assigning an aide who is employed by the local department;
- (2) Purchasing services from a private-for-profit or nonprofit agency that has contracted with the Administration to provide the services; or
- (3) Purchasing the services from a self-employed individual.

B. The local department may, based on client needs and the availability of staff and funding, provide up to 14 hours per week of the following services with an aide certified at the Certified Nursing Assistant level or equivalent with supervision of delegated nursing duties by a Registered Nurse:

- (1) Assisting with dressing;
- (2) Bathing;
- (3) Feeding;
- (4) Grooming;
- (5) Assisting with toileting;
- (6) Transferring in and out of bed and wheelchair;
- (7) Assisting with ambulation;
- (8) Cleaning the bedroom, bathroom, and kitchen;
- (9) Washing personal laundry;
- (10) Providing limited transportation and/or escort services to health care appointments and shopping facilities as well as access to other community resources as identified in the IHAS personal care plan;
- (11) Providing meal preparation; and
- (12) Teaching meal planning, safe food handling, meal preparation and home management.

C. The local department may, based on client need and available funding, provide paraprofessional services to decrease client risk factors. These services include:

- (1) Light chores;
- (2) Personal laundry;
- (3) Limited transportation and escort services; and
- (4) Meal preparation, planning and teaching of safe food handling.

D. The local department may, based on risk of future abuse or neglect, provide to families of vulnerable adults or children therapeutic aide services by a trained therapeutic aide. These services include:

- (1) Emotional support;
- (2) Communication support;
- (3) Introduction to neighborhood resources;
- (4) Reinforcement of appropriate self-care and caretaking behaviors;
- (5) Budgeting;
- (6) Home management; and
- (7) Effective caregiving skills.

E. The client shall agree to comply with the specific provisions of the IHAS personal care plan, including any recommendations of a supervising nurse.

F. The IHAS personal care plan agreement shall follow the established guidelines under the Nurse Practice Act as set forth in COMAR 10.27.09.03 that limit the type of hands-on services that may be delegated to unlicensed care staff.

G. If the aide suspects that the client or a dependent in the client's care is in danger or at risk of harm, the aide shall report the circumstances immediately to the IHAS supervisor, the case manager, or the local department's after-hours emergency service. Upon receiving the report, the IHAS supervisor shall decide the steps needed to ensure the client's safety and ensure those steps are documented and followed.

.08 Limitations on Service.

A. The local department may provide aide services up to the maximum of 14 hours per week for each eligible individual based on a comprehensive assessment and determination of need.

B. For a client requiring intensive service as set forth in Regulation .09 of this chapter, the IHAS supervisor shall determine the total hours for 6 months of IHAS, not to exceed 364 hours.

C. If the service request exceeds 364 hours in a 6-month period, the client is not eligible for IHAS.

D. The local department may only provide intensive services to individuals identified in Regulation .09 of this chapter if funds and staff are available, and the case manager assesses the family as potentially capable of providing adequate and safe care of the child without the use of aide service within the time specified in the case management service plan for effectuating reunification or preventing out-of-home placement.

.09 Provision of Additional Services.

A. Depending on the availability of funding and staff, the local department may provide services in excess of 14 hours per week. However, the total number of the service hours provided is not to exceed 364 hours in a 6-month period unless additional services are authorized by supervisory approval, due to imminent safety or risk factors, for no more than a 6-week time period.

B. A local department may provide additional hours of in-home aide services to the eligible individual. Additional services provided under Regulation .07 of this chapter are either emergent or clinically based intensive services.

C. The eligible individual shall agree to comply with the provisions of the service plan and IHAS care plan, including the recommendations of the supervising nurse.

D. A local department may provide additional services to a family with children if:

(1) The need for an additional amount of services is documented in the case record as being necessary to prevent out-of-home placement or to reduce the length of out-of-home placement; and

(2) The case manager assesses the family as potentially capable of providing adequate and safe care to the child without the use of in-home aide services within the time specified in the case management service plan, for effecting reunification or preventing out-of-home placement.

.10 Status Reports.

A. The in-home aide service provider shall submit a report, on a form approved by the Administration, to the IHAS Supervisor on the client's current situation, regardless of the method by which services are delivered:

(1) At least on a monthly basis, or more often than monthly if there is a change in the client's risk level and/or well-being; and

(2) Specifying any changes in the client's situation including whether the client prevents the aide from performing the tasks agreed to in the IHAS personal care plan and/or case management service plan.

(a) The local department shall monitor to ensure that the status reports are submitted monthly.

(b) The IHAS supervisor or designee shall take appropriate action in response to the status reports.

B. The local department shall monitor to ensure that the status reports are submitted monthly.

C. The IHAS supervisor or designee shall take appropriate action in response to the status reports.

D. The In-home aide service provider shall submit a written report, on a form approved by the Administration, to the case manager at least every 6 months summarizing their professional

observations of the client's health and overall well-being during the reporting period. This report should include the in-home aide's recommendations for future service needs.

E. The supervising Registered Nurse shall complete client assessments and aide supervision as approved by the Administration and as regulated by the Nurse Practice Act. A copy of all nursing related documentation will be forwarded to the IHAS Supervisor for review.

.11 Suspension of Services.

A. The client's in-home aide services can be temporarily suspended for up to 4 weeks when at least one of the following conditions are presented by the client:

(1) The client is absent from the home;

(2) The client is unavailable for services;

(3) The client and/or family is addressing environmental conditions that pose a risk to persons providing in-home aide services;

(4) The client has prevented the IHAS aide from performing tasks agreed upon in the IHAS personal care plan; or

(5) The client develops a pattern of unavailability during a scheduled service time.

B. During the suspension period, the client's situation will be re-evaluated at least 15 calendar days prior to the end of the 4-week period. The client and case manager will receive written notice outlining conditions necessary for the reinstatement of services, condition or conditions that will cause termination and the timeframe for either the reinstatement or termination.

.12 Emergency Suspensions.

A. The local department may immediately suspend services on an emergency basis if the IHAS supervisor determines that there is an immediate threat to the aide's health, safety, or welfare from:

(1) Environmental hazards;

(2) A client;

(3) A member of the client's household; or

(4) An individual regularly present during periods of services.

B. The suspension may lead to termination of services if the unsafe conditions cannot be remedied.

.13 Redetermination and Reconsideration.

A. The local department shall redetermine every 6 months the client's income and assets and whether the client is required to pay a fee.

B. The local department shall reconsider the client's need for In-Home Aide Services, which includes updating the IHAS care plan, and the ranking scale at least every 6 months or sooner if the client's situation has changed significantly.

C. Increase in Service. The local department may increase the number of hours of service provided to a client based on the reconsideration of the client needs when funds and staff are available or become available.

(1) The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .11B of this chapter.

(2) The notice to the client shall state the decision and the basis for it, cite the regulations supporting it, and explain the applicant's right to and the method to request a fair hearing.

D. Reductions of Service. The local department may reduce the number of hours of service provided to a client for any of the following reasons:

(1) Insufficient departmental funds;

(2) Improvement in the client's condition or situation;

(3) Loss of program staff; or

(4) Receipt of services from other publically or privately funded services or natural supports.

(a) The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .11B of this chapter.

(b) The notice to the client shall state the decision and the basis for it, cite the regulation supporting it, and explain the applicant's right to and the method to request a fair hearing.

E. Terminations.

(1) The local department shall terminate services under any of the following circumstances:

(a) Objectives of service have been reached;

(b) The client, client's family, or case manager is able to secure equivalent services from an alternative source or other community-based services;

(c) The client is no longer in need of IHAS;

(d) The client is deceased;

(e) The client moves outside of the local jurisdiction;

(f) The client is hospitalized longer than 4 weeks, placed in a long-term care facility for services other than short-term rehabilitation or is receiving community-based Medicaid Waiver program services;

(g) The client is no longer eligible;

(h) The limit on the number of service hours in Regulation .08 of this chapter has been reached;

(i) The service has not been effective in achieving the specific changes in the client's condition or family's situation, which were expected to result from providing services;

(j) The service is suspended up to 4 weeks;

(k) The client requests termination;

(l) The client declines to receive ongoing IHAS services;

(m) The behavior of the client or other household members has prevented the aide from performing tasks identified in the IHAS personal care plan or places the aide at risk of harm;

(n) The unresolved environmental issues pose an immediate threat to the health and safety of a care provider or case manager;

(o) There is insufficient staff or funds to serve the current number of clients;

(p) The client does not comply with the specific provisions of the IHAS personal care plan and/or the recommendations of the supervising nurse;

(q) The client demonstrates a pattern of unavailability during scheduled service time;

(r) The client or the client's representative does not actively participate in goal setting/achievement or

(s) The client's needs exceed the scope of the program.

(2) Termination under Regulation .13E(1)(o) of this chapter shall be in order of lowest priority to highest priority based on ranking as described in regulation Regulation.05A(2) of this chapter.

(3) The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .12A of this chapter.

(4) The notice to the client shall state the decision and the basis for it, and cite the regulations supporting it.

.14 Appeal Rights and Nondiscrimination.

A. General Appeals. The local department shall give written notification of the right to appeal a decision, and the procedures for requesting and obtaining a fair hearing, to each applicant or client of IHAS. The procedures are set forth in COMAR 07.01.04.

B. Emergency Action Hearing Requests. The client has the right to request an emergency hearing which is an expedited hearing of the appeal case.

(1) Emergency action hearing requests shall:

(a) Be filed with the local department within 10 days of the certified mailing of the notice of the local department's action; and

(b) State the name and address of the client, and the effective date of the action being appealed.

(2) The local department shall notify the Office of Administrative Hearings immediately upon receipt of an emergency action hearing request.

(3) Oral notification shall be followed by written notification within 24 hours.

(4) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(5) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

C. Discrimination. The local department may not discriminate in the delivery of service, as required by the nondiscrimination procedures as set forth in COMAR .07.01.03.04A.

SAM MALHOTRA
Secretary of Human Resources

**Title 08
DEPARTMENT OF NATURAL
RESOURCES**

Subtitle 02 FISHERIES SERVICE

08.02.03 Crabs

Authority: Natural Resources Article, §§4-215 and 4-803, Annotated Code of Maryland

Notice of Proposed Action

[16-032-P]

The Secretary of Natural Resources proposes to amend Regulations .07, .12, .14, and .15 under **COMAR 08.02.03 Crabs**.

Statement of Purpose

The purpose of this action is to update crabbing regulations. The proposed action removes the requirement to contain a live male crab used for peeler bait to the upper chamber of the crab pot. This requirement substantially reduces the mortality of the bait crabs compared to them being placed in the bait box (the chamber in the crab pot that holds the bait); however, male crabs are able to move to the lower chamber even though they are placed in the upper chamber. Therefore, a harvester could receive a citation for something they have no control over. The proposed action prohibits the use of crabs in the bait box. The Department was made aware that the industry has begun using female peelers as bait for male hard crabs by placing the female peelers in the bait box. Adopting this change will protect all crabs used for bait, whether male or female and in both the hard and peeler crab fishery. This requirement is more enforceable than the requirement to contain crabs being used as bait to a certain chamber of the crab pot. Male or female crabs may not be placed in the bait box of a crab pot.

The proposed action removes the cull ring closure for crab pots in Worcester County. Cull rings in crab pots used in the coastal bays are required to be closed from April 23 through May 31. The closure requirement is inconsistent with crab management and should be removed.

The proposed action creates a minimum size for a float. The current regulation allows a licensee to have 20 undersized peeler crabs per float, but does not describe what a float looks like. Harvesters may therefore call any container a float, which creates problems for both the resource and enforcement. The Natural Resources Police (NRP) brought to Fisheries Service staff attention

the difficulty they are having with enforcement of the tolerance limit on undersized peelers due to the fact there is no legal description for a float. This has resulted in small containers, some with a base as small as one square foot, being called a float. Based on feedback from the industry and NRP, it was determined that the typical float used to shed peelers that will be sold as soft crabs is built with a 4ft x 4ft or 4ft x 8ft sheet of plywood as the base. Recognizing that there could be reasons for a peeler float to have different dimensions, but aiming to maintain equity in the fishery, the proposed action requires a float used for holding or shedding peelers to have a base that has an area that is a minimum of 16 square feet.

The proposed action corrects the crab catch limits for crabbing charters. Catch limits for blue crabs are different for the Chesapeake Bay and its tidal tributaries and for the Atlantic Ocean and its coastal bays. The proposed action details the differences.

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 Blue Crab Regulations, Regulatory Staff, Department of Natural Resources Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 22, 2016.

.07 Crab Pots.

- A. (text unchanged)
- B. A crab pot shall meet the following structural requirements:
 - (1)—(3) (text unchanged)
 - (4) Except for a crab pot constructed with unstretched mesh measuring less than 1-1/2 inches or at least 2 inches on each side, a crab pot set in the Chesapeake Bay or its tidal tributaries shall have two cull rings, one of at least 2-3/16 inches and one of at least 2-5/16 inches inside diameter located in exterior side panels or the top panel of the crab pot; *and*
 - [(5) A live male blue crab used for bait, in a crab pot used for catching peeler crabs, shall be contained only in the upper chamber of the crab pot and may not be less than the minimum size; and]
 - [(6)] (5) (text unchanged)
- C. (text unchanged)
- D. General Requirements.
 - (1)—(8) (text unchanged)
 - (9) *Crabs may not be in the bait box of the crab pot.*
- E.—H. (text unchanged)

.12 Special Regulations for Crabbing in Worcester County.

A. Structural Requirements of Crab Pots. Notwithstanding Regulation .07A and B of this chapter, a crab pot set in the coastal bays of the Atlantic Ocean and their tidal tributaries shall have one unobstructed 2-5/16 inch cull ring on a side panel of the upper compartment and one 2-5/16 inch cull ring on a panel at the lower compartment of the crab pot. The cull ring is not required in a crab pot constructed with unstretched mesh measuring less than 1-1/2 inches or at least 2 inches on each side. [The cull ring shall be closed from April 23 through May 31.]

B.—F. (text unchanged)

.14 General Prohibitions.

- A. (text unchanged)
- B. Commercial — General.
 - (1)—(11) (text unchanged)
 - (12) *A float used for holding or shedding peelers shall have a base that is a minimum of 16 square feet.*
- C.—G. (text unchanged)

.15 Crabbing Charters.

- A.—C. (text unchanged)
- D. Crabbing Charters.
 - (1)—(2) (text unchanged)
 - (3) A crabbing charter:
 - (a)—(b) (text unchanged)
 - (c) *May not harvest female hard crabs or female peelers from the Chesapeake Bay and its tidal tributaries; and*
 - (d) (text unchanged)
 - (4) (text unchanged)
 - (5) Catch Limit. A crabbing charter with one or more customers on board may not catch more than two bushels of [male]:
 - (a) *Male hard crabs and two dozen soft crabs or male peeler crabs from the Chesapeake Bay and its tidal tributaries; or*
 - (b) *Crabs from the Atlantic Ocean and its coastal bays.*
 - (6)—(7) (text unchanged)

MARK J. BELTON
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

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

Notice of Proposed Action

[16-030-P]

The Secretary of Natural Resources proposes to amend Regulation **.11** under **COMAR 08.02.04 Oysters**.

Statement of Purpose

The purpose of this action is to create a process to open and close portions of Public Shellfish Fishery Areas. Counties would like the opportunity to work with the Department to manage populations of oysters on selected areas of Public Shellfish Fishery Areas. The county committee may want an area closed because they seeded the area or because the area received a good spat set and they want to wait to put any pressure on the bar until after most of the oysters are market size. The proposed action removes outdated language that refers to making changes to the regulation and replaces it with a process that is consistent with statute and the Oyster Management Plan.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have a positive impact for commercial oyster harvesters.

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 (+)	Magnitude
	Cost (-)	
<hr/>		
D. On regulated industries or trade groups:		
Commercial Harvesters	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

(b) Open or close portions of a Public Shellfish Fishery Area described in COMAR 08.02.04.17.

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

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

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

MARK J. BELTON
Secretary of Natural Resources

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

D. Counties will have the opportunity to request that the Department open or close certain areas in order to manage the oyster populations. Ultimately, this will benefit the industry by allowing them to invest in specific areas, giving their businesses some flexibility and, if areas are protected until most of the oysters are market size, a potential for increased income. The actual amount will depend on how each county wants to manage the harvest and is indeterminable.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows. Counties will have the opportunity to request that the Department open or close certain areas in order to manage the oyster populations. Ultimately, this will benefit the industry by allowing them to invest in specific areas, giving their businesses some flexibility and possibly increased income. The actual amount will depend on how each county wants to manage the harvest and is indeterminable.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Public Shellfish Fishery Areas, Regulatory Staff, Department of Natural Resources Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.11 General Provisions.

[A. Under the provisions of Natural Resources Article, §4-2A-03, Annotated Code of Maryland, the Secretary may, by regulation, establish or modify a season for taking oysters or a daily catch limit on the quantities of oysters which may be caught from the natural oyster bars of the State to conserve the public resource.

B. Notice of the establishment or amendment may be given by publishing notice in a daily newspaper of general circulation not less than 1 week before the effective date.

C. The Secretary shall make reasonable effort to disseminate public notice through various other media so that an affected person has reasonable opportunity to be informed.]

[D.] A. — [G.] D. (text unchanged)

E. General.

(1) In order to implement the Chesapeake Bay Oyster Management Plan, the Secretary may, in cooperation with the appropriate oyster committee, issue a public notice to:

(a) Establish or modify a season or catch limit; or

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Proposed Action

[16-031-P]

The Secretary of Natural Resources proposes to amend Regulation .24 under COMAR 08.02.05 Fish.

Statement of Purpose

The purpose of this action is to make changes to the commercial fishery. Spiny dogfish are a highly migratory species of shark found in both federal and state waters. State and federal waters are managed through different processes. The National Oceanographic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries) is responsible for implementing management in federal waters. The Atlantic States Marine Fisheries Commission (Commission) is responsible for management of spiny dogfish in state waters (0-3 miles offshore). The Commission is a collaborative entity of the Atlantic coast states from Maine to Florida and is governed by the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Maryland is included in the Commission fishery management plan and must comply with certain provisions contained in that plan. Spiny dogfish are currently managed under the Interstate Fishery Management Plan for Spiny Dogfish (2002) and Addenda I—V.

The proposed action reorganizes the regulation by moving text to more appropriate locations, corrects citations and makes it clear that the season for catching spiny dogfish is May 1 through April 30. The season corresponds with the federal season and adding it to the regulation helps clarify time periods associated with eligibility and reporting requirements.

The proposed action modifies the eligibility requirement from a 2 year/10,000 lb landing requirement to a 3 year/15,000 lbs requirement. Since limited entry was implemented there have been significant changes that impacted the fishery. Specifically, there were two seasons of harsh winters, the European market was lost, fuel costs increased, fish were mostly in federal waters in 2014/2015, and the price was \$0.14—17 per pound. All of these factors made it difficult or not worthwhile to catch the required 10,000 pounds of spiny dogfish. The workgroup felt the extra year would give harvesters flexibility with their businesses to pursue spiny dogfish and maintain their permit.

The proposed action includes provisions to allow new entrants into the spiny dogfish fishery by setting tiered catch limits based upon ownership of a permit and by establishing a process to reissue a spiny dogfish permit that was revoked or not renewed. The proposed action describes the process for allocating the commercial quota by public notice. The catch limits will be established each year so that

the entire quota may be caught and so that dead discards are reduced. Setting the catch limits in tiers will allow licensees to catch spiny dogfish while harvesting other species and could potentially increase the number of people in the fishery. Someone who owns an Atlantic striped bass permit may be allowed to have a higher vessel limit of spiny dogfish than the bycatch allowance. This will help achieve the quota by watermen that catch spiny dogfish as bycatch when targeting striped bass and may help reduce dead discards of spiny dogfish. The proposed action establishes a method for issuing a spiny dogfish permit when an existing permit expires for failing to declare two years in a row or not meeting harvest requirements. This will allow an opportunity for new participants, create stability in the fishery, and be consistent with goals of the Spiny Dogfish Industry Workgroup as well as the Department.

The proposed action eliminates paper permit cards. The paper permit cards are being removed because they are not necessary and more timely information is available to the Department for management of the fishery. Currently, the Department issues a separate spiny dogfish landing permit and harvesters are required to complete their card and submit it at the end of the season. Permits are listed on the commercial fishing license so an additional card is not necessary. Also, regulation requires spiny dogfish to be sold to a federally permitted dealer; therefore, landings data are available to managers within one week. Since permit cards are not required to be submitted until the end of the season, the dealer information is more timely.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have a positive impact for commercial harvesters.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency: Removal of paper permit	(E-)	\$1,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	
	Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Catch limits	(+)	Indeterminable
(2) Eligibility requirements	(+)	Indeterminable
(3) Removal of paper permit	NONE	NONE
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. Eliminating paper permits will have no economic impact on spiny dogfish permittees, but will save the Department approximately \$1000. Savings come from the cost of paper, printing, data entry, and staff time.

D(1). Establishing catch limits in three tiers will benefit Atlantic striped bass permit holders because they will be able to catch more spiny dogfish than they could before. The impact is indeterminable because it is unknown how many permit holders will participate. Spiny dogfish permit holders and other licensees may benefit from this action because the limits can be adjusted as the season progresses to ensure that the quota is caught. The actual amount of the impact cannot be determined.

D(2). Changing the requirement from 2 years to 3 years will enable permit holders to have greater business flexibility. Permit holders will have greater flexibility to determine when to fish based on weather conditions, market values and other situations. Failure to meet the harvest eligibility requirement means that the permit will be revoked. The actual impact is not able to be determined.

D(3). Removing the paper permit will not have an economic impact on fishermen, but it will save them time and effort since they will only have to complete their commercial catch log, not two different forms.

Economic Impact on Small Businesses

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

The proposed action may benefit commercial harvesters. Please see Types of Impact for information.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Spiny Dogfish Regulations, Regulatory Staff, Department of Natural Resources Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.com, or fax to 410-260-8310. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.24 Spiny Dogfish.

A.—B. (text unchanged)

C. *Commercial Season and Catch Limits.*

(1) (text unchanged)

[(2) An individual licensed to catch fish for commercial purposes may not catch, possess, or land more than 1,000 pounds of spiny dogfish per vessel per day from the Atlantic Ocean, its coastal bays, and their tributaries unless the individual possesses a Maryland spiny dogfish landing permit.]

(2) *The season for catching spiny dogfish is May 1 through April 30.*

(3) *The commercial catch limits for spiny dogfish shall be established and may be modified through a public notice issued in accordance with §I of this regulation.*

(4) *The public notice establishing the commercial catch limit issued in accordance with §I of this regulation shall state the catch limit in pounds per vessel per day for an individual:*

(a) *Licensed to catch finfish;*

(b) *Licensed to catch finfish and in possession of a Maryland striped bass permit that has been registered in the Atlantic Ocean fishery; and*

(c) *Licensed to catch finfish and in possession of a Maryland spiny dogfish landing permit.*

[(3)] (5) (text unchanged)

[(4)] (6) Regardless of the number of authorized individuals [with Maryland spiny dogfish landing permits] on board any one [federally permitted] vessel, no more than one spiny dogfish vessel [trip] limit may be landed from one vessel per [trip] day.

D. Spiny Dogfish Landing Permit Declaration.

(1)—(3) (text unchanged)

(4) An individual who fails to declare for 2 consecutive years may no longer declare in subsequent years unless the individual receives a permit through [§F] §E(7) or §G of this regulation.

(5) An individual is eligible to declare for a permit to catch and land spiny dogfish in Maryland if they:

(a) Are licensed in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland;

(b) Meet the vessel requirements described in §D(6) of this regulation; and

(c) Meet the following requirements:

(i) The individual provides proof that they owned or had a share of ownership in a vessel that landed at least 1,000 pounds of spiny dogfish between May 1, 2004, and March 8, 2013, and have not previously held a Maryland spiny dogfish landing permit;

(ii) The individual has declared an intent to fish for spiny dogfish in accordance with §D of this regulation within 2 years of the current declaration, not transferred the permit, and owned a vessel that landed a minimum of 15,000 pounds of spiny dogfish within 3 years of the current season; or

(iii) The individual has received a spiny dogfish landing permit in accordance with §E(7) of this regulation or through a transfer in accordance with §G of this regulation within the past 3 seasons.

[(5)] (6) Vessel Requirements.

(a)—(d) (text unchanged)

(e) Any change in vessel ownership shall be reported to the Department [so that a revised permit card may be issued].

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

(8) If an individual is no longer eligible to declare for a spiny dogfish landing permit, the permit shall be deemed relinquished to the Department.

E. Spiny Dogfish Landing Permit.

[(1)] An individual is eligible to declare for a permit to catch and land spiny dogfish in Maryland if they are licensed in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland, and meet the following requirements:

(a) The individual provides proof that they owned or had a share of ownership in a vessel that landed at least 1,000 pounds of spiny dogfish between May 1, 2004, and March 8, 2013, and have not previously held a Maryland spiny dogfish landing permit;

(b) The individual has declared an intent to fish for spiny dogfish in accordance with §D of this regulation within the previous 2-year period and has not transferred the permit;

(c) The individual, beginning March 2015, has declared an intent to fish for spiny dogfish in accordance with §D of this regulation within 2 years of the current declaration, not transferred the permit, and owned a vessel that landed a minimum of 10,000 pounds of spiny dogfish within 2 years of the current declaration periods; or

(d) The individual has received a spiny dogfish landing permit through a transfer in accordance with §F of this regulation within the past license year.]

[(2)] (1) A spiny dogfish landing permit is valid from May 1 [of the year of issuance] through April 30 [of the following year].

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

[(4)] (3) Proof of eligibility for a Maryland spiny dogfish landing permit as required in [§E(1)] §D(5) of this regulation shall be documented by records of the Department or records of the National Marine Fisheries Service.

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

(6) Spiny dogfish landing permits that have been relinquished or revoked may be issued to another individual in accordance with §E(7) of this regulation.

(7) Distribution of Spiny Dogfish Landing Permits that have been Relinquished or Revoked.

(a) If a spiny dogfish landing permit is relinquished or revoked, the Department shall publish a notice on the Fisheries Service website announcing that applications for permits are being accepted.

(b) The public notice shall state the application process.

(c) The Secretary shall make a reasonable effort to disseminate public notice through various other media so that an affected person has reasonable opportunity to be informed.

F. (text unchanged)

G. Permanent Transfer of a Landing Permit.

(1) A commercial tidal fish licensee may permanently transfer a spiny dogfish landing permit if:

(a) The transferor:

(i)—(ii) (text unchanged)

(iii) Harvested a minimum of 20,000 pounds within the previous 4-year period on the same vessel that qualified for the permit under [§E(1)] §D(5) of this regulation; and

(b) (text unchanged)

(2) (text unchanged)

H. Reporting and Penalties.

(1) [In addition to the requirements of] An individual shall record the harvest of spiny dogfish in accordance with Natural Resources Article, §4-206, Annotated Code of Maryland[, an individual in possession of a Maryland spiny dogfish landing permit shall record the harvest of spiny dogfish on the permit daily and submit the completed permit to the Department within 30 days from the end of the spiny dogfish season].

(2) (text unchanged)

(3) In addition to any other penalty, failure to comply with this regulation may result in the suspension of the current permit or the denial of a subsequent [spiny dogfish landing] permit.

(4) (text unchanged)

I. General.

(1) The Secretary may establish or modify catch limits or [open or close a season in State waters by publishing a notice in a daily newspaper of general circulation at least 48 hours in advance, stating the effective hour and date] seasons for spiny dogfish in order to implement the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Spiny Dogfish, by issuing a public notice on the Fisheries Service website.

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

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

(4) The Secretary shall make a reasonable effort to modify catch limits to ensure that the quota is harvested and not exceeded.

(5) A violation of the restrictions set by the Secretary in accordance with §I of this regulation is a violation of this regulation.

[(3)] (6) — [(4)] (7) (text unchanged)

MARK J. BELTON
Secretary of Natural Resources

Subtitle 03 WILDLIFE

08.03.08 Threatened and Endangered Species

Authority: Natural Resources Article, §§4-2A-03, 4-2A-04, 4-2A-05, 10-2A-03, 10-2A-04, and 10-2A-05, Annotated Code of Maryland

Notice of Proposed Action

[16-025-P]

The Secretary of Natural Resources proposes to amend Regulations .01, .04, .07, and .09, repeal existing Regulations .05, .06, and .08, and adopt new Regulations .05, .06, .08, and .15 under **COMAR 08.03.08 Threatened and Endangered Species**.

Statement of Purpose

The purpose of this action is to list 23 new species of animals and plants in need of conservation, or which are endangered, threatened or endangered extirpated, and reclassify 31 species which are currently listed as in need of conservation, threatened, endangered or endangered extirpated, by changing the status of 13 species and removing 18 listed species. Regulations .05, .06, and .08 are proposed to be repealed and replaced due to the large number of plant species common name changes proposed. Regulation .15 is proposed to provide protection for 10 nongame mammal species that are not currently listed as in need of conservation, threatened, or endangered and for one mammal species that is proposed to be delisted.

A proposal to list a species may occur if it is determined that the species meets the criteria for endangered species, threatened species, or species in need of conservation, as stated in Regulation .01 under COMAR 08.03.08. Legal protection may be warranted due to any of the following factors: present or threatened alterations of the species' habitat or range; overutilization; disease or predation; inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence in the State.

Eight crustaceans, one fish, one bird, and two plant species are proposed to be added to the list as endangered. One bird species and one bat species are proposed to be added to the list as threatened. One crustacean and six bird species are proposed to be added to the list as in need of conservation. Increased legal protection for these species is warranted because populations are isolated, limited in number, and may be habitat specific; population declines have been documented; and/or habitat loss threaten the species' continued existence in the State. The completion of field inventories for species known to be rare, some of which have been discovered recently in the state, support the proposed listing of two plant species at this time. Atlantic sturgeon (*Acipenser oxyrinchus*) was recently listed as endangered and a subspecies of the red knot (*Calidris canutus rufa*) and northern long-eared bat (*Myotis septentrionalis*) were recently listed as threatened by the U.S. Fish and Wildlife Service and their state statuses are proposed to conform with the federal list. The Delmarva fox squirrel (*Sciurus niger cinereus*) was recently removed from the federal list of threatened and endangered species. We propose to reclassify this species to in need of conservation.

A change in status may occur if there is an increase in the population of a listed species or additional populations are found in the State for a given species. Conversely, a change in status may also occur if there is a decrease in the population of a listed species or known populations have gone extinct locally.

Recent declines in the State and increased threats support the listing of two in need of conservation bird species as threatened. Survey work confirms that populations of one threatened plant species have declined and that addition to the State's endangered species list is warranted. Intensive field inventories have documented enough new populations for one threatened bird species to be proposed as in need of conservation and for one endangered plant species to be proposed as threatened. One fish species and one bird

species have been found to be more widespread and less habitat restricted than was previously thought and are proposed to be removed from the State's threatened species list. One mammal species is proposed to be removed from the in need of conservation list because it has become more common and widespread in Maryland and surrounding states. Recent survey work confirms that additional populations of five endangered and four threatened plant species are present in the State such that these species no longer warrant endangered or threatened species protection. One endangered plant species is proposed to be removed from the State's endangered list because the reported population has never been substantiated.

Endangered extirpated species are those species that were once a viable component of the flora and fauna of the State but for which no naturally occurring populations were known since 1950. One crustacean species known from a single location is proposed to be listed as endangered extirpated because it has not been relocated after repeated attempts. One bird species is proposed to be listed as endangered extirpated as it has not been documented as breeding in the State for over 90 years and its breeding habitat has been severely reduced. Two endangered bird species are proposed to be listed as endangered extirpated because of habitat loss and range-wide declines. Four endangered plant species are proposed to be listed as endangered extirpated as populations have not been relocated. Upon the discovery of a viable, naturally occurring population or populations of a listed endangered extirpated species, the status of the species is reevaluated. One plant species has been rediscovered in the State at a single location and it is being proposed as endangered. Five plant species are proposed to be removed from the endangered extirpated list due to additional field inventories.

The scientific community has changed the scientific names of one planarian, one butterfly, one fish, one reptile, four bird, two mammal, and twelve plant species. The common names of five mollusk, four crustacean, six insect, two butterfly, one amphibian, six mammal, and 192 plant species have been changed by the scientific community, and these names are proposed to be changed to conform.

Regulation .15 is proposed to provide protection from take for 10 species of nongame mammals by requiring permits to allow take. Permits to allow take are limited to scientific research and educational purposes. Take would also be allowed to address damage to property. Incidental taking permits are not proposed to be required for protected nongame mammals. One species, porcupine, warrants monitoring and some level of protection even though it is proposed to be delisted from in need of conservation status due to recent population increases. Eastern spotted skunk is rare in the region and needs protection from take in Maryland while its conservation status is determined. The remainder of the proposed nongame mammal species are bats, several of which have declined dramatically in recent years due to disease and others that have suffered mortality from regional threats, but population impacts are not yet understood.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The administrative costs to the Department will be neutral. More staff time will be needed to address the species being added to the list, but this increase will be offset by staff time reductions for those species being removed from the list.

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

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

A. The Department of Natural Resources will experience a neutral economic impact since the increase in staff time devoted to those species being added to the list will be balanced by the reduction in staff time devoted to those species being removed from threatened or endangered species protection.

B. State agencies currently review projects for impacts on listed species; therefore, the economic impact of the proposed changes will be insignificant.

C. Local agencies currently review projects for impacts on listed species; therefore, the economic impact of the proposed changes will be insignificant.

D. Some development projects may be modified to mitigate impact to listed species. Adding to or upgrading the species on the list may increase the number of instances when projects are modified to accommodate the listed species. Some development projects that would have required modification for those species being proposed for delisting will not be subject to mitigation once the currently listed species are removed. The magnitude of the economic impact is undeterminable.

E. Some development projects will be modified to mitigate impact to listed species. Adding to or upgrading the species on the list may increase the number of instances when projects are modified to accommodate the listed species. Some development projects that would have required modification for those species being proposed for delisting will not be subject to mitigation once the currently listed species are removed. The magnitude of the economic impact is undeterminable.

F. There will be a long-term, positive, but incalculable benefit to the people of Maryland by protecting the diversity of native species of the State.

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 Gwenda Brewer, Science Program Manager, Wildlife and Heritage Service, Department of Natural Resources, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8558, or email to gwenda.brewer@maryland.gov, or fax to 410-260-8596. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(12) (text unchanged)

(13) "Species" means any species of wildlife or plant and reptiles, amphibians, crustaceans, mollusks, and the following finfish: *Acantharchus pomotis*, *Acipenser brevirostrum*, *Acipenser oxyrinchus*, *Catostomus catostomus*, *Centrarchus macropterus*, *Enneacanthus chaetodon*, *Etheostoma fusiforme*, *Etheostoma sellare*, *Etheostoma vitreum*, [Lampetra] *Lethenteron* appendix, *Luxilus chrysocephalus*, *Margariscus margarita*, [Notropis amoenus.] *Notropis bifrenatus*, *Notropis chalybaeus*, *Noturus flavus*, *Pararhinichthys bowersi*, *Percina* [caprodes] *bimaculata*, *Percina notogramma*, *Percopsis omiscomaycus*, or any part, egg, offspring, or dead body of any of them.

(14)—(16) (text unchanged)

.04 Endangered Species of Wildlife, Reptiles, Amphibians, Mollusks, Crustaceans, and Finfish.

A.—B. (text unchanged)

C. Except for the smaller range which is indicated in §C(7)(e)(d) and (8)(a) of this regulation, the following wildlife, reptile, amphibian, mollusk, crustacean, and finfish species are considered endangered throughout Maryland:

(1) Platyhelminthes:

[(a) Hoffmaster's cave planarian (*Macrocotyla hoffmasteri*);

and]

[(b)](a) A planarian (*Procotyla typhlops*); and

(b) Hoffmaster's cave planarian (*Sphalloplana hoffmasteri*);

(2) (text unchanged)

(3) Crustaceans:

(a) Allegheny spring isopod (*Caecidotea alleghenyensis*);

[(a)](b) (text unchanged)

(c) Holsinger's cave isopod (*Caecidotea holsingeri*);

[(b)](d) Maus' cave isopod (*Caecidotea mausi*);

(e) Vandel's cave isopod (*Caecidotea vandeli*);

[(c)](f) [Dearolf's] Pennsylvania cave [isopod] *crangonyctid* (*Crangonyx dearolfi*);

(g) Friendly cave amphipod (*Stygobromus amicus*);

[(d)](h) (text unchanged)

(i) Cecil groundwater amphipod (*Stygobromus cecilius*);

[(e)](j) (text unchanged)

(k) Feller's groundwater amphipod (*Stygobromus felleri*);

(l) Rappahannock spring amphipod (*Stygobromus foliatus*);

[(f)](m) Shenandoah Valley cave amphipod (*Stygobromus gracilipes*);

[(g)](n) Rock Creek groundwater amphipod (*Stygobromus kenki*); [and]

(o) Prettyboy groundwater amphipod (*Stygobromus paxillus*); and

[(h)](p) [A] Capital Area groundwater amphipod (*Stygobromus sextarius*);

(4) Insects:

(a)—(b) (text unchanged)

(c) [A] Eastern pinebarrens tiger beetle (*Cicindela abdominalis*);

(d) [A] Appalachian tiger beetle (*Cicindela ancocisconensis*);

(e) (text unchanged)

(f) [Little white] Ghost tiger beetle (*Cicindela lepida*);

(g) [Green-patterned] Northern barrens tiger beetle (*Cicindela patruela*);

(h)—(o) (text unchanged)

(p) Eastern sedge barrens [planthopper] leafhopper (*Limotettix minuendus*);

- (q)—(r) (text unchanged)
- (s) Compton tortoiseshell (*Nymphalis [vau-album] vaualbum*);
- (t)—(dd) (text unchanged)
- (5) Finfish:
 - (a) (text unchanged)
 - (b) *Atlantic sturgeon (Acipenser oxyrinchus)*;
 - [(b)](c)—[(f)](g) (text unchanged)
- (6) (text unchanged)
- (7) Reptiles:
 - (a)—(b) (text unchanged)
 - [(c) Northern coal skink (*Eumeces anthracinus*)];
 - [(d)](c)—[(e)](d) (text unchanged)
 - [(f)](e) Kemp's ridley sea turtle (*Lepidochelys kempii*);
- [and]
 - (f) *Northern coal skink (Plestiodon anthracinus)*; and
 - (g) (text unchanged)
- (8) Birds:
 - (a)—(f) (text unchanged)
 - [(g) Olive-sided flycatcher (*Contopus cooperi*)];
 - [(h)](g) (text unchanged)
 - (h) *Mourning warbler (Geothlypis philadelphia)*;
 - (i)—(k) (text unchanged)
 - [(l) Mourning warbler (*Oporornis philadelphia*)];
 - [(m)](l) (text unchanged)
 - (m) *Common tern (Sterna hirundo)*; and
 - (n) *Royal tern (Thalasseus maximus)*; [and]
 - [(o) Bewick's wren (*Thryomanes bewickii*)];
- (9) Mammals:
 - (a)—(b) (text unchanged)
 - (c) [Finback] *Fin whale (Balaenoptera physalus)*;
 - (d) [Black] *North Atlantic right whale (Eubalaena glacialis)*;
 - (e)—(g) (text unchanged)
 - (h) *Indiana [bat] myotis (Myotis sodalis)*;
 - (i) (text unchanged)
 - (j) *Sperm whale (Physeter [macrocephalus] catodon)*; and
 - [(k) Delmarva fox squirrel (*Sciurus niger cinereus*)]; and
 - [(l)](k) (text unchanged)

.05 Endangered Species of Plants.

A. Listing Criteria. The following factors shall be considered for listing a plant species as endangered:

- (1) Whether only a few populations are known in Maryland and they cover only a small portion of land;
- (2) Whether the species is restricted to a minimal geographic area;
- (3) Whether the species has experienced a substantial decline in Maryland, and if the decline continues, the species' extirpation from Maryland is imminent;
- (4) Whether the species' essential habitat has been rapidly lost and that loss is likely to continue;
- (5) Whether the species' biology makes it highly susceptible to changes in its environment; or
- (6) Whether the species' essential habitat is easily altered by even relatively minor activities.

B. Permits. The permit procedures to be followed are set forth in Regulation .03 of this chapter. The following apply:

- (1) Permits shall be issued only for scientific research designed to enhance the recovery of the species or population;
- (2) A person may not:
 - (a) Export, possess, process, sell, offer for sale, deliver, carry, transport, or ship by any means any endangered plant species without a special permit from the Director, the federal government, or another state government;

- (b) Take any endangered plant species from State property except by special permit from the Director; and
- (c) Take any endangered plant species from private property without the written permission of the landowner.

C. The following plant species are considered endangered throughout Maryland unless a smaller range is indicated:

- (1) *Blue monkshood (Aconitum uncinatum)*;
- (2) *Sensitive joint vetch (Aeschynomene virginica)*;
- (3) *Sandplain gerardia (Agalinis acuta)*;
- (4) *Earleaf false foxglove (Agalinis auriculata)*;
- (5) *Thread-leaved gerardia (Agalinis setacea)*;
- (6) *Pale false foxglove (Agalinis skinneriana)*;
- (7) *Woodland agrimony (Agrimonia striata)*;
- (8) *Seabeach amaranth (Amaranthus pumilus)*;
- (9) *Roundleaf shadbush (Amelanchier sanguinea)*;
- (10) *Filmy angelica (Angelica triquinata)*;
- (11) *Vanilla grass (Anthoxanthum hirtum)*;
- (12) *Missouri rock cress (Arabis missouriensis)*;
- (13) *Bristly sarsaparilla (Aralia hispida)*;
- (14) *Bearberry (Arctostaphylos uva-ursi)*;
- (15) *Woolly three-awn (Aristida lanosa)*;
- (16) *Wand-like three-awn grass (Aristida virgata)*;
- (17) *Lake-cress (Armoracia lacustris)*;
- (18) *Leopard's-bane (Arnica acaulis)*;
- (19) *Red milkweed (Asclepias rubra)*;
- (20) *Lobed spleenwort (Asplenium pinnatifidum)*;
- (21) *Black-stem spleenwort (Asplenium resiliens)*;
- (22) *Canadian milkvetch (Astragalus canadensis)*;
- (23) *Small-fruit beggarticks (Bidens mitis)*;
- (24) *Aster-like boltonia (Boltonia asteroides var. glastifolia)*;
- (25) *Broad-glumed brome (Bromus latiglumis)*;
- (26) *Wild calla (Calla palustris)*;
- (27) *Tuberous grass-pink (Calopogon tuberosus)*;
- (28) *Long's bitter cress (Cardamine longii)*;
- (29) *Summer sedge (Carex aestivalis)*;
- (30) *Carey's sedge (Carex careyana)*;
- (31) *Field sedge (Carex conoidea)*;
- (32) *Davis' sedge (Carex davisii)*;
- (33) *Cypress-knee sedge (Carex decomposita)*;
- (34) *Lesser panicled sedge (Carex diandra)*;
- (35) *Ebony sedge (Carex eburnea)*;
- (36) *Coast sedge (Carex exilis)*;
- (37) *Fraser's sedge (Carex fraserianus)*;
- (38) *Southern waxy sedge (Carex glaucescens)*;
- (39) *Cloud sedge (Carex haydenii)*;
- (40) *Hitchcock's sedge (Carex hitchcockiana)*;
- (41) *Porcupine sedge (Carex hystericina)*;
- (42) *Slender sedge (Carex lasiocarpa)*;
- (43) *Mead's sedge (Carex meadii)*;
- (44) *Longstalk sedge (Carex pedunculata)*;
- (45) *Richardson's sedge (Carex richardsonii)*;
- (46) *Short's sedge (Carex shortiana)*;
- (47) *Sea-beach sedge (Carex silicea)*;
- (48) *Slender sedge (Carex tetanica)*;
- (49) *Tuckerman's sedge (Carex tuckermanii)*;
- (50) *Big shellbark hickory (Carya laciniosa)*;
- (51) *Scarlet Indian-paintbrush (Castilleja coccinea)*;
- (52) *Prickly hornwort (Ceratophyllum echinatum)*;
- (53) *Sleepingplant (Chamaecrista fasciculata var. macrosperma)*;
- (54) *Giant-seed goosefoot (Chenopodium simplex)*;
- (55) *Standley's goosefoot (Chenopodium standleyanum)*;
- (56) *Bulb-bearing water-hemlock (Cicuta bulbifera)*;
- (57) *Spreading pogonia (Cleistesopsis divaricata)*;
- (58) *Purple clematis (Clematis occidentalis)*;

- (59) Long-bract green orchis (*Coeloglossum viride*);
 (60) Wrinkled joint grass (*Coelorachis rugosa*);
 (61) Goldthread (*Coptis trifolia*);
 (62) Early coralroot (*Corallorhiza trifida*);
 (63) Spring coralroot (*Corallorhiza wisteriana*);
 (64) Rose coreopsis (*Coreopsis rosea*);
 (65) Tall tickseed (*Coreopsis tripteris*);
 (66) Dwarf dogwood (*Cornus canadensis*);
 (67) Roundleaf dogwood (*Cornus rugosa*);
 (68) Plains frostweed (*Crocanthemum bicknellii*);
 (69) Smartweed dodder (*Cuscuta polygonorum*);
 (70) Beaked dodder (*Cuscuta rostrata*);
 (71) Small white lady's-slipper (*Cypripedium candidum*);
 (72) Tall larkspur (*Delphinium exaltatum*);
 (73) Tufted hair grass (*Deschampsia caespitosa*);
 (74) Stiff tick-trefoil (*Desmodium obtusum*);
 (75) Cream tick-trefoil (*Desmodium ochroleucum*);
 (76) Pineland tick-trefoil (*Desmodium strictum*);
 (77) Woolly witchgrass (*Dicanthelium scabriusculum*);
 (78) Wright's witchgrass (*Dicanthelium wrightianum*);
 (79) Pink sundew (*Drosera capillaris*);
 (80) Mountain woodfern (*Dryopteris campyloptera*);
 (81) Clinton's woodfern (*Dryopteris clintoniana*);
 (82) Upright burhead (*Echinodorus cordifolius*);
 (83) Small waterwort (*Elatine minima*);
 (84) Flat-stem spikerush (*Eleocharis compressa*);
 (85) Horsetail spikerush (*Eleocharis equisetoides*);
 (86) Saltmarsh spikerush (*Eleocharis halophila*);
 (87) Matted spikerush (*Eleocharis intermedia*);
 (88) Black-fruit spikerush (*Eleocharis melanocarpa*);
 (89) Robbins' spikerush (*Eleocharis robbinsii*);
 (90) Three-angle spikerush (*Eleocharis tricostata*);
 (91) Tobaccoweed (*Elephantopus tomentosus*);
 (92) Hairy willowherb (*Epilobium ciliatum*);
 (93) Downy willowherb (*Epilobium strictum*);
 (94) Water horsetail (*Equisetum fluviatile*);
 (95) Woodland horsetail (*Equisetum sylvaticum*);
 (96) Seven-angle pipewort (*Eriocaulon aquaticum*);
 (97) Slender cotton-grass (*Eriophorum gracile*);
 (98) Glade spurge (*Euphorbia purpurea*);
 (99) Bluntleaf spurge (*Euphorbia spathulata*);
 (100) Rough wood-aster (*Eurybia radula*);
 (101) Showy aster (*Eurybia spectabilis*);
 (102) Queen of the prairie (*Filipendula rubra*);
 (103) Harper's fimbriistylis (*Fimbristylis perpusilla*);
 (104) Northern bedstraw (*Galium boreale*);
 (105) Coast bedstraw (*Galium hispidulum*);
 (106) Creeping snowberry (*Gaultheria hispidula*);
 (107) Box huckleberry (*Gaylussacia brachycera*);
 (108) Dwarf huckleberry (*Gaylussacia dumosa*);
 (109) Striped gentian (*Gentiana villosa*);
 (110) Stiff gentian (*Gentianella quinquefolia*);
 (111) Fringed gentian (*Gentianopsis crinita*);
 (112) Yellow avens (*Geum aleppicum*);
 (113) Sharp-scaled manna grass (*Glyceria acutiflora*);
 (114) American manna grass (*Glyceria grandis*);
 (115) Short's hedge hyssop (*Gratiola viscidula*);
 (116) Northern oak fern (*Gymnocarpium dryopteris*);
 (117) Broad-leaved beard grass (*Gymnopogon brevifolius*);
 (118) Smooth sunflower (*Helianthus laevigatus*);
 (119) Small woodland sunflower (*Helianthus microcephalus*);
 (120) Swamp-pink (*Helonias bullata*);
 (121) Virginia heartleaf (*Hexastylis virginica*);
 (122) Seabeach sandwort (*Honckenya peploides*);
 (123) Featherfoil (*Hottonia inflata*);
 (124) Golden-heather (*Hudsonia ericoides*);
 (125) Few-flower tick-trefoil (*Hylodesmum pauciflorum*);
 (126) Creeping St. John's-wort (*Hypericum adpressum*);
 (127) Eastern bloodleaf (*Iresine rhizomatosa*);
 (128) Crested dwarf iris (*Iris cristata*);
 (129) Slender blue flag (*Iris prismatica*);
 (130) Dwarf iris (*Iris verna*);
 (131) New Jersey rush (*Juncus caesariensis*);
 (132) Long's rush (*Juncus longii*);
 (133) Brown-fruit rush (*Juncus pelocarpus*);
 (134) Torrey's rush (*Juncus torreyi*);
 (135) Highland rush (*Juncus trifidus*);
 (136) Carolina redroot (*Lachnanthes carolina*);
 (137) Larch (*Larix laricina*);
 (138) Vetchling peavine (*Lathyrus palustris*);
 (139) Club-head cutgrass (*Leersia hexandra*);
 (140) Catchfly-grass (*Leersia lenticularis*);
 (141) Star duckweed (*Lemna trisulca*);
 (142) Scaly gayfeather (*Liatris squarrosa*);
 (143) American frog's-bit (*Limnobium spongia*);
 (144) Mudwort (*Limosella australis*);
 (145) Grooved yellow flax (*Linum sulcatum*);
 (146) Dwarf bulrush (*Lipocarpus micrantha*);
 (147) Kidneyleaf twayblade (*Listera smallii*);
 (148) American gromwell (*Lithospermum latifolium*);
 (149) Soft-hairy false gromwell (*Lithospermum molle*);
 (150) Virginia false gromwell (*Lithospermum virginianum*);
 (151) Pond spice (*Litsea aestivalis*);
 (152) Canby's lobelia (*Lobelia canbyi*);
 (153) American fly-honeysuckle (*Lonicera canadensis*);
 (154) Cylindric-fruit seedbox (*Ludwigia glandulosa*);
 (155) Hairy ludwigia (*Ludwigia hirtella*);
 (156) Sessile-leaved bugleweed (*Lycopus amplexans*);
 (157) Water loosestrife (*Lysimachia thyrsiflora*);
 (158) Winged-loosestrife (*Lythrum alatum*);
 (159) Starflower Solomon's-plume (*Maianthemum stellatum*);
 (160) Carolina anglepod (*Matelea carolinensis*);
 (161) Climbing milkweed (*Matelea obliqua*);
 (162) Purple mecardonia (*Mecardonia acuminata*);
 (163) Creeping cucumber (*Melothria pendula*);
 (164) Bog buckbean (*Menyanthes trifoliata*);
 (165) Pinebarren sandwort (*Minuartia caroliniana*);
 (166) Appalachian sandwort (*Minuartia glabra*);
 (167) Grove sandwort (*Moehringia lateriflora*);
 (168) Sweet pinesap (*Monotropsis odorata*);
 (169) Evergreen bayberry (*Morella carolinensis*);
 (170) Long-awn hairgrass (*Muhlenbergia capillaris*);
 (171) Torrey's dropseed (*Muhlenbergia torreyana*);
 (172) Slender rattlesnake root (*Nabalus autumnalis*);
 (173) Glade mallow (*Napaea dioica*);
 (174) Big floatingheart (*Nymphoides aquatica*);
 (175) Little floatingheart (*Nymphoides cordata*);
 (176) Sourwood (*Oxydendrum arboreum*);
 (177) Wiry witch grass (*Panicum flexile*);
 (178) Kidneyleaf grass-of-Parnassus (*Parnassia asarifolia*);
 (179) Yellow nailwort (*Paronychia virginica*);
 (180) American feverfew (*Parthenium integrifolium*);
 (181) Horse-tail paspalum (*Paspalum luitans*);
 (182) Canby's mountain-lover (*Paxistima canbyi*);
 (183) Swamp lousewort (*Pedicularis lanceolata*);
 (184) Smooth cliffbrake (*Pellaea glabella*);
 (185) Red bay (*Persea palustris*);
 (186) Buttercup scorpionweed (*Phacelia covillei*);
 (187) Smooth phlox (*Phlox glaberrima*);
 (188) Downy phlox (*Phlox pilosa*);

- (189) Marsh fleabane (*Pluchea camphorata*);
- (190) Drooping bluegrass (*Poa saltuensis*);
- (191) Common clammyweed (*Polanisia dodecandra*);
- (192) Seabeach knotweed (*Polygonum glaucum*);
- (193) Leafy pondweed (*Potamogeton foliosus*);
- (194) Flatstem pondweed (*Potamogeton zosteriformis*);
- (195) Beach plum (*Prunus maritima*);
- (196) Carolina clubmoss (*Pseudolycopodiella caroliniana*);
- (197) Harperella (*Ptilimnium nodosum*);
- (198) Torrey's mountainmint (*Pycnanthemum torreyi*);
- (199) Whorled mountainmint (*Pycnanthemum verticillatum*);
- (200) Early buttercup (*Ranunculus fascicularis*);
- (201) Yellow water crowfoot (*Ranunculus flabellaris*);
- (202) Long-stalked crowfoot (*Ranunculus hederaceus*);
- (203) Northeastern white water crowfoot (*Ranunculus trichophyllus*);
- (204) Capitata beakrush (*Rhynchospora cephalantha*);
- (205) Globe beaksedge (*Rhynchospora globularis*);
- (206) Harper beakrush (*Rhynchospora harperi*);
- (207) Drowned hornedrush (*Rhynchospora inundata*);
- (208) Short-beaked baldrush (*Rhynchospora nitens*);
- (209) Smooth rose (*Rosa blanda*);
- (210) Hairy wild petunia (*Ruellia humilis*);
- (211) Pursh's wild petunia (*Ruellia purshiana*);
- (212) Tall dock (*Rumex altissimus*);
- (213) Slender marsh pink (*Sabatia campanulata*);
- (214) Two-formed pink (*Sabatia difformis*);
- (215) Slender plumegrass (*Saccharum baldwinii*);
- (216) Gibbous panic-grass (*Sacciolepis striata*);
- (217) Sessile-fruit arrowhead (*Sagittaria rigida*);
- (218) Narrowleaf willow (*Salix exigua*);
- (219) Blunt-lobe grapefern (*Sceptridium oneidense*);
- (220) Purple oat (*Schizachne purpurascens*);
- (221) Water bulrush (*Schoenoplectus subterminalis*);
- (222) Northeastern bulrush (*Scirpus ancistrochaetus*);
- (223) Slender nutrush (*Scleria minor*);
- (224) Shining nutrush (*Scleria nitida*);
- (225) Low nutrush (*Scleria verticillata*);
- (226) Veined skullcap (*Scutellaria nervosa*);
- (227) Rock skullcap (*Scutellaria saxatilis*);
- (228) Sweet-scented Indian-plantain (*Senecio suaveolens*);
- (229) Puerto Rico sea-purslane (*Sesuvium maritimum*);
- (230) Virginia mallow (*Sida hermaphrodita*);
- (231) Snowy campion (*Silene nivea*);
- (232) Sandyland blue-eyed grass (*Sisyrinchium arenicola*);
- (233) Roan Mountain goldenrod (*Solidago roanensis*);
- (234) Long-bristle Indiangrass (*Sorghastrum elliotii*);
- (235) Smooth false buttonweed (*Spermacoce glabra*);
- (236) Shining ladies'-tresses (*Spiranthes lucida*);
- (237) Yellow nodding ladies'-tresses (*Spiranthes ochroleuca*);
- (238) Northern dropseed (*Sporobolus heterolepis*);
- (239) Gritty hedge-nettle (*Stachys aspera*);
- (240) Trailing stitchwort (*Stellaria alsine*);
- (241) Death-camus (*Stenanthium leimanthoides*);
- (242) Eastern silvery aster (*Symphotrichum concolor*);
- (243) Serpentine aster (*Symphotrichum depauperatum*);
- (244) Spiked hoary-pea (*Tephrosia spicata*);
- (245) Purple meadow parsnip (*Thaspium trifoliatum*);
- (246) Climbing dogbane (*Thrysanthella difformis*);
- (247) Canby's dropwort (*Tiedmannia canbyi*);
- (248) Three-ribbed arrow grass (*Triglochin striata*);
- (249) Nodding trillium (*Trillium flexipes*);
- (250) Snow trillium (*Trillium nivale*);
- (251) Yellowleaf tinker's-weed (*Triosteum angustifolium*);
- (252) Nodding pogonia (*Triphora trianthophora*);

- (253) Swollen bladderwort (*Utricularia inflata*);
- (254) Northeastern bladderwort (*Utricularia resupinata*);
- (255) Fibrous bladderwort (*Utricularia striata*);
- (256) Valerian (*Valeriana pauciflora*);
- (257) Goose-foot corn-salad (*Valerianella chenopodiifolia*);
- (258) Broadleaf bunchflower (*Veratrum hybridum*);
- (259) Marsh-speedwell (*Veronica scutellata*);
- (260) Fringed yellow-eyed-grass (*Xyris fimbriata*);
- (261) Small's yellow-eyed-grass (*Xyris smalliana*);
- (262) Northern prickly ash (*Zanthoxylum americanum*);
- (263) Atamasco lily (*Zephyranthes atamasca*); and
- (264) Southern wild rice (*Zizaniopsis miliacea*).

.06 Endangered Extirpated Species.

A. Listing Criteria. The following factors shall be considered for listing a species as endangered extirpated:

(1) The species was once a viable component of the State's flora and fauna and there are no records of it naturally occurring in Maryland after 1950; or

(2) The species was once a viable component of the State's flora and fauna and recent scientific investigations have documented the loss of its habitat or disappearance of its population in Maryland.

B. Permits. Upon the discovery of a viable, naturally occurring population of any species in §§C—J of this regulation, that species shall be considered an endangered species and shall require the permits and conditions afforded to that status.

C. The following plant species are considered endangered extirpated throughout Maryland:

- (1) Ten-lobe false foxglove (*Agalinis obtusifolia*);
- (2) Golden colicroot (*Aletris aurea*);
- (3) Chaffweed (*Anagallis minima*);
- (4) Canada anemone (*Anemone canadensis*);
- (5) Great angelica (*Angelica atropurpurea*);
- (6) Swamp-pink (*Arethusa bulbosa*);
- (7) Great Indian-plantain (*Arnoglossum reniforme*);
- (8) Bradley's spleenwort (*Asplenium bradleyi*);
- (9) Tropical water-hyssop (*Bacopa innominata*);
- (10) American barberry (*Berberis canadensis*);
- (11) Sea oxeye (*Borrichia frutescens*);
- (12) Lanceleaf grapefern (*Botrychium lanceolatum* var. *angustisegmentum*);
- (13) Least grapefern (*Botrychium simplex*);
- (14) Wild chess (*Bromus kalmii*);
- (15) Bluehearts (*Buchnera americana*);
- (16) French mulberry (*Callicarpa americana*);
- (17) Southern harebell (*Campanula divaricata*);
- (18) Variable sedge (*Carex polymorpha*);
- (19) Slender sedge (*Carex tenera*);
- (20) Curlyheads (*Clematis ochroleuca*);
- (21) Water pygmyweed (*Crassula aquatica*);
- (22) Hazel dodder (*Cuscuta coryli*);
- (23) Toothed sedge (*Cyperus dentatus*);
- (24) Plukenet's sedge (*Cyperus plukenetii*);
- (25) Showy lady's-slipper (*Cypripedium reginae*);
- (26) Trailing tick-trefoil (*Desmodium humifusum*);
- (27) Lined tick-trefoil (*Desmodium lineatum*);
- (28) Sessileleaf tick-trefoil (*Desmodium sessilifolium*);
- (29) Northern witchgrass (*Dicanthelium boreale*);
- (30) Shaggy crabgrass (*Digitaria villosa*);
- (31) Rattlesnake-master (*Eryngium yuccifolium*);
- (32) Spotted joe-pyeweed (*Eutrochium maculatum*);
- (33) Downy gentian (*Gentiana puberulenta*);
- (34) Dwarf rattlesnake-plantain (*Goodyera repens*);
- (35) Checkered rattlesnake-plantain (*Goodyera tessellata*);
- (36) Branched hedge-hyssop (*Gratiola ramosa*);

- (37) Nuttall's micranthemum (*Hemianthus micranthemoides*);
- (38) Hairy alumroot (*Heuchera villosa*);
- (39) Crested coralroot (*Hexalectris spicata*);
- (40) Great St. John's-wort (*Hypericum ascyron*);
- (41) Drummond's St. John's-wort (*Hypericum drummondii*);
- (42) Small whorled pogonia (*Isotria medeoloides*);
- (43) Baltic rush (*Juncus balticus*);
- (44) Small-head rush (*Juncus brachycephalus*);
- (45) Bayonet rush (*Juncus militaris*);
- (46) Ground juniper (*Juniperus communis*);
- (47) Hairy lettuce (*Lactuca hirsuta*);
- (48) Slender pinweed (*Lechea tenuifolia*);
- (49) Turgid gayfeather (*Liatris helleri*);
- (50) Nondo lovage (*Ligusticum canadense*);
- (51) Wood lily (*Lilium philadelphicum*);
- (52) Twinflower (*Linnaea borealis*);
- (53) Florida yellow flax (*Linum floridanum*);
- (54) Heartleaf twayblade (*Listera cordata*);
- (55) Sea milkwort (*Lysimachia maritima*);
- (56) Large-flowered Barbara's-buttons (*Marshallia grandiflora*);
- (57) Old-field milkvine (*Matelea decipiens*);
- (58) Slender water milfoil (*Myriophyllum tenellum*);
- (59) Thread-like naiad (*Najas gracillima*);
- (60) One-side wintergreen (*Orthilia secunda*);
- (61) Stout smartweed (*Persicaria robustior*);
- (62) May grass (*Phalaris caroliniana*);
- (63) Mountain phlox (*Phlox ovata*);
- (64) Heartleaf plantain (*Plantago cordata*);
- (65) Dwarf plantain (*Plantago pusilla*);
- (66) Small purple-fringe orchis (*Platanthera psychodes*);
- (67) Bushy knotweed (*Polygonum ramosissimum*);
- (68) American ipecac (*Porteranthus stipulatus*);
- (69) Richardson's pondweed (*Potamogeton richardsonii*);
- (70) Flatleaf pondweed (*Potamogeton robbinsii*);
- (71) Southern mountainmint (*Pycnanthemum pycnanthemoides*);
- (72) Green-flower wintergreen (*Pyrola chlorantha*);
- (73) Water-plantain spearwort (*Ranunculus ambigenus*);
- (74) Carolina buttercup (*Ranunculus carolinianus*);
- (75) Bristly crowfoot (*Ranunculus pensylvanicus*);
- (76) Few-flowered beakrush (*Rhynchospora oligantha*);
- (77) Pale beakrush (*Rhynchospora pallida*);
- (78) Few-flowered beakrush (*Rhynchospora rariflora*);
- (79) Wild black currant (*Ribes americanum*);
- (80) Bebb's willow (*Salix bebbiana*);
- (81) Shining willow (*Salix lucida*);
- (82) Nettleleaf sage (*Salvia urticifolia*);
- (83) Leathery grapefern (*Sceptridium multifidum*);
- (84) Canby's bulrush (*Schoenoplectus etuberculatus*);
- (85) Smith's bulrush (*Schoenoplectus smithii*);
- (86) Chaffseed (*Schwalbea americana*);
- (87) Small skullcap (*Scutellaria parvula*);
- (88) Prairie goldenrod (*Solidago rigida*);
- (89) Rock goldenrod (*Solidago rupestris*);
- (90) Sweetscent ladies'-tresses (*Spiranthes odorata*);
- (91) Smooth blue aster (*Symphotrichum laeve* var. *concinnum*);
- (92) Coastal false asphodel (*Triantha racemosa*);
- (93) Buffalo clover (*Trifolium reflexum*);
- (94) Navel-shape corn-salad (*Valerianella umbilicata*);
- (95) American purple vetch (*Vicia americana*);
- (96) New England grape (*Vitis novae-angliae*); and
- (97) Sword bogmat (*Wolffiella gladiata*).

D. The following mollusk species is considered endangered extirpated throughout Maryland: Maryland glyph (*Glyphyalinia raderi*).

E. The following crustacean species is considered endangered extirpated throughout Maryland: Norden's groundwater amphipod (*Caecidotea nordeni*).

F. The following insect species are considered endangered extirpated throughout Maryland:

- (1) Golden banded-skipper (*Autochton cellus*);
- (2) Hessel's hairstreak (*Callophrys hesseli*);
- (3) Dusky azure (*Celestrina nigra*);
- (4) Piedmont clubtail (*Gomphus parvidens*);
- (5) Skillet clubtail (*Gomphus ventricosus*);
- (6) American burying beetle (*Nicrophorus americanus*);
- (7) Tawny crescent spot (*Phyciodes batesii*);
- (8) Regal fritillary (*Speyeria idalia*); and
- (9) Riverine clubtail (*Stylurus amnicola*).

G. The following finfish species are considered endangered extirpated throughout Maryland:

- (1) Longnose sucker (*Catostomus catostomus*);
- (2) Bridle shiner (*Notropis bifrenatus*);
- (3) Cheat minnow (*Parahrinichthys bowersi*); and
- (4) Trout-perch (*Percopsis omiscomaycus*).

H. The following amphibian species is considered endangered extirpated throughout Maryland: Common mudpuppy (*Necturus maculosus*).

I. The following bird species are considered endangered extirpated throughout Maryland:

- (1) Ivory-billed woodpecker (*Campephilus principalis*);
- (2) Swainson's thrush (*Catharus ustulatus*);
- (3) Lark sparrow (*Chondestes grammacus*);
- (4) Olive-sided flycatcher (*Contopus cooperi*);
- (5) Eskimo curlew (*Numenius borealis*);
- (6) Bachman's sparrow (*Peucaea aestivalis*);
- (7) Red-cockaded woodpecker (*Picoides borealis*);
- (8) Roseate tern (*Sterna dougallii*);
- (9) Appalachian Bewick's wren (*Thryomanes bewickii altus*);
- and
- (10) Greater prairie chicken (*Tympanuchus cupido*).

J. The following mammal species are considered endangered extirpated throughout Maryland:

- (1) Gray wolf (*Canis lupus*);
- (2) Elk (*Cervus elaphus*);
- (3) Eastern cougar (*Puma concolor cougar*);
- (4) Snowshoe hare (*Lepus americanus*);
- (5) American marten (*Martes americana*); and
- (6) Eastern harvest mouse (*Reithrodontomys humulis*).

.07 Threatened Species of Wildlife, Reptiles, Amphibians, Mollusks, Crustaceans, and Finfish.

A.—B. (text unchanged)

C. The following species are considered to be threatened throughout Maryland unless a smaller range is indicated:

- (1) Insects:
 - (a)—(d) (text unchanged)
 - (e) Selys' [sunfly] *sundragon* (*Helocordulia selysii*);
 - (f)—(g) (text unchanged)
- (2) Finfish:
 - (a)—(b) (text unchanged)
 - (c) American brook lamprey ([*Lampetra*] *Lethenteron* appendix);
 - (d) Pearl dace (*Margariscus margarita*); and
 - (e) [Comely shiner (*Notropis amoenus*); and] *Chesapeake logperch* (*Percina bimaculata*);
 - [f] Logperch (*Percina caprodes*);]

- (3) (text unchanged)
- (4) Birds:
 - [a] Henslow's sparrow (*Ammodramus henslowii*);
 - (b) Blackburnian warbler (*Dendroica fusca*); and
 - (a) American bittern (*Botaurus lentiginosus*);
 - (b) Nashville warbler (*Oreothlypis ruficapilla*); and
 - (c) (text unchanged)
- (5) Mammals: Northern long-eared bat (*Myotis septentrionalis*).

.08 Threatened Species of Plants.

A. Listing Criteria. The following factors shall be considered for listing a plant species as threatened:

- (1) Whether the species has experienced a substantial decline in Maryland, and if the decline continues, the species is likely to become endangered;
- (2) Whether there has been a steady widespread loss of the species' essential habitat; or
- (3) Whether the species has been listed as endangered but it has been shown that protection measures taken have significantly reduced the chances of the species becoming extirpated from Maryland.

B. Permits. The permit procedures to be followed are set forth in Regulation .03 of this chapter. The following apply:

- (1) Permits shall be issued only for scientific research designed to enhance the recovery of the species or population;
- (2) A person may not:
 - (a) Export, possess, process, sell, offer for sale, deliver, carry, transport, or ship by any means any threatened plant species except by a special permit from the Director;
 - (b) Take any threatened plant species from State property except by special permit from the Director; or
 - (c) Take any threatened plant species from private property without the written permission of the landowner.

C. The following plant species are considered threatened throughout Maryland unless a smaller range is indicated:

- (1) Climbing fumitory (*Adlumia fungosa*);
- (2) Purple giant-hyssop (*Agastache scrophulariifolia*);
- (3) Running serviceberry (*Amelanchier humilis*);
- (4) Nantucket shadbush (*Amelanchier nantucketensis*);
- (5) Single-head pussytoes (*Antennaria solitaria*);
- (6) Ozark milkvetch (*Astragalus distortus*);
- (7) Wild false indigo (*Baptisia australis*);
- (8) Buxbaum's sedge (*Carex buxbaumii*);
- (9) Inflated sedge (*Carex vesicaria*);
- (10) Velvety sedge (*Carex vestita*);
- (11) Leatherleaf (*Chamaedaphne calyculata*);
- (12) Red turtlehead (*Chelone obliqua*);
- (13) Clinton lily (*Clintonia borealis*);
- (14) Wild bleedinghearts (*Dicentra eximia*);
- (15) Eastern leatherwood (*Dirca palustris*);
- (16) Parker's pipewort (*Eriocaulon parkeri*);
- (17) White trout-lily (*Erythronium albidum*);
- (18) White-bract thoroughwort (*Eupatorium leucolepis*);
- (19) Fringe-top bottle gentian (*Gentiana andrewsii*);
- (20) McDowell's sunflower (*Helianthus occidentalis*);
- (21) Glade fern (*Homaliosorus pycnocarpus*);
- (22) Goldenseal (*Hydrastis canadensis*);
- (23) Largeleaf waterleaf (*Hydrophyllum macrophyllum*);
- (24) Coppery St. John's-wort (*Hypericum denticulatum*);
- (25) Pipe vine (*Isotrema macrophyllum*);
- (26) Sandplain flax (*Linum intercursum*);
- (27) Sundial lupine (*Lupinus perennis*);
- (28) Climbing fern (*Lygodium palmatum*);
- (29) Lance-leaf loosestrife (*Lysimachia hybrida*);

- (30) Three-flower melicgrass (*Melica nitens*);
- (31) Michaux's stitchwort (*Minuartia michauxii*);
- (32) White-grained mountain-ricegrass (*Oryzopsis asperifolia*);
- (33) Walter's paspalum (*Paspalum dissectum*);
- (34) Roundleaf fameflower (*Phemeranthus teretifolius*);
- (35) Black-fruit mountain-ricegrass (*Piptatherum racemosum*);
- (36) White-fringe orchis (*Platanthera blephariglottis*);
- (37) Yellow-fringe orchid (*Platanthera ciliaris*);
- (38) Large purple-fringe orchis (*Platanthera grandiflora*);
- (39) Purple fringeless orchid (*Platanthera peramoena*);
- (40) Bog Jacob's-ladder (*Polemonium vanbruntiae*);
- (41) Crossleaf milkwort (*Polygala cruciata*);
- (42) Racemed milkwort (*Polygala polygama*);
- (43) Seneca snakeroot (*Polygala senega*);
- (44) Allegheny plum (*Prunus alleghaniensis*);
- (45) Shumard oak (*Quercus shumardii*);
- (46) Hairy snoutbean (*Rhynchosia tomentosa*);
- (47) Long-beaked bald rush (*Rhynchospora scirpoides*);
- (48) Torrey's beakrush (*Rhynchospora torreyana*);
- (49) Engelmann's arrowhead (*Sagittaria engelmanniana*);
- (50) Canada burnet (*Sanguisorba canadensis*);
- (51) Northern pitcherplant (*Sarracenia purpurea*);
- (52) One-flower sclerolepis (*Sclerolepis uniflora*);
- (53) Shale barren skullcap (*Scutellaria leonardii*);
- (54) Cliff stonecrop (*Sedum glaucophyllum*);
- (55) Long-stalk greenbrier (*Smilax pseudochina*);
- (56) Lake Ontario goldenrod (*Solidago racemosa*);
- (57) Showy goldenrod (*Solidago speciosa*);
- (58) Swamp wedgescale (*Sphenopholis pensylvanica*);
- (59) Eastern featherbells (*Stenanthium gramineum*);
- (60) Rosy twisted-stalk (*Streptopus lanceolatus*);
- (61) Snowberry (*Symphoricarpos albus*);
- (62) Mountain parsley (*Taenidia montana*);
- (63) Canadian yew (*Taxus canadensis*);
- (64) Bog fern (*Thelypteris simulata*);
- (65) Northern white cedar (*Thuja occidentalis*);
- (66) Kate's Mountain clover (*Trifolium virginicum*);
- (67) Virginia least trillium (*Trillium pusillum var. virginianum*);
- (68) Purple bladderwort (*Utricularia purpurea*);
- (69) Small cranberry (*Vaccinium oxycoccos*); and
- (70) Rusty woodsia (*Woodsia ilvensis*).

.09 Species in Need of Conservation.

A.—B. (text unchanged)

C. The following species are considered to be in need of conservation throughout Maryland unless a smaller range is indicated:

- (1) Mollusks:
 - (a) (text unchanged)
 - (b) [Cherrydrop snail] *Cherrystone drop* (*Hendersonia occulta*); and
 - (c) [Squawfoot] *Creep* (*Strophitus undulatus*);
- (2) Crustaceans:
 - (a) *Acuminate crayfish* (*Cambarus acuminatus*);
 - [a])(b)—[(b)](c) (text unchanged)
- (3) Insects:
 - (a)—(f) (text unchanged)
- (4)—(6) (text unchanged)
- (7) Birds:
 - [a] American bittern (*Botaurus lentiginosus*);
 - (a) Saltmarsh sparrow (*Ammodramus caudacutus*);
 - (b) Henslow's sparrow (*Ammodramus henslowii*);
 - (c) Northern harrier (*Circus cyaneus*);
 - [(b)](d)—[(c)](e) (text unchanged)

- [(d)](f) Common [moorhen] *gallinule* (*Gallinula [chloropus] galeata*);
- [(e)](g) (text unchanged)
- [(f)](h) Coastal Plain swamp sparrow (*Melospiza georgiana nigrescens*); [and]
- [(g) Nashville warbler (*Vermivora ruficapilla*);
- (i) Northern waterthrush (*Parkesia noveboracensis*);
- (j) Forster's tern (*Sterna forsteri*);
- (k) Barn owl (*Tyto alba*); and
- (l) Golden-winged warbler (*Vermivora chrysoptera*);
- (8) Mammals:
 - [(a) Porcupine (*Erethizon dorsatum*);]
 - [(b)](a)—[(c)](b) (text unchanged)
 - (c) *Delmarva fox squirrel* (*Sciurus niger cinereus*);
 - (d)—(f) (text unchanged)

.15 Protected Nongame Mammals.

A. A person may not take, export, possess, process, sell, offer for sale, deliver, carry, transport, or ship by any means, except by special permit issued by the Department, nongame mammals listed in §C of this regulation.

B. Permits.

(1) Permits to take protected nongame mammals may only be issued for:

- (a) Scientific research;
- (b) Educational purposes designed to further public awareness regarding the species;
- (c) Protection of human health and safety; or
- (d) To address damage to property.

(2) Incidental taking permits are not required for protected nongame mammals.

C. The following species are considered to be protected nongame mammals:

- (1) Little brown myotis (*Myotis lucifugus*);
- (2) Silver-haired bat (*Lasionycteris noctivagans*);
- (3) Tricolored bat (*Perimyotis subflavus*);
- (4) Big brown bat (*Eptesicus fuscus*);
- (5) Eastern red bat (*Lasiurus borealis*);
- (6) Hoary bat (*Lasiurus cinereus*);
- (7) Evening bat (*Nycticeius humeralis*);
- (8) Seminole bat (*Lasiurus seminolus*);
- (9) North American porcupine (*Erethizon dorsata*); and
- (10) Eastern spotted skunk (*Spilogale putorius*).

MARK J. BELTON
Secretary of Natural Resources

Subtitle 04 BOATING

08.04.01 Definitions

Authority: Natural Resources Article, §§8-704(c) and 8-712, Annotated Code of Maryland

Notice of Proposed Action

[16-035-P]

The Secretary of the Maryland Department of Natural Resources proposes to amend Regulation .01 under COMAR 08.04.01

Definitions.

Statement of Purpose

The purpose of this action is to correct technical errors in existing definitions and to add definitions for clarity and consistency for the controlled water ski, public bathing beaches and swimming areas and the designated rowing areas.

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 Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue, Boating Services E-4, Annapolis, MD 21401, or call 410-260-8013, or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (2) (text unchanged)

[(3) “Boat speed” means speed through the water.

(4) “Certificate” means any certificate of number.

(5) “Certificate of title” means that certificate issued upon satisfactory proof of ownership made by an applicant to the Department.

(6) “Channel” means that portion or portions of tidal waters which are either designated as a channel by navigational aids or which are the deeper part of a water body where the main current flows and which afford the best passage for vessels.

(7) “Dealer” means any person who engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels, or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yacht broker is a dealer.

(8) “Department” means Department of Natural Resources.

(9) “Group moorings” means the mooring by a person of three or more vessels.

(10) “Individual moorings” means the mooring by a person of not more than two vessels.

(11) “Immediate family” means spouse, son, daughter, mother, father, sister, brother, grandmother, grandfather, son-in-law, father-in-law, mother-in-law, daughter-in-law, grandson, granddaughter, stepfather, stepmother, halfbrother, halfsister, stepson, or stepdaughter. The term includes persons so related by virtue of adoption.

(12) “Issuing authority” means either a state that has a U.S. Coast Guard approved numbering system or the Coast Guard where a number system has not been approved.

(13) “Manufacturer” means any person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.

(14) “Mooring” means a buoy, piling, stake, or other apparatus used to secure, berth, or moor vessels in the waters of the State. It does not include fixed piers connected to the shore or accessory structures directly related thereto that are subject to separate State approval procedures.

(15) “Motorboat” means any vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.

(16) “Operate” means to navigate or otherwise use a motor boat or vessel.

(17) "Operator" means the person who operates or has charge of the navigation of a vessel.

(18) "Owner" means a person, other than a lien holder, having property in or title to a vessel. The term includes a person entitled to use or possess a vessel subject to an interest in another person, reserved, or created by agreement and securing payment of performance of an obligation, but it does not include a lessee under a lease not intended as security.

(19) "Person" includes:

(a) The State, any county, municipal corporation, or other political subdivision of the State, or any of their units;

(b) An individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or

(c) Any partnership, firm, association, public or private corporation, or any other entity.

(20) "Public access point" means waterfront property open to the public to gain access to tidal waters.

(21) Purchase Price.

(a) "Purchase price" means, for vessels sold by manufacturers, brokers, or dealers, the certified gross purchase price of the vessel and its equipment in the case of sales of new vessels and the resale of used vessels.

(b) "Purchase price" means, for all other transactions, the total purchase price if verified by means of a certified bill of sale approved by the Department, or that valuation shown in a national publication of used vessels adopted for use by the Department, with the Department having discretionary power in determining the valuation.

(22) "Riparian property owner" means a person possessing riparian rights, specifically including the right to gain access to tidal water.

(23) "Sale" is defined pursuant to §§2-106(1) and 2-401(20) of the Uniform Commercial Code as amended.

(24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(25) "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year.

(26) "Tidal waters" means those waters of the State affected by the ebb and flow of the tide.

(27) "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water.

(28) "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are regarded as watercraft. The term includes the vessel's motor, spars, sails, and accessories.

(29) "Vessel number" means the USCG documentation number or the number issued by a state numbering system.

(30) "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.

(31) "Week" means any 7 consecutive days.]

(3) "Army Corps Permit for Controlled Water Ski Course" is a legal document issued by the US Army Corp of Engineers permitting the applicant to place anchors or similar devices on the bottom of State waters. The permit may contain specific requirements that shall be followed.

(4) "Artificial ballast" means auxiliary or portable tanks or weights which distribute the weight in a vessel causing it to produce a large wake at slow speeds for the purpose of wake surfing.

(5) "Boat speed" means speed through the water.

(6) "Certificate" means any certificate of number.

(7) "Certificate of title" means that certificate issued upon satisfactory proof of ownership made by an applicant to the Department.

(8) "Channel" means that portion or portions of tidal waters which are either designated as a channel by navigational aids or which are the deeper part of a water body where the main current flows and which afford the best passage for vessels.

(9) "Coach boat" means a vessel that accompanies a racing shell or racing scull that trains an individual crew and carries appropriate safety rescue equipment for the racing shell or racing scull.

(10) "Controlled ski area". means an area marked by the Department which encompasses a slalom ski course which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended, and is designed, constructed and intended for controlled water ski practices.

(11) "Dealer" means any person who engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels, or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yacht broker is a dealer.

(12) "Department" means the Department of Natural Resources.

(13) "Designated rowing area" means an area which is designated by the Department for rowing activities by individuals in rowing shells or similar devices.

(14) "DNR Controlled Water Ski Sticker" is a sticker issued by the Department to a Water Ski Vessel and shall remain on the vessel unless the vessel is sold or modified.

(15) "Group moorings" means the mooring by a person of three or more vessels.

(16) "Immediate family" means spouse, son, daughter, mother, father, sister, brother, grandmother, grandfather, son-in-law, father-in-law, mother-in-law, daughter-in-law, grandson, granddaughter, stepfather, stepmother, halfbrother, halfsister, stepson, or stepdaughter. The term includes persons so related by virtue of adoption.

(17) "Individual moorings" means the mooring by a person of not more than two vessels.

(18) "Issuing authority" means either a state that has a U.S. Coast Guard approved numbering system or the Coast Guard where a number system has not been approved.

(19) "Manufacturer" means any person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.

(20) "Modified" means a change to a vessel with a DNR Controlled Water Ski sticker by any of the following means: adding more than 750 pounds of ballast by any means that causes the vessel to create a wake that exceeds 6 inches, measured at a point on the closest shore; removal of the towing pylon, swim platform, rear facing seat, or mirror; or modifying the vessel from its overall original manufactured dimensions so that it is no longer capable of maneuvering the established course without damaging the required markers.

(21) "Mooring" means a buoy, piling, stake, or other apparatus used to secure, berth, or moor vessels in the waters of the State. It does not include fixed piers connected to the shore or accessory structures directly related thereto that are subject to separate State approval procedures.

(22) "Motorboat" means any vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.

(23) "Operate" means to navigate or otherwise use a motorboat or vessel.

(24) "Operator" means the person who operates or has charge of the navigation of a vessel.

(25) "Owner" means a person, other than a lien holder, having property in or title to a vessel. The term includes a person entitled to use or possess a vessel subject to an interest in another person, reserved, or created by agreement and securing payment of performance of an obligation, but it does not include a lessee under a lease not intended as security.

(26) "Person" includes:

(a) The federal government, State, any county, municipal corporation, or other political subdivision of the State, or any of their units;

(b) An individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or

(c) A partnership, firm, association, public or private corporation, or any other entity.

(27) "Public access point" means waterfront property open to the public to gain access to tidal waters.

(28) "Public bathing beaches" means areas recognized by the Maryland Department of the Environment (MDE) as defined in COMAR 26.08.09.

(29) Purchase Price.

(a) "Purchase price" means, for vessels sold by manufacturers, brokers, or dealers, the certified gross purchase price of the vessel and its equipment in the case of sales of new vessels and the resale of used vessels.

(b) "Purchase price" means, for all other transactions, the total purchase price if verified by means of a certified bill of sale approved by the Department, or that valuation shown in a national publication of used vessels adopted for use by the Department, with the Department having discretionary power in determining the valuation.

(30) "Racing shell" is a manually propelled vessel that is solely for competitive racing recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, (if one is present). It is not designed to carry and does not carry any equipment, including safety equipment, which is not used for racing.

(31) "Racing scull" is a manually propelled vessel that is solely for competitive racing recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, (if one is present). It is not designed to carry and does not carry any equipment, including safety equipment, which is not used for racing.

(32) "Riparian property owner" means a person possessing riparian rights, specifically including the right to gain access to tidal water.

(33) "Sale" is defined pursuant to §§2-106(1) and 2-401(20) of the Uniform Commercial Code as amended.

(34) "Ski jump course" means an area which includes a water ski jump ramp. The water ski jump ramp should be a minimum distance from shore of 125 feet, the minimum width of the body of water at the jump is 275 feet. The jump course includes boat guides and 150 m, 180 m, and 210 m buoys is approximately 920 feet long. Approximately 2,000 feet is the minimum straight distance needed for the jump course and ride out area. The jump course begins with the 180 meter cut out buoy and ends with the 100 meter end course.

(35) "Slalom ski course" means an area approximately 850 feet in length by 75 feet in width, marked by inflated balls or bladders secured to anchors using flexible hose for the top 3 feet of connection, containing a maximum of 26 balls or bladders, and which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended, and is designed, constructed and intended for controlled water ski practices.

(36) Speed Limits:

(a) "Restricted 6 knots (6.9MPH)" means a person may not operate or give permission to operate a vessel more than 17 feet in length:

(i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or

(ii) To cause an objectionable or excessive wake.

(b) "6 knots (6.9 MPH)" means a person may not operate or give permission to operate a vessel: (i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or (ii) To tow an individual on a ski, aquaplane, or similar device.

(c) "20 knots (23 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 20 knots (23 statute miles per hour or 42.6 kilometers per hour).

(d) "26 knots (30 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 26 knots (30 statute miles per hour or 55.6 kilometers per hour).

(e) "35 knots (40.25 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 35 knots (40.25 statute miles per hour or 74.5 kilometers per hour).

(f) "Minimum wake zone" means a person may not operate or give permission to operate a vessel in excess of the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(g) "Idle speed" means the operation of a vessel at the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(37) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(38) "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year.

(39) "Steerage" means the minimum rate of motion required for the steering apparatus (rudder or motor) of a vessel to have effect.

(40) "Swim beach area" means an area inside a Public Bathing Beach that is marked with U.S. Coast Guard permitted boat exclusion markers for a swim area, and the owner or operator reserves the area solely for bathing, swimming or other public water contact activities. The area shall be in compliance with a MDE permitted beaches as defined in COMAR 26.08.09.

(41) "Tidal waters" means those waters of the State affected by the ebb and flow of the tide.

(42) Time Periods:

(a) "All times" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(b) "All year" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(c) "Boating season" means the period beginning at 12:01 a.m. each April 15, and ending at 12 midnight each succeeding October 15.

(d) "Nonboating season" means the period beginning at 12:01 a.m. each October 16, and ending at 12 midnight each succeeding April 14.

(e) "Saturdays, Sundays, and State holidays" means the period beginning at 12:01 a.m. each Saturday, and ending at 12 midnight each succeeding Sunday, and during the period beginning at 12:01 a.m. and ending at 12 midnight each holiday officially recognized by the State.

(f) "Sunrise to sunset" means the period during the daytime hours beginning at sunrise and ending at sunset, as computed by the U.S. Naval Observatory, Washington, D.C.

(g) "Sunset to sunrise" means the period during the nighttime hours beginning at sunset and ending at sunrise, as computed by the U.S. Naval Observatory, Washington, D.C.

(h) "Weekdays" means the period beginning at 12:01 a.m. on Monday and ending at 12 midnight the following Friday.

(43) "USCG Permitted buoys" is a legal document issued by the U.S. Coast Guard permitting the applicant to place buoys or markers on navigable waters to mark an area.

(44) "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water.

(45) "Vessel" means any type of watercraft, other than a seaplane that is used or capable of being used as a means of transport on the water or ice as defined in 1 U.S.C. 3, and as amended by any subsequent USCG determinations. Ice boats are regarded as watercraft. The term includes the vessel's motor, spars, sails, and accessories.

(46) "Vessel number" means the USCG documentation number or the number issued by a state numbering system.

(47) "Wake Surfing" means free riding on a device similar to a surfboard behind an artificially ballasted boat at slow speeds (9–14 mph).

(48) "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.

(49) "Week" means any 7 consecutive days.

MARK J. BELTON
Secretary of Natural Resources

Subtitle 04 BOATING

08.04.16 Special Uses Areas

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

Notice of Proposed Action

[16-033-P]

The Secretary of Natural Resources proposes to adopt new Regulations **.01—03** under a new chapter, **COMAR 08.04.16 Special Uses Areas**.

Statement of Purpose

The purpose of this action is to add consistency with the federal regulation that references COMAR 08.04.16 for controlled water ski regulations and to create a section for Statewide boating 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 Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue, Boating Services E-4, Annapolis, MD 21401, or call 410-260-8013,

or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Controlled Water Ski Areas.

A. The Department may designate a controlled water ski area within the waters of the State.

B. The controlled water ski area shall meet the ski slalom course requirements set by the American Water Ski Association (AWSA).

C. Permits.

(1) A valid U.S. Army Corps permit for the area shall be obtained and be on file with the U.S. Army Corps and Maryland DNR.

(2) The U.S. Army Corps permit holder shall have all responsibility to mark the course as per their U.S. Army Corps permit.

(3) The permit holder has all responsibility to maintain U.S. Coast Guard approval for all markings on the course.

(4) The ski slalom course may be used for practice. Other uses may require approval from federal, State, or local agencies.

(5) The ski slalom course shall only be used as a ski slalom course by vessels which display a DNR Ski Sticker.

(6) A person may not operate or give permission to operate a vessel for the purpose of towing a water skier on the slalom ski course on Saturdays, Sundays, and State holidays between 12 noon and sunset during the months of June, July, and August.

(7) A person may not place or give permission to place a mooring buoy near the ski slalom course when the arc of the swing is closer than 200 feet to the ski slalom course as defined in the U.S. Army Corps permit.

(8) Only vessels displaying the DNR Ski Sticker and actively participating in water skiing on the controlled water ski course may exceed the regulated speed limit for the area.

(9) A person may not operate or give permission to operate a vessel across or within the permitted course, when the course is in use by a vessel which displays the required sticker and is towing a skier or assisting a fallen skier on the course.

D. A violation of the U.S. Army Corp permit or these regulations may result in removal of the course and may require a new U.S. Army Corp application.

.02 DNR Ski Sticker.

A. The Department may issue DNR Ski Stickers for qualified controlled ski vessels.

B. DNR Ski Stickers are valid for the life of the controlled ski vessel as long as the vessel is not sold or modified.

C. Designated Agents.

(1) The Secretary of the Department of Natural Resources may designate qualified individuals who may request DNR Ski Stickers.

(2) Qualified individuals may include DNR staff, Controlled Ski Course Army Corps permit holders, Maryland Water Ski Club members, or other qualified individuals.

(3) The designee shall be responsible for the completeness and accuracy of the request and shall affix the sticker to the vessel.

D. A DNR Ski Sticker may be issued to vessels that have previously passed Maryland DNR water ski vessel inspections and are on file with the Department.

E. Vessel owners may request a DNR Ski Sticker if they have a registered vessel listed below:

Year(s) Approved	Boat Company Model
85–89	American Skier Advance
90–93	American Skier Legend
94–97	American Skier TBX

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00—04	American Skier TBX Pro
84, 90	American Skier Volante
83—85	American Skier
87	Baha Ski Sport
94—95	Bimini Boats Bimini Skier/Skier Pro Team
93—94	Brendella Barefooter
97	Brendella Calabria
93—95	Brendella Pro Comp
90—94	Brendella Shortline Comp
88—89	Brendella Ski Brendella
93	Brendella Sport Comp
90—91	Brendella Super Comp
86	Century Tournament Skier
93—94	Cheyenne Boats 20' Elite
89—91	Cheyenne Boats Cheyenne
98—99	Cobalt 203
03—09	Correct Craft Ski Nautique 196
2010—2015	Correct Craft Ski Nautique 200
2011	Correct Craft Sport Nautique 200
03—09	Correct Craft 206
05—08	Correct Craft 211V
03—04,09	Correct Craft 216V
88—92	Correct Craft Barefoot Nautique
83—02	Correct Craft Ski Nautique
93—94	Correct Craft Ski Nautique 1:1
92,94—95, 98—00	Correct Craft Ski Nautique Open Bow
88	Correct Craft Ski Nautique, Direct Drive
84	Correct Craft Ski Tique
93—95, 00	Correct Craft Sport Nautique
87	Eliminator Comp Skier
86—89	Fineline/Ski Centurion Barefoot Warrior O/B 200hp
92—93	Fineline/Ski Centurion Bimini Skier
2011—2015	Fineline/Ski Centurion Carbon Pro
99—01	Fineline/Ski Centurion Eclipse
88—89,98,08	Fineline/Ski Centurion Falcon
90	Fineline/Ski Centurion Falcon Barefoot
08	Fineline/Ski Centurion Falcon V—Drive
96—97, 02—03	Fineline/Ski Centurion LaPoint
02—03	Fineline/Ski Centurion LaPoint Open Bow
94—95	Fineline/Ski Centurion LaPoint Tru Trac
88	Fineline/Ski Centurion Outboard
84	Fineline/Ski Centurion Ski Centurion
04—05,	08 Fineline/Ski Centurion T5 Comp
90—93	Fineline/Ski Centurion Tru Trac III

85—86	Fineline/Ski Centurion Tru Trac
87—88	Fineline/Ski Centurion Tru Trac II
94—95	Fineline/Ski Centurion Warrior Barefoot Comp
89	Finghtcraft 18XL Outboard
87—89	Flightcraft Flightcraft
88	Flightcraft Inboard
89	Flightcraft XLSS
02—07	Gekko GTR 22
85	Glastron Ski Machine O/B 150hp
85—86	Hydrodyne O/B 150hp,235hp
92—93	Hydrodyne 20' Inboard Comp
87—90	Hydrodyne 20' O/B
94—96	Hydrodyne Comp XP
94	Hydrodyne Grand Sport
85	Hydrodyne I/O
84	Hydrodyne O/B 150hp Johnson
84	Hydrodyne O/B 150hp Mercury
87	Hydrostream Vegas Skier
00—03	Infinity ZX—1
01—02	Infinity ZX—1 Open Bow
93—97	Malibu Echelon
93	Malibu Echelon LX Open Bow
90—92	Malibu Flightcraft 18XLT
90—99	Malibu Flightcraft 09 Malibu FXi
89—93	Malibu Malibu Skier Euro Sport
95—96,	98 Malibu Response
02—04,	08 Malibu Response Barefooter
96—04	Malibu Response LX 1:1
01	Malibu Response LX 365
00	Malibu Response LX 1.5:1
03—11	Malibu Response LXi
06	Malibu Response LXi 383
2012—2015	Malibu Response TXi
85—90	Malibu Skier
98,02	Malibu Sportster
03	Malibu Sportster LX
92,95,99	Malibu Sunsetter
96	Malibu Tantrum
08	Malibu VTX
86—91	Marlin Magnum Skier
91—99	MasterCraft Barefoot 200
83—84	MasterCraft Direct Drive
84—85	MasterCraft Geared Drive
86	MasterCraft O/B 150hp,200hp
83—86	MasterCraft Power Slot

14—15	MasterCraft ProStar
87—13	MasterCraft ProStar 190
00—01	MasterCraft ProStar 195
02—13	MasterCraft ProStar 197
87—91	MasterCraft ProStar 200
92—98, 00	MasterCraft ProStar 205
01, 03—05	MasterCraft ProStar 209
08—09	MasterCraft ProStar 214
09	MasterCraft 214V
01	MasterCraft 19 Skier
98—00	MasterCraft Sportstar
99	MasterCraft Sportstar Open Bow
94,97—03	MB Sports 190
04	MB Sports 190 Plus
95	MB Sports Boss 2
00 96	MB Sports LS200
93,97—99	Moomba Boomerang
98—01	Moomba Kanga
99	Moomba Mobius
98—01,03—09	Moomba Outback
99—01	Moomba Outback LS
92—93	Moore Marine Ski Pro 2000 Footer
94—97	Moore Marine Ski Pro Footer EX I/O
85—87	Moore Marine Ski Pro I/O
42039	Moore Marine Ski Pro Extreme Comp
98—06	Sanger DXII Barefooter
88—97	Sanger Barefoot O/B
92—94, 07	Sanger Ski Sanger DXII
87—91	Sanger Skier
91—92	Sea Ray 190SK
93—96	Sea Ray Spitfire
96 Sea	Ray Spitfire EFI
93—94	Sea Ray Sportster
93—94	Sea Ray Sportster BR
85,87	Ski Eliminator
91—92, 94—95	Ski West California Skier
92	Ski—Riffic Ski—Riffic
90	Sleek Craft Boats Ski Sleek
98—01	Supra Comp
06—07	Supra Comp 20
03—04	Supra Comp LTS
85—87, 89—92	Supra Comp TS—6M
91—92	Supra Impulse
99—01	Supra Legacy
87	Supra Marauder Skier

01	Supra Sunsport
84	Supra Tournament
92	Supreme Competition Series
90	Supreme MS Series
83—89	Supreme Ski Supreme
90—91	Supreme Tournament Series
06	Svfara SVI
83	the Dyne
04—05	Tige Switch I
06—07	Tige 20i
01—03	Tige 20 ci
99—02	Toyota Epic 21
89—90	U.S. Marine Challenger

F. The Department may revoke the DNR Ski Sticker for a violation of this regulation.

.03 Public Bathing Beaches.

A. The Department may designate Public Bathing Beaches.

B. Swim Beach Areas.

(1) Swim Beach Areas shall be approved by the local health department or Maryland Department of the Environment as Public Bathing Beaches.

(2) A person may not operate or give permission to operate a vessel of any kind in Swim Beach Areas, except authorized rescue vessels.

(3) Swim Beach Area Designation.

(a) Swim Beach Areas, to be properly established, shall be marked by U.S. Coast Guard permitted boat exclusion markers for swim areas.

(b) Swim Beach Areas operated by the State or other public entity may be marked by the State.

(c) Swim Beach Areas operated by other entities may not be marked by the State.

(4) No one shall place or give permission to place a mooring buoy inside Swim Beach Areas.

C. Bathing Beach Areas shall be in compliance with MDE Permitted Beaches as defined in COMAR 26.08.09.

MARK J. BELTON
Secretary of Natural Resources

Subtitle 18 BOATING—SPEED LIMITS AND OPERATION OF VESSELS

08.18.01 General

Authority: Natural Resources Article, §§8-101, 8-703, and 8-704, Annotated Code of Maryland

Notice of Proposed Action

[16-036-P]

The Secretary of the Maryland Department of Natural Resources proposes to amend Regulation **.03** under **COMAR 08.18.01 General**.

Statement of Purpose

The purpose of this action is to correct technical errors in existing definitions and to add definitions for clarity and consistency for the controlled water ski, public bathing beaches, and swimming areas and the designated rowing areas.

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 Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue, Boating Services E-4, Annapolis, MD 21401, or call 410-260-8013, or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Artificial Ballast" means auxiliary or portable tanks or weights which distribute the weight in a vessel causing it to produce a large wake at slow speeds for the purpose of wake surfing.

(2) "Boat speed" means speed through the water.

(3) "Channel" means that portion or portions of tidal waters which are either designated as a channel by navigational aids or which are the deeper part of a water body where the main current flows and which afford the best passage for vessels.

(4) "Controlled ski area" means an area marked by the Department which encompasses a slalom ski course which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended.

(5) "Department" means the Department of Natural Resources.

(6) "Designated rowing area" means an area which is designated by the Department for rowing activities by individuals in rowing shells or similar devices.

(7) "Motorboat" means a vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.

(8) "Operate" means to navigate or otherwise use a motorboat or vessel.

(9) "Permitted beach area" means an area recognized by the Maryland Department of the Environment (MDE) that provides access for the public, community, or homeowner's association to the waters of the State, and used exclusively for swimming or bathing and is in compliance with a MDE permitted beach as defined in COMAR 26.08.09.01.

(10) "Person" includes:

(a) The federal government, State, any county, municipal corporation, or other political subdivision of the State, or any of their units;

(b) An individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or

(c) A partnership, firm, association, public or private corporation, or any other entity.

(11) "Slalom ski course" means an area approximately 850 feet in length by 75 feet in width, marked by inflated balls or bladders secured to anchors using flexible hose for the top 3 feet of connection, containing a maximum of 26 balls or bladders, and which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended.

(12) Speed Limits.

(a) "Restricted 6 knots (6.9MPH)" means a person may not operate or give permission to operate a vessel more than 17 feet in length:

(i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or

(ii) To cause an objectionable or excessive wake.

(b) "6 knots (6.9 MPH)" means a person may not operate or give permission to operate a vessel:

(i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or

(ii) To tow an individual on a ski, aquaplane, or similar device.

(c) "20 knots (23 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 20 knots (23 statute miles per hour or 42.6 kilometers per hour).

(d) "26 knots (30 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 26 knots (30 statute miles per hour or 55.6 kilometers per hour).

(e) "35 knots (40.25 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 35 knots (40.25 statute miles per hour or 74.5 kilometers per hour).

(f) "Minimum wake zone" means a person may not operate or give permission to operate a vessel in excess of the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(g) "Idle speed" means the operation of a vessel at the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(13) "Steerage" means the minimum rate of motion required for the steering apparatus (rudder or motor) of a vessel to have effect.

(14) Time Periods.

(a) "All times" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(b) "All year" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(c) "Boating season" means the period beginning at 12:01 a.m. each April 15, and ending at 12 midnight each succeeding October 15.

(d) "Nonboating season" means the period beginning at 12:01 a.m. each October 16, and ending at 12 midnight each succeeding April 14.

(e) "Saturdays, Sundays, and State holidays" means the period beginning at 12:01 a.m. each Saturday, and ending at 12 midnight each succeeding Sunday, and during the period beginning at 12:01 a.m. and ending at 12 midnight each holiday officially recognized by the State.

(f) "Sunrise to sunset" means the period during the daytime hours beginning at sunrise and ending at sunset, as computed by the U.S. Naval Observatory, Washington, D.C.

(g) "Sunset to sunrise" means the period during the nighttime hours beginning at sunset and ending at sunrise, as computed by the U.S. Naval Observatory, Washington, D.C.

(h) "Weekdays" means the period beginning at 12:01 a.m. on Monday and ending at 12 midnight the following Friday.

(15) Vessel.

(a) "Vessel" means any type of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice.

(b) "Vessel" includes:

(i) The vessel's motor, spars, sails, and accessories; and

(ii) Ice boats.

(16) "Wake Surfing" means free riding on a device similar to a surfboard behind an artificially ballasted boat at slow speeds (9—14 mph).

(17) "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.]

(1) "Act" means the Federal Boat Safety Act of 1971 (85 Stat. 213 46 U.S.C. 1451, et seq.)

(2) "Arc of swing" means the circumference of the circle the radius of which is formed by the mooring line and the chain and the vessel.

(3) "Army Corps Permit for Controlled Water Ski Course" is a legal document issued by the U.S. Army Corp of Engineers permitting the applicant to place anchors or similar devices on the bottom of State waters. The permit may contain specific requirements that shall be followed.

(4) "Artificial ballast" means auxiliary or portable tanks or weights which distribute the weight in a vessel causing it to produce a large wake at slow speeds for the purpose of wake surfing.

(5) "Boat speed" means speed through the water.

(6) "Certificate" means any certificate of number.

(7) "Certificate of title" means that certificate issued upon satisfactory proof of ownership made by an applicant to the Department.

(8) "Channel" means that portion or portions of tidal waters which are either designated as a channel by navigational aids or which are the deeper part of a water body where the main current flows and which afford the best passage for vessels.

(9) "Coach boat" means a vessel that accompanies a racing shell or racing scull that trains an individual crew and carries appropriate safety rescue equipment for the racing shell or racing scull.

(10) "Controlled ski area". means an area marked by the Department which encompasses a slalom ski course which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended, and is designed, constructed and intended for controlled water ski practices.

(11) "Dealer" means any person who engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels, or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yacht broker is a dealer.

(12) "Department" means the Department of Natural Resources.

(13) "Designated rowing area" means an area which is designated by the Department for rowing activities by individuals in rowing shells or similar devices.

(14) "DNR Controlled Water Ski Sticker" is a sticker issued by the Department to a water ski vessel and shall remain on the vessel unless the vessel is sold or modified.

(15) "Group moorings" means the mooring by a person of three or more vessels.

(16) "Immediate family" means spouse, son, daughter, mother, father, sister, brother, grandmother, grandfather, son-in-law, father-in-law, mother-in-law, daughter-in-law, grandson, granddaughter, stepfather, stepmother, halfbrother, halvesister, stepson, or stepdaughter. The term includes persons so related by virtue of adoption.

(17) "Individual moorings" means the mooring by a person of not more than two vessels.

(18) "Issuing authority" means either a state that has a U.S. Coast Guard approved numbering system or the Coast Guard where a number system has not been approved.

(19) "Manufacturer" means any person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.

(20) "Modified" means a change to a vessel with a DNR Controlled Water Ski sticker by any of the following means: adding more than 750 pounds of ballast by any means that causes the vessel to create a wake that exceeds 6 inches, measured at a point on the closest shore; removal of the towing pylon, swim platform, rear facing seat, or mirror; or modifying the vessel from its overall original manufactured dimensions so that it is no longer capable of maneuvering the established course without damaging the required markers.

(21) "Mooring" means a buoy, piling, stake, or other apparatus used to secure, berth, or moor vessels in the waters of the State. It does not include fixed piers connected to the shore or accessory structures directly related thereto that are subject to separate State approval procedures.

(22) "Motorboat" means any vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.

(23) "Operate" means to navigate or otherwise use a motorboat or vessel.

(24) "Operator" means the person who operates or has charge of the navigation of a vessel.

(25) "Owner" means a person, other than a lien holder, having property in or title to a vessel. The term includes a person entitled to use or possess a vessel subject to an interest in another person, reserved, or created by agreement and securing payment of performance of an obligation, but it does not include a lessee under a lease not intended as security.

(26) "Person" includes:

(a) The federal government, State, any county, municipal corporation, or other political subdivision of the State, or any of their units;

(b) An individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind; or

(c) A partnership, firm, association, public or private corporation, or any other entity.

(27) "Public access point" means waterfront property open to the public to gain access to tidal waters.

(28) "Public bathing beaches" means areas recognized by the Maryland Department of the Environment (MDE) as defined in COMAR 26.08.09.

(29) Purchase Price.

(a) "Purchase price" means, for vessels sold by manufacturers, brokers, or dealers, the certified gross purchase price of the vessel and its equipment in the case of sales of new vessels and the resale of used vessels.

(b) "Purchase price" means, for all other transactions, the total purchase price if verified by means of a certified bill of sale approved by the Department, or that valuation shown in a national publication of used vessels adopted for use by the Department, with the Department having discretionary power in determining the valuation.

(30) "Racing shell" is a manually propelled vessel that is solely for competitive racing recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, (if one is present). It is not designed to carry and does not carry any equipment, including safety equipment, which is not used for racing.

(31) "Racing scull" is a manually propelled vessel that is solely for competitive racing recognized by national or international

racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, (if one is present). It is not designed to carry and does not carry any equipment, including safety equipment, which is not used for racing.

(32) "Riparian property owner" means a person possessing riparian rights, specifically including the right to gain access to tidal water.

(33) "Sale" is defined pursuant to §§2-106(1) and 2-401(20) of the Uniform Commercial Code as amended.

(34) "Ski jump course" means an area which includes a water ski jump ramp. The water ski jump ramp should be a minimum distance from shore of 125 feet, the minimum width of the body of water at the jump is 275 feet. The jump course includes boat guides and 150 m, 180 m, and 210 m buoys is approximately 920 feet long. Approximately 2,000 feet is the minimum straight distance needed for the jump course and ride out area. The jump course begins with the 180 meter cut out buoy and ends with the 100 meter end course.

(35) "Slalom ski course" means an area approximately 850 feet in length by 75 feet in width, marked by inflated balls or bladders secured to anchors using flexible hose for the top 3 feet of connection, containing a maximum of 26 balls or bladders, and which is permitted by the U.S. Army Corps of Engineers under the Rivers and Harbors Act of 1899, (33 U.S.C. 403), as amended, and is designed, constructed and intended for controlled water ski practices.

(36) Speed Limits:

(a) "Restricted 6 knots (6.9MPH)" means a person may not operate or give permission to operate a vessel more than 17 feet in length:

(i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or

(ii) To cause an objectionable or excessive wake.

(b) "6 knots (6.9 MPH)" means a person may not operate or give permission to operate a vessel: (i) At a boat speed in excess of 6 knots (6.9 statute miles per hour, or 11.1 kilometers per hour); or (ii) To tow an individual on a ski, aquaplane, or similar device.

(c) "20 knots (23 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 20 knots (23 statute miles per hour or 42.6 kilometers per hour).

(d) "26 knots (30 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 26 knots (30 statute miles per hour or 55.6 kilometers per hour).

(e) "35 knots (40.25 MPH)" means a person may not operate or give permission to operate a vessel at a boat speed in excess of 35 knots (40.25 statute miles per hour or 74.5 kilometers per hour).

(f) "Minimum wake zone" means a person may not operate or give permission to operate a vessel in excess of the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(g) "Idle speed" means the operation of a vessel at the slowest possible boat speed necessary to maintain steerage under prevailing wind and sea conditions not to exceed 3 knots (3.5 statute miles per hour or 5.6 kilometers per hour).

(37) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(38) "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year.

(39) "Steerage" means the minimum rate of motion required for the steering apparatus (rudder or motor) of a vessel to have effect.

(40) "Swim beach area" means an area inside a Public Bathing Beach that is marked with U.S. Coast Guard permitted boat exclusion markers for a swim area, and the owner or operator

reserves the area solely for bathing, swimming or other public water contact activities. The area shall be in compliance with a MDE permitted beaches as defined in COMAR 26.08.09.

(41) "Tidal waters" means those waters of the State affected by the ebb and flow of the tide.

(42) Time Periods:

(a) "All times" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(b) "All year" means the period beginning at 12:01 a.m. each January 1, and ending at 12 midnight each succeeding December 31.

(c) "Boating season" means the period beginning at 12:01 a.m. each April 15, and ending at 12 midnight each succeeding October 15.

(d) "Nonboating season" means the period beginning at 12:01 a.m. each October 16, and ending at 12 midnight each succeeding April 14.

(e) "Saturdays, Sundays, and State holidays" means the period beginning at 12:01 a.m. each Saturday, and ending at 12 midnight each succeeding Sunday, and during the period beginning at 12:01 a.m. and ending at 12 midnight each holiday officially recognized by the State.

(f) "Sunrise to sunset" means the period during the daytime hours beginning at sunrise and ending at sunset, as computed by the U.S. Naval Observatory, Washington, D.C.

(g) "Sunset to sunrise" means the period during the nighttime hours beginning at sunset and ending at sunrise, as computed by the U.S. Naval Observatory, Washington, D.C.

(h) "Weekdays" means the period beginning at 12:01 a.m. on Monday and ending at 12 midnight the following Friday.

(43) "USCG Permitted buoys" is a legal document issued by the U.S. Coast Guard permitting the applicant to place buoys or markers on navigable waters to mark an area.

(44) "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water.

(45) "Vessel" means any type of watercraft, other than a seaplane that is used or capable of being used as a means of transport on the water or ice as defined in 1 U.S.C. 3, and as amended by any subsequent USCG determinations. Ice boats are regarded as watercraft. The term includes the vessel's motor, spars, sails, and accessories.

(46) "Vessel number" means the USCG documentation number or the number issued by a state numbering system.

(47) "Wake surfing" means free riding on a device similar to a surfboard behind an artificially ballasted boat at slow speeds (9-14 mph).

(48) "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.

(49) "Week" means any 7 consecutive days.

MARK J. BELTON
Secretary of Natural Resources

Subtitle 18 BOATING—SPEED LIMITS AND OPERATION OF VESSELS

08.18.11 Gunpowder River

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

Notice of Proposed Action
[16-028-P]

The Secretary of the Maryland Department of Natural Resources proposes to repeal existing Regulations **.01—**.05 and adopt new Regulations **.01—**.06 under **COMAR 08.18.11 Gunpowder River**.

Statement of Purpose

The purpose of this action is to reduce potential boating hazards between high speed motor vessels and small, manually propelled vessels in zones of restricted visibility.

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 Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue, E-4, Boating Services Unit, Annapolis, MD 21401, or call 410-260-8013, or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Dundee Creek.

Dundee Creek encompasses the area upstream of a line beginning at a point at or near Lat. 39° 20.995' N., Long. 76° 21.753' W., then running 113° (True) to a point, at or near Lat. 39° 20.923' N., Long. 76° 21.535' W., and running to the head of the Creek. Except as otherwise restricted, the speed limit for this area is 6 knots.

.02 Amtrak Railroad Bridge.

Amtrak Railroad Bridge encompasses the zone upstream of a line beginning at a point on shore at or near Lat. 39° 23.508' N., Long. 76° 20.602' W., then running 212° (True) to a point, at or near Lat. 39° 22.780' N., Long. 76° 21.195' W., and downstream of a line beginning at a point, at or near Lat. 39° 22.798' N., Long. 76° 21.308' W., then running 32° (True) to a point, at or near Lat. 39° 23.562' N., Long. 76° 20.687' W. Except as otherwise restricted, the speed limit for this area is 6 knots.

.03 Entrance Foster Branch and Joppatowne.

Entrance Foster Branch and Joppatowne encompass the area north of a line beginning at a point at or Lat. 39° 23.562' N., Long. 76° 20.687' W., then running 270° (True) to a point, at or near Lat. 39° 23.560' N., Long. 76° 21.040' W., and south of a line beginning at a point, at or near Lat. 39° 23.667' N., Long. 76° 20.915' W., then running 90° (True) to a point, at or near Lat. 39° 23.667' N., Long. 76° 20.765' W. Except as otherwise restricted, the speed limit for this area is 6 knots on Saturdays, Sundays, and State holidays during the boating season.

.04 Foster Branch and Joppatowne Channel.

Foster Branch and Joppatowne Channel encompass the area upstream of a line beginning at a point at or near Lat. 39° 23.667' N., Long. 76° 20.915' W., then running 90° (True) to a point, at or near Lat. 39° 23.667' N., Long. 76° 20.765' W., and running to the head of the branch. This area has a 6-knot speed limit all year.

.05 Joppa Quarry Canal, Little Gunpowder River, Big Gunpowder River, and Days Cove.

Joppa Quarry Canal, Little Gunpowder River, Big Gunpowder River, and Days Cove encompass the area north of a line beginning at a point on shore at or near Lat. 39° 23.558' N., Long. 76° 21.048' W., then running 244° (True) to a point at the east entrance of the Little Gunpowder River, at or near Lat. 39° 23.404' N., Long. 76° 21.459' W., then running 244° (True) to a point on the shore at or near Lat. 39° 23.165' N., Long. 76° 22.093' W. Except as otherwise restricted, the speed limit for this area is 6 knots.

.06 Railroad Creek.

This encompasses the area south of a line beginning at a point at or near Lat. 39° 22.557' N., Long. 76° 22.721' W., then running 97° (true), at or near Lat 39° 22.515' N., Long. 76° 22.293' W., then running 154° to a point at or near Lat 39° 22.496' N., Long. 76° 22.281' W., and running to the head of the Creek. Except as otherwise restricted, the speed limit for this area is 6 knots on Saturday, Sunday, and State holidays during the boating season.

MARK J. BELTON
Secretary of Natural Resources

Subtitle 18 BOATING—SPEED LIMITS AND OPERATION OF VESSELS

08.18.18 Ocean City—Back Bay Areas

Authority: Natural Resources Article, §§8-703, 8-704, and 10-2A-02 Annotated Code of Maryland

Notice of Proposed Action
[16-029-P]

The Secretary of the Maryland Department of Natural Resources proposes to adopt new Regulation **.06** under **COMAR 08.18.18 Ocean City—Back Bay Areas**.

Statement of Purpose

The purpose of this action is to act in accordance with the Non-Game and Endangered Species Act, which should assist in the protection of species of wildlife. Also, to ensure safety of vessels “drift fishing” in the channel. And ensure safety of riparian owners and their property.

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 Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue,

E-4, Boating Services, Annapolis, MD 21401, or call 410-260-8013, or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.06 Edgewater Avenue.

Edgewater Avenue encompasses the area enclosed by a line beginning at a point at Second Street at or near Lat. 38° 20.088' N., Long. 75° 5.322' W., then running 288° (True) to a point at or near Lat. 38° 20.137' N., Long. 75° 5.507' W., then running 16° (True) to a point at or near Lat. 38° 20.423' N., Long. 75° 5.405' W., then running 33° (True) to a point at the shore at or near Lat. 38° 20.700' N., Long. 75° 5.175' W., then running southerly along the shore to a point, at or near Lat. 38° 20.612' N., Long. 75° 5.117' W., then running 164° (True) to a point at the shore at or near Lat. 38° 20.518' N., Long. 75° 5.083' W., then running southerly along the shore to the point of beginning. Except as otherwise restricted, the speed limit for this area is 6 knots during the boating season.

MARK J. BELTON
Secretary of Natural Resources

Subtitle 18 BOATING—SPEED LIMITS AND OPERATION OF VESSELS

08.18.24 Severn River Vessel Management Area

Authority: Natural Resources Article, §§8-703, 8-704, and 8-725.2, Annotated Code of Maryland

Notice of Proposed Action
[16-038-P]

The Secretary of the Maryland Department of Natural Resources proposes to amend Regulations **.01—04** and repeal Regulations **.05—07** under **COMAR 08.18.24 Severn River Vessel Management Area**.

Statement of Purpose

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

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue, Boating Services E-4, Annapolis, MD 21401, or call 410-260-8013, or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Severn River [Proper] Main Stem — Speed Limits; Prohibited Zone.

A. The Severn River [proper] *main stem* areas, with their corresponding speed limits, are set forth below:

(1) [The area inside of] *Spa and Back Creek Entrance Area*. This area is enclosed by a line [running 145° True from the corner of

the Naval Academy seawall near Triton Light at or near Lat. 38°58'53"N., Long. 76°28'35"W., to the Coast Guard shoal beacon off Horn Point (HP beacon) at or near Lat. 38°58'24"N., Long. 76°28'10"W., then running 180° True to the outer channel marker for Back Creek at or near Lat. 38°57'56"N., Long. 76°28'10"W., then running 302° True to the northeasterly end of the jetty at Chinks Point at or near Lat. 38°58'03"N., Long. 76°28'24"W., then running 349° True to Horn Point at or near Lat. 38°58'21"N., Long. 76°28'27"W., then running 349° True to the corner of the Naval Academy seawall near Triton Point at or near Lat. 38°58'53"N., Long. 76°28'35"W., at the point of beginning,] *beginning at Triton Light, at or near Lat. 38° 58.887' N., Long. 76° 28.568' W., then running 146° (True) to the shoal beacon off Horn Point, at or near Lat. 38° 58.408' N., Long. 76° 28.152' W., then running 180° (True) to the outer beacon at Back Creek, at or near Lat. 38° 57.952' N., Long. 76° 28.150' W., then running 299° (True) to Chinks Point, at or near Lat. 38° 58.053' N., Long. 76° 8.382' W., then running 350° (True) to Horn Point, at or near Lat. 38° 58.352' N., Long. 76° 28.450' W., then running 350° (True) to the point of beginning. Except as otherwise restricted, the speed limits for this area are [shall have a]:*

(a) [6- knot speed limit] *6 knots* [at all times] during the boating season; [from April 15 to October 15; and]

(b) [20-knot speed limit at night (sunset to sunrise) and 35-knot speed limit during the day, at all times during the remainder of the year.] *35 knots from sunrise to sunset during the nonboating season; and*

(c) *20 knots from sunset to sunrise during the nonboating season.*

(2) *Lower Severn River Area*. [Except as otherwise restricted,] *This encompasses the area [of the Severn River] north [and west] of a line [running 231° True from Greenbury Point at or near Lat. 38°58'28"N., Long. 76°27'18"W., running 231° True to the outer channel marker for Back Creek at or near Lat. 38°57'56"N., Long. 76°28'10"W., then running 302° True to the northeasterly end of the jetty at Chinks Point at or near Lat. 38°58'03"N., Long. 76°28'24"W., then running 349° True to Horn Point at or near Lat. 38°58'21"N., Long. 76°28'27"W., then running 349° True to the corner of the Naval Academy seawall near Triton Light at or near Lat. 38°58'53"N., Long. 76°28'35"W., shall have a speed limit of 20 knots at night (sunset to sunrise) and 35 knots during the day at all times.*

(3) The area from a line beginning at a point Lat. 38°58'52.61"N., Long. 76°28'35.69"W. (Triton Point), and running 040° True to the opposite shore at the U.S. Naval Marine Research Lab to 50 yards downriver from the old Severn River Bridge, the speed limits shall be:

(a) 35 knots (40.25 MPH), sunrise to sunset (daylight), all year;

(b) 20 knots (23 MPH), sunset to sunrise (nights), all year

(4) The area from 50 yards upriver from the old Severn River Bridge to a line beginning at a point Lat. 39°04'06"N., Long. 76°34'32"W. (Severn Narrows), and running 346° True to the opposite shore, Lat. 39°04'18.60"N., Long. 76°34'36.05"W., including the areas known as Round Bay and Little Round Bay, the speed limits shall be:

(a) 20 knots (23 MPH), sunset to sunrise (nights), all year;

(b) 35 knots (40.25 MPH), sunrise to sunset (daylight), all year

(5) *Severn Narrows, in the area] beginning at Greenbury Point, at or near Lat. 38° 58.477' N., Long. 76° 27.268' W., then running 228° (True) to the outer beacon at Back Creek, at or near Lat. 38° 7.952' N., Long. 76° 28.015' W., then running 290° (True) to Chinks Point, at or near Lat. 38° 58.053' N., Long. 76° 28.382' W., then running 350° (True) to Horn Point, at or near Lat. 38° 58.352' N.,*

Long. 76° 28.450' W., then running 350° (True) to Triton Light, at or near Lat. 38° 58.887' N., Long. 76° 28.568' W., and downstream of a line beginning at Severn Narrows, at or near Lat. 39° 4.086' N., Long. 76° 34.543' W., then running 16° (True) to a point, at or near Lat. 39° 4.238' N., Long. 76° 34.489' W., including the areas known as Round Bay and Little Round Bay, and excepting the area around the Old Severn River Fishing Pier at Jonas Green Park beginning at the north shore of the park, at or near Lat. 38° 59.712' N., Long. 76° 29.117' W., then running 236° (True) to a point, at or near Lat. 38° 59.657' N., Long. 76° 29.220' W., then running 145° (True) to a point, at or near Lat. 38° 59.612' N., Long. 76° 29.180' W., then running 55° (True) to a point on the south shore of the park, at or near Lat. 38° 59.697' N., Long. 76° 29.022' W. Except as otherwise restricted, the speed limits for this area are:

- (a) 35 knots from sunrise to sunset; and
- (b) 20 knots from sunset to sunrise.

(3) *Severn Narrows Area.* This encompasses the area upstream of a line beginning at a point, [a line, from a point Lat. 39°04'06"N., Long. 76°34'32"W., and running 346° True to the opposite shore, Lat. 39°04'18.60"N., Long. 76°34'36.05"W., upriver to a line beginning at a point, Lat. 39°04'26.20"N., Long. 76°35'17.88"W., and running 227° True to the opposite shore] at or near Lat. 39° 4.086' N., Long. 76° 34.543' W., then running 16° (True) to a point, at or near Lat. 39° 4.238' N., Long. 76° 34.489' W., and downstream of a line beginning at a point, at or near Lat. 39° 4.437' N., Long. 76° 35.298' W., then running 216° (True) to a point, at or near Lat. 39° 4.375' N., Long. 76° 35.357' W.], the speed limits shall be:] Except as otherwise restricted, the speed limits for this area are:

- (a) 6 knots [(6.9 MPH),] on Saturdays, Sundays, and State holidays[, all year];
- (b)[20 knots (23 MPH), weekdays, sunset to sunrise (nights), all year;] 35 knots on weekdays from sunrise to sunset; and.
- (c)[35 knots (40.25 MPH), weekdays, sunrise to sunset (daylight), all year.] 20 knots on weekdays from sunset to sunrise.

[(6)] (4) [The] *Indian Landing — Sunrise Beach Area.* This encompasses the area [of the Severn River] between Severn Narrows and Indian Landing Point, [beginning at a point Lat. 39°04'26.20"N., Long. 76°35'17.88"W., a line running 227° True to the opposite shore, and running upriver to a line beginning at Lat. 39°04'40"N. Long. 76°36'27"W., and running 013° True to the opposite shore,] which is upstream of line beginning at a point, at or near Lat. 39° 4.437' N., Long. 76° 35.298' W., then running 216° (True) to a point, at or near Lat. 39° 4.375' N., Long. 76° 35.357' W., and downstream of a line beginning at a point, at or near Lat. 39° 4.672' N., Long. 76° 36.450' W., then running 16° (True) to a point, at or near Lat. 39° 4.868' N., Long. 76° 36.378' W. [the speed limits shall be:] Except as otherwise restricted, the speed limits for this area are:

- (a)[20 knots (23 MPH), sunset to sunrise (nights), all year;
- (b) 35 knots (40.25 MPH), sunrise to sunset (daylight), all year.] 35 knots from sunrise to sunset;
- (b) 20 knots from sunset to sunrise; and
- (c) For a controlled ski course, as set forth in COMAR 08.04.16.

[(7)] (5) [The] *Upper Severn River Area.* This encompasses the area [of the Severn River,] above Indian Landing Point and below Severn Run, [beginning at a point Lat. 39°04'40"N., Long. 76°36'27"W., a line running 013° True to the opposite shore, Lat. 39°04'51.69"N., Long. 76°36'23.54"W., and running upriver to a line beginning at a point Lat. 39°04'37.88"N., Long. 76°36'53.78"W., running 180° True to the opposite shore, Lat. 39°04'31.38"N., Long. 76°36'53.78"W.,] which is upstream of a line beginning at a point, at or near Lat. 39° 4.672' N., Long. 76° 36.450' W., then running 16° (True) to a point, at or near Lat. 39° 4.868' N., Long. 76° 36.378' W., and downstream of a line beginning at a point, at or near Lat. 39° 4.642' N., Long. 76° 36.862' W., then running

180° (True) to a point, at or near Lat. 39° 4.547' N., Long. 76° 36.862' W. [the speed limits shall be:] Except as otherwise restricted, the speed limits for this area are:

- (a) 6 knots [(6.9 MPH),] on Saturdays, Sundays, and State holidays[, all year];
- (b) [20 knots (23 MPH), weekdays, sunset to sunrise (nights), all year;
- (c) 35 knots (40.25 MPH), weekdays, sunrise to sunset (daylight), all year.] 35 knots on weekdays from sunrise to sunset; and
- (c) 20 knots on weekdays from sunset to sunrise.

[(8)] (6) *Severn Run Area.* This encompasses the area [Severn Run, in the area beginning at a point Lat. 39°04'37.88"N., Long. 76°36'53.78"W., a line running 180° True to the opposite shore, Lat. 39°04'31.38"N., Long. 76°36'53.78"W.,] upstream of a line beginning at a point, at or near Lat. 39° 4.642' N., Long. 76° 36.862' W., then running 180° (True) to a point, at or near Lat. 39° 4.547' N., Long. 76° 36.862' W., and running to the head of the river. Except as otherwise restricted, the speed limit for this area [shall be] is a minimum wake zone[, all year].

B. *Jonas Green Park Area.* [Prohibited Zone for Motorized Vessels. Motorized vessels are prohibited within 50 yards of the Old Severn River Bridge Fishing Pier at Jonas Green Park,] This encompasses the area beginning at the north shore of the park, at or near Lat. 38° 59.712' N., Long. 76° 29.117' W., then running 236° (True) to a point, at or near Lat. 38° 59.657' N., Long. 76° 29.220' W., then running 145° (True) to a point, at or near Lat. 38° 59.612' N., Long. 76° 29.180' W., then running 55° (True) to a point on the south shore of the park, at or near Lat. 38° 59.697' N., Long. 76° 29.022' W. [unless permission has been obtained from the Park Supervisor.] Motorized vessels are prohibited from this area without prior written permission from the Park supervisor.

C. *The Severn River main stem areas may contain designated rowing areas as set forth in Regulation .04 of this chapter.*

.02 Severn River South Shore — Speed Limits.

The Severn River south shore areas, with their corresponding speed limits, are set forth below:

A. *Lake Ogleton.*

(1) *Lake Ogleton [entrance channel] Entrance Channel.* This encompasses the area[, the area bounded by Lat. 38°56'51.50"N., Long. 76°27'51.06"W., Lat 38°57'03.56"N., Long. 76°27'37.59"W., Lat. 38°57'00.60"N., Long. 76°27'33.25"W., Lat. 38°56'48.54"N., Long. 76°27'46.72"W.,] enclosed by a line beginning at a point, at or near Lat. 38° 57.043' N., Long. 76° 27.578' W., then running 129° (True) to a point, at or near Lat. 38° 57.035' N., Long. 76° 27.565' W., then running 220° (True) to a point, at or near Lat. 38° 56.828' N., Long. 76° 27.788' W., then running 285° (True) to a point, at or near Lat. 38° 56.833' N., Long. 76° 27.812' W., then running 41° (True) to the point of beginning. [shall have a 6-knot (6.9 MPH) speed limit, all year.] Except as otherwise restricted, the speed limit for this area is 6 knots.

(2) *Lake Ogleton [west branch,] West Branch.* This encompasses the area west of a line beginning at a point, [Lat. 38°56'43.75"N., Long. 76°27'55"W., a line running 053° True to a point Lat. 38°56'48.54"N., Long. 76°27'46.72"W., then 041° True to a point on shore Lat. 38°56'50.05"N., Long 76°27'45.03"W.,] at or near Lat. 38° 56.733' N., Long. 76° 27.885' W., then running 38° (True) to a point, at or near Lat. 38° 56.828' N., Long. 76° 27.788' W., then running 285° (True) to a point, at or near Lat. 38° 56.833' N., Long. 76° 27.812' W., then running 354° (True) to a point, at or near Lat. 38° 56.870' N., Long. 76° 27.817' W. [the speed limits shall be:] Except as otherwise restricted, the speed limits for this area are:

- (a) 6 knots [(6.9 MPH)], on Saturdays, Sundays, and State holidays [, and weekdays sunset to sunrise (nights), all year];

(b) 26 knots (30 MPH),] 26 knots on weekdays[,] from sunrise to sunset [(daylight), all year.]; and

(c) 6 knots on weekdays from sunset to sunrise.

(3) Lake Ogleton [east branch,] *East Branch*. This area encompasses the area east of a line beginning at a point, [Lat. 38°56'43.75"N., Long. 76°27'55"W., then 053° True to Lat. 38°56'48.54"N., Long. 76°27'46.72"W., then 311° True to Lat. 38°56'51.50"N., Long. 76°27'51.06"W.,] at or near Lat. 38° 56.733' N., Long. 76° 27.885' W., then running 38° True to a point, at or near Lat. 38° 56.828' N., Long. 76° 27.788' W., then running 92° (True) to a point, at or near Lat. 38° 56.827' N., Long. 76° 27.737' W. [the speed limits shall be:

(a) 6 knots (6.9 MPH), sunset to sunrise (nights), all year;

(b) 26 knots (30 MPH), sunrise to sunset (daylight), all year.] Except as otherwise restricted, the speed limits for this area are:

(a) 26 knots, sunrise to sunset; and

(b) 6 knots, sunset to sunrise.

B. Chesapeake Harbor. This encompasses the area[, beginning at a point Lat. 38°57'37.14"N., Long. 76°28'23.68"W., a line running 165° True to the opposite shore] south of a line beginning at a point at or near Lat. 38° 57.628' N., Long. 76° 28.370' W., then running 154° (True) to a point, at or near Lat. 38° 57.602' N., Long. 76° 28.353' W. and running to the head of the harbor[, shall be a minimum wake zone, all year.]. Except as otherwise restricted, the speed limit for this area is a minimum wake zone.

C. Back Creek[.]. This encompasses the area upstream of a line [running 171° True from Horn Point at or near Lat. 38°58'21"N., Long. 76°28'27"W., to the northeasterly end of the jetty at Chinks Point at or near Lat. 38°58'03"N., Long. 76°28'24"W.] beginning at Horn Point, at or near Lat. 38° 58.352' N., Long. 76° 28.450' W., then running 170° (True) to Chinks Point, at or near Lat. 38° 58.055' N., Long. 76° 28.382' W., and extending to the head of the Creek. Except as otherwise restricted, the speed limit for this area is 6 knots. [shall have a 6-knot (6.9 MPH) speed limit at all times, all year.]

D. Spa Creek[.]. This encompasses, the area upstream of a line [from corner of the Naval Academy seawall near Triton Light at or near Lat. 38°58'53"N., Long. 76°28'35"W., running 169° True to Horn Point at or near Lat. 38°58'21"N., Long. 76°28'27"W.] beginning at Triton Light, at or near Lat. 38° 58.887' N., Long. 76° 28.568' W., then running 170° (True) to Horn Point, at or near Lat. 38° 58.352' N., Long. 76° 28.450' W., and extending to the head of the Creek. Except as otherwise restricted, the speed limit for this area is 6 knots. [, shall have a 6-knot (6.9 MPH) speed limit at all times, all year.]

E. College Creek.

(1) This encompasses the area [beginning at a point Lat. 38°59'12"N., Long. 76°29'14"W., a line running 160° True to the opposite shore and running] upstream of a line beginning at a point, at or near Lat. 38° 59.210' N., Long. 76° 29.208' W., then running 168° (True) to a point, at or near Lat. 38° 59.142' N., Long. 76° 29.190' W., and extending to the head of the creek. Except as otherwise restricted, the speed limit for this area is a minimum wake zone. [, shall be a minimum wake zone, all year, and shall have a designated rowing area (see Regulation .11)]

(2) This area contains a designated rowing area set forth in Regulation .04 of this chapter.

F. Shady Lake[.]. This encompasses the area [beginning at a point Lat. 38°59'31.66"N., Long. 76°29'41.52"W., a line running 333° True to the opposite shore, and running to the head of Shady Lake,] which is upstream of a line beginning at a point at or near Lat. 38° 59.530' N., Long. 76° 29.633' W., then running 329° (True) to a point, at or near Lat. 38° 59.565' N., Long. 76° 29.660' W. Except as otherwise restricted, the speed limit for this area is a minimum wake zone. [shall be a minimum wake zone, all year.]

G. Weems Creek.

(1) [The area beginning at the mouth of the creek, Lat. 39°00'03"N., Long. 76°30'09"W., a line running 158° True to the opposite shore, Lat. 38°59'55"N., Long. 76°30'04"W., up the creek to a line beginning at a point Lat. 38°59'26"N., Long. 76°31'01"W., and running 180° True to the opposite shore,] *Weems Creek Mouth*. This encompasses the area upstream of a line beginning at a point at or near Lat. 39° 0.063' N., Long. 76° 30.157' W., then running 145° (True) to a point, at or near Lat. 38° 59.930' N., Long. 76° 30.037' W., and downstream of a line beginning at a point, at or near Lat. 38° 59.473' N., Long. 76° 30.980' W., then running 179° (True) to a point, at or near Lat. 38° 59.390' N., Long. 76° 30.978' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [shall have a 6-knot (6.9 MPH) speed limit, all year;]

(2) [The area at the head of Weems Creek, beginning at a point Lat. 38°59'26"N., Long. 76°31'01"W., a line running 180° True to the opposite shore, and running to the head of the creek, shall be a minimum wake zone, all year.] *Weems Creek Headwaters*. This encompasses the area upstream of a line beginning at a point, at or near Lat. 38° 59.473' N., Long. 76° 30.980' W., then running 179° (True) to a point, at or near Lat. 38° 59.390' N., Long. 76° 30.978' W. Except as otherwise restricted, the speed limit for this area is a minimum wake zone.

H. Cove of Cork[.]. This encompasses the area [beginning at a point Lat. 39°00'13.38"N., Long. 76°30'29.90"W., a line running 300° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 0.228' N., Long. 76° 30.473' W., then running 306° (True) to a point, at or near Lat. 39° 0.235' N., Long. 76° 30.485' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [and running to the head of the cove, shall have a 6-knot (6.9 MPH) speed limit, all year.]

I. Luce Creek[.]. This encompasses the area [beginning at a point Lat. 39°00'27.74"N., Long. 76°30'58.33"W., a line running 159° True to the opposite shore, and running to the head of the creek, the speed limits shall be:

(1) 6 knots (6.9 MPH), Saturdays, Sundays, and State holidays, and weekdays from sunset to sunrise (nights), during the boating season (April 15 through October 15);

(2) 6 knots (6.9 MPH), sunset to sunrise (nights), during the nonboating season (October 16 through April 14);

(3) 26 knots (30 MPH), weekdays, sunrise to sunset (daylight), during the boating season (April 15 through October 15);

(4) 26 knots (30 MPH), sunrise to sunset (daylight), during the nonboating season (October 16 through April 14).] upstream of a line beginning at a point at or near Lat. 39° 0.473' N., Long. 76° 30.957' W., then running 144° (True) to a point, at or near Lat. 39° 0.413' N., Long. 76° 30.902' W., and running to the head of the creek. Except as otherwise restricted, the speed limits for this area are:

(1) 6 knots on Saturday, Sundays, and Holidays;

(2) 26 knots on weekdays from sunrise to sunset; and

(3) 6 knots on weekdays from sunset to sunrise.

J. Martins Pond[.]. This encompasses the area [beginning at a point Lat. 39°00'36.64"N., Long. 76°31'09.17"W., a line running 155° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 0.612' N., Long. 76° 31.043' W., then running 305° (True) to a point, at or near Lat. 39° 0.645' N., Long. 76° 31.105' W., and running to the head of Martins Pond. Except as otherwise restricted, the speed limit for this area is a minimum wake zone. [and running to the head of Martins Pond, shall be a minimum wake zone, all year.]

K. Saltworks Creek[.]. This encompasses the area [beginning at a point Lat. 39°00'46.70"N., Long. 76°31'32.47"W., a line running 295° True to the opposite shore, Lat. 39°00'47.91"N., Long. 76°31'35.81"W.,] upstream of a line beginning at a point at or near Lat. 39° 0.778' N., Long. 76° 31.508' W., then running 294° (True) to

a point, at or near Lat. 39° 0.802' N., Long. 76° 31.577' W., and running to the head of Saltwater Creek. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the creek, the speed limits shall be:]

(1) 6 knots (6.9 MPH), during the boating season (April 15 through October 15);

(2) 6 knots (6.9 MPH) Saturdays, Sundays, and State holidays and weekdays sunset to sunrise (nights), during the nonboating season (October 16 through April 14);

(3) 26 knots (30 MPH) weekdays, sunrise to sunset (daylight) during the nonboating season (October 16 through April 14.) 6 knots during the boating season;

(2) 26 knots on weekdays from sunrise to sunset during the nonboating season;

(3) 6 knots on Saturdays, Sundays, and State Holidays during the nonboating season; and

(4) 6 knots on weekdays from sunset to sunrise during the nonboating season.

L. Clements Creek[.]. This encompasses the area [beginning at a point Lat. 39°01'04.15"N., Long. 76°31'49.35"W., a line running 038° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 1.256' N., Long. 76° 31.645' W., then running 162° (True) to a point, at or near Lat. 39° 0.919' N., Long. 76° 31.503' W. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the creek, the speed limits shall be:]

(1) 6 knots [(6.9 MPH),] on Saturdays, Sundays, and State holidays [, and weekdays sunset to sunrise (nights), during the boating season (April 15 through October 15)];

(2) 26 knots on weekdays sunrise to sunset; and

(3) 6 knots on weekdays sunset to sunrise;

[6 knots (6.9 MPH), sunset to sunrise (nights), during the nonboating season (October 16 through April 14);

(3) 26 knots (30 MPH), weekdays, sunrise to sunset (daylight), during the boating season (April 15 through October 15);

(4) 26 knots (30 MPH), during the nonboating season (October 16 through April 14).]

M. Brewer Creek[.]. This encompasses the area [beginning at a point Lat. 39°01'27.22"N., Long. 76°32'04.86"W., a line running 026° True to the opposite shore, Lat. 39°01'32.04"N., Long. 76°32'01.88"W.,] upstream of a line beginning at a point at or near Lat. 39° 1.460' N., Long. 76° 32.063' W., then running 23° (True) to a point, at or near Lat. 39° 1.548' N., Long. 76° 32.015' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [and running to the head of the creek, shall have a 6-knot (6.9 MPH) speed limit, all year.]

N. Brewer Pond[.]. This encompasses the area [beginning at a point Lat. 39°01'49.45"N., Long. 76°32'53.05"W., a line running 180° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 1.848' N., Long. 76° 32.837' W., then running 154° (True) to a point, at or near Lat. 39° 1.835' N., Long. 76° 32.828' W. Except as otherwise restricted, the speed limit for this area is a minimum wake zone. [and running to the head of Brewer Pond, shall be a minimum wake zone, all year.]

O. Hopkins Creek[.]. This encompasses the area [beginning at a point Lat. 39°01'57.64"N., Long. 76°34'13.77"W., a line running 237° True to the opposite shore, Lat. 39°01'55.92"N., Long. 76°34'17.17"W.,] upstream of a line beginning at a point at or near Lat. 39° 1.960' N., Long. 76° 34.207' W., then running 294° (True) to a point, at or near Lat. 39° 1.999' N., Long. 76° 34.319' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [and running to the head of the creek, shall have a 6-knot (6.9 MPH) speed limit, all year.]

P. Maynadier Creek[.]. This encompasses the area [beginning at a point Lat. 39°02'07.66"N., Long. 76°34'22.30"W., a line running

301° True to the opposite shore, Lat. 39°02'09.64"N., Long. 76°34'26.49"W.,] upstream of a line beginning at a point at or near Lat. 39° 2.139' N., Long. 76° 34.230' W., then running 260° (True) to a point, at or near Lat. 39° 2.122' N., Long. 76° 34.349' W. Except as otherwise restricted, the speed limit for this area is 6 knots. This area may have a controlled ski course as set forth in COMAR 08.04.16. [and running to the head of the creek, shall have a 6-knot (6.9 MPH) speed limit, all year, unless within a controlled ski area (see Regulation .12.)]

Q. Browns Cove[.]. This encompasses the area [beginning at a point Lat. 39°02'31.84"N., Long. 76°34'27.53"W., a line running 228° True to the opposite shore, Lat. 39°02'29.94"N., Long. 76°34'30.21"W.,] upstream of a line beginning at a point at or near Lat. 39° 2.528' N., Long. 76° 34.440' W., then running 211° (True) to a point, at or near Lat. 39° 2.490' N., Long. 76° 34.470' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [and running to the head of the cove, shall have a 6-knot (6.9 MPH) speed limit, all year.]

R. Place Creek[.]. This encompasses the area at the head of Place Creek[, the area beginning at a point Lat. 39°03'00.06"N., Long. 76°33'44.24"W., a line running 180° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 3.003' N., Long. 76° 33.715' W., then running 142° (True) to a point, at or near Lat. 39° 2.998' N., Long. 76° 33.710' W. Except as otherwise restricted, the speed limit for this area is a minimum wake zone. [and running to the head of the creek, shall be a minimum wake zone, all year.]

S. Valentine Creek[.]. This encompasses the area [beginning at a point Lat. 39°03'46.78"N., Long. 76°34'24.14"W., a line running 097° True to the opposite shore, Lat. 39°03'46.22"N., Long. 76°34'18.43"W.,] upstream of a line beginning at a point at or near Lat. 39° 3.795' N., Long. 76° 34.408' W., then running 100° (True) to a point, at or near Lat. 39° 3.778' N., Long. 76° 34.292' W. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the creek, the speed limits shall be:]

(1) 6 knots [(6.9 MPH),] on Saturdays, Sundays, and State holidays [, and weekdays sunset to sunrise (nights), during the boating season (April 15 through October 15)];

(2) 26 knots on weekdays from sunrise to sunset; and

(3) 6 knots on weekdays from sunset to sunrise.

[6 knots (6.9 MPH), sunset to sunrise (nights), during the nonboating season (October 16 through April 14);

(3) 26 knots (30 MPH), weekdays, sunrise to sunset (daylight), during the boating season (April 15 through October 15);

(4) 26 knots (30 MPH), during the nonboating season (October 16 through April 14).]

T. Plum Creek[.]. This encompasses the area [beginning at a point Lat. 39°03'46"N., Long. 76°34'31.11"W., a line running 231° True to the opposite shore, Lat. 39°03'43.72"N., Long. 76°34'34.75"W.,] upstream of a line beginning at a point at or near Lat. 39° 3.788' N., Long. 76° 34.503' W., then running 229° (True) to a point, at or near Lat. 39° 3.742' N., Long. 76° 34.572' W. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the creek, the speed limits shall be:]

(1) 6 knots [(6.9 MPH),] on Saturdays, Sundays, and State holidays [, and weekdays sunset to sunrise (nights), during the boating season (April 15 through October 15)];

(2) 26 knots on weekdays from sunrise to sunset; and

(3) 6 knots on weekdays from sunset to sunrise.

[6 knots (6.9 MPH), sunset to sunrise (nights), during the nonboating season (October 16 through April 14);

(3) 26 knots (30 MPH), weekdays, sunrise to sunset (daylight), during the boating season (April 15 through October 15);

(4) 26 knots (30 MPH), during the nonboating season (October 16 through April 14).]

U. The Severn River South Shore areas may contain designated rowing areas as set forth in Regulation .04 of this chapter.

.03 Severn River North Shore — Speed Limits.

The Severn River north shore areas, with their corresponding speed limits, are set forth below:

A. Forked Creek[.]. *This encompasses the area [beginning at a point Lat. 39°04'18.60"N., Long. 76°34'36.05"W., a line running 270° True to the opposite shore, Lat. 39°04'18.60"N., Long. 76°34'39.32"W.,] upstream of a line beginning at a point at or near Lat. 39° 4.312' N., Long. 76° 34.573' W., then running 272° (True) to a point, at or near Lat. 39° 4.313' N., Long. 76° 34.630' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [and running to the head of the creek, shall have a 6-knot (6.9 MPH) speed limit, all year.]*

B. Yantz Creek[.]. *This encompasses the area [beginning at a point Lat. 39°04'05"N., Long. 76°33'50"W., a line running 104° True to the opposite shore, Lat. 39°04'80"N., Long. 76°33'49"W.,] upstream of a line beginning at a point at or near Lat. 39° 4.097' N., Long. 76° 33.818' W., then running 136° (True) to a point, at or near Lat. 39° 4.070' N., Long. 76° 33.785' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [and running to the head of the creek, shall have a 6-knot (6.9 MPH) speed limit, all year.]*

C. Sullivan Cove[.]. *This encompasses the area [beginning at a point Lat. 39°03'51.85"N., Long. 76°33'06.23"W., a line running 091° True to a point Lat. 39°03'51.68"N., Long. 76°32'51.56"W.,] upstream of a line beginning at a point at or near Lat. 39° 3.857' N., Long. 76° 33.103' W., then running 89° (True) to a point, at or near Lat. 39° 3.860' N., Long. 76° 32.838' W. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the cove, the speed limits shall be:*

(1) 6 knots (6.9 MPH), Saturdays, Sundays, and State holidays, and weekdays sunset to sunrise (nights), during the boating season (April 15 through October 15);

(2) 6 knots (6.9 MPH), sunset to sunrise (nights), during the nonboating season (October 16 through April 14);

(3) 26 knots (30 MPH), weekdays, sunrise to sunset (daylight), during the boating season (April 15 through October 15); (4) 26 knots (30 MPH), during the nonboating season (October 16 through April 14).]

(1) 6 knots on Saturdays, Sundays, and State holidays during the boating season;

(2) 26 knots on weekdays from sunrise to sunset; and

(3) 6 knots on weekdays from sunset to sunrise.

D. Ringgold Cove[.]. *This encompasses the area [beginning at a point Lat. 39°02'52.67"N., Long. 76°32'12.76"W., a line running 151° True to the opposite shore, Lat. 39°02'45.04"N., Long. 76°32'07.36"W.,] upstream of a line beginning at a point at or near Lat. 39° 2.887' N., Long. 76° 32.192' W., then running 163° (True) to a point, at or near Lat. 39° 2.703' N., Long. 76° 32.118' W. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the cove, the speed limits shall be:*

(1) 6 knots (6.9 MPH), Saturdays, Sundays, and State holidays, and weekdays sunset to sunrise (nights), during the boating season (April 15 through October 15);

(2) 6 knots (6.9 MPH), sunset to sunrise (nights), during the nonboating season (October 16 through April 14);

(3) 26 knots (30 MPH), weekdays, sunrise to sunset (daylight), during the boating season (April 15 through October 15); (4) 26 knots (30 MPH), during the nonboating season (October 16 through April 14).]

(1) 6 knots on Saturdays, Sundays, and State holidays during the boating season;

(2) 26 knots on weekdays from sunrise to sunset; and

(3) 6 knots on weekdays from sunset to sunrise.

E. Asquith Creek.

(1) Asquith Creek entrance channel[.]. *This encompasses the area [30 feet each side of a line from a point Lat. 39°01'58"N., Long. 76°31'38.5"W., and running 304° True to a point Lat. 39°02'06.28"N., Long. 76°31'52.24"W.,] enclosed by a line beginning at a point at or near Lat. 39° 1.988' N., Long. 76° 31.642' W., then running 296° (True) to a point, at or near Lat. 39° 2.043' N., Long. 76° 31.783' W., then running 278° (True) to a point, at or near Lat. 39° 2.047' N., Long. 76° 31.813' W., then running 311° (True) to a point, at or near Lat. 39° 2.065' N., Long. 76° 31.840' W., then running 320° (True) to a point, at or near Lat. 39° 2.087' N., Long. 76° 31.863' W., then running 333° (True) to a point, at or near Lat. 39° 2.147' N., Long. 76° 31.903' W., then running 61° (True) to a point, at or near Lat. 39° 2.152' N., Long. 76° 31.892' W., then running 154° (True) to a point, at or near Lat. 39° 2.093' N., Long. 76° 31.855' W., then running 140° (True) to a point, at or near Lat. 39° 2.072' N., Long. 76° 31.832' W., then running 132° (True) to a point, at or near Lat. 39° 2.055' N., Long. 76° 31.808' W., then running 94° (True) to a point, at or near Lat. 39° 2.053' N., Long. 76° 31.780' W., then running 117° (True) to a point, at or near Lat. 39° 1.997' N., Long. 76° 31.635' W., then running 211° (True) to the point of beginning. Except as otherwise restricted, the speed limit for this area is 6 knots. [shall have a 6-knot (6.9 MPH) speed limit, all year.]*

(2) Asquith Creek[.]. *This encompasses the area [beginning at a point Lat. 39°02'06"N., Long. 76°31'52"W., a line running 270° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 2.125' N., Long. 76° 31.837' W., then running 305° (True) to a point, at or near Lat. 39° 2.227' N., Long. 76° 32.025' W. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the creek, the speed limits shall be:]*

(a) 6 knots [(6.9 MPH),] on Saturdays, Sundays, and State holidays[, and weekdays sunset to sunrise (nights), all year];

(b) [26 knots[(30 MPH),] 26 knots on weekdays[,] from sunrise to sunset [(daylight), all year.]; and

(c) 6 knots on weekdays from sunset to sunrise.

F. Rays Pond[.]. *This encompasses the area [beginning at a point Lat. 39°01'52"N., Long. 76°31'21"W., a line running 180° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 1.873' N., Long. 76° 31.330' W., then running 222° (True) to a point, at or near Lat. 39° 1.863' N., Long. 76° 31.342' W. Except as otherwise restricted, the speed limit for this area is a minimum wake zone. [and running to the head of the pond, shall be a minimum wake zone, all year].*

G. Chase Creek[.]. *This encompasses the area [All of the waters east of a line beginning at a point at or near the shore at the northerly entrance of the creek, defined by Lat. 39°01'270"N, Long. 76°30'908"W, then running approximately 162° True to a point at or near the shore at the southerly entrance of the creek, defined by Lat. 39°01'192"N, and Long. 76°30'875"W,] upstream of a line at or near Lat. 39° 1.270' N., Long. 76° 30.908' W., then running 162° (True) to a point, at or near Lat. 39° 1.192' N., Long. 76° 30.875' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [shall have a 6-knot (6.9 MPH) speed limit, all year.]*

H. Cool Spring Creek[.]. *This encompasses the area [beginning at a point Lat. 39°00'45.74"N., Long. 76°30'18.67"W., a line running 000° True to the opposite shore,] upstream of a line beginning at a point at or near Lat. 39° 0.757' N., Long. 76° 30.280' W., then running 351° (True) to a point, at or near Lat. 39° 0.813' N., Long. 76° 30.292' W. Except as otherwise restricted, the speed limits for this area are: [and running to the head of the creek, the speed limits shall be:*

(1) 6 knots (6.9 MPH), sunset to sunrise (nights), all year;

(2) 26 knots (30 MPH), sunrise to sunset (daylight), all year.]

(1) 26 knots from sunrise to sunset;

(2) 6 knots from sunset to sunrise.

I. Winchester Pond[.]. *This encompasses the area [beginning at a point Lat. 39°00'31.60"N., Long. 76°29'53.51"W., a line running 316° True to the opposite shore, Lat. 39°00'32.42"N., Long. 76°29'54.51"W.,] upstream of a line beginning at a point at or near Lat. 39° 0.535' N., Long. 76° 29.867' W., then running 318° (True) to a point, at or near Lat. 39° 0.545' N., Long. 76° 29.878' W. Except as otherwise restricted, the speed limit for this area is [and running to the head of Winchester Pond, shall be] a minimum wake zone[, all year].*

J. Manresa Pond[.]. *This encompasses the area [beginning at a point Lat. 39°00'20.03"N., Long. 76°29'22.24"W., a line running 000° True to the opposite shore.] upstream of a line beginning at a point at or near Lat. 39° 0.312' N., Long. 76° 29.368' W., then running 305° (True) to a point, at or near Lat. 39° 0.322' N., Long. 76° 29.387' W. Except as otherwise restricted, the speed limit for this area is 6 knots. [and running to the head of Manresa Pond has a 6-knot (6.9 MPH) speed limit, all year].*

K. Carr Creek[.]. *This encompasses the area upstream of a line beginning at a point at or near Lat. 38° 58.975' N., Long. 76° 27.647' W., then running 124° True) to a point, at or near Lat. 38° 58.775' N., Long. 76° 27.273' W., is a restricted area and under military control. Consult current addition of the US Coast Pilot 3 for restrictions. [is a restricted area and under military control.]*

.04 [College Creek] Designated Rowing Area.

A. [The designated rowing area may be marked by the Department.] *The Department may designate rowing areas within the waters of the State.*

B. [The designated rowing area on the Severn River may be within the area of College Creek beginning at a point Lat. 38°59'12"N., Long. 76°29'14"W., a line running 160° True to the opposite shore, and running to the head of the creek.] *College Creek Designated Rowing Area. This encompasses the area upstream of a line beginning at a point, at or near Lat. 38° 59.210' N., Long. 76° 29.208' W., then running 168° (True) to a point, at or near Lat. 38° 59.142' N., Long. 76° 29.190' W., and extending to the head of the creek.*

C. Special Provisions for College Creek Designated Rowing Area.

(1) (text unchanged)

(2) Coach boats, when accompanying rowing shells, are exempt from Regulation [.09E] .02E of this chapter and §C(1)(b) of this regulation.

D. *A rowing scull and its coach boat may be exempt from boating speed limits on State waters if the coach boat is within 150 feet of the rowing scull and is practicing for a race.*

E. *A racing shell and its coach boat may be exempt from boating speed limits on State waters if the coach boat is within 150 feet of the racing shell and is practicing for a race.*

F. *Other uses may require approval from federal, State or local agencies.*

MARK J. BELTON
Secretary of Natural Resources

Subtitle 18 BOATING—SPEED LIMITS AND OPERATION OF VESSELS

08.18.25 South River

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

Notice of Proposed Action

[16-037-P]

The Secretary of Natural Resources proposes to amend Regulation .02 and repeal Regulation .05 under **COMAR 08.18.25 South River.**

Statement of Purpose

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

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Grant, Regulations Coordinator, Department of Natural Resources, 580 Taylor Avenue, Boating Services E-4, Annapolis, MD 21401, or call 410-260-8013, or email to Michael.Grant@maryland.gov, or fax to 410-260-8453. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.02 South River Proper.

A. [The South River proper areas, with their corresponding speed limits, are set forth in §B—G of this regulation. The Upper South River Controlled Ski Area is part of the South River Proper and the requirements for this area are set forth in Regulation .05 of this chapter.] *Lower South River Area. This encompasses the area upstream of a line beginning at Thomas Point, at or near Lat. 38° 54.433' N., Long. 76° 27.615' W., then running 227° (True) to Saunders Point, at or near Lat. 38° 53.108' N., Long. 76° 29.445' W., and downstream of a line beginning at Shadow Point, at or near Lat. 38° 56.783' N., Long. 76° 32.981' W., then running 32° (True) to a point, at or near Lat. 38° 57.057' N., Long. 76° 32.762' W. Except as otherwise restricted, the speed limits for this area are:*

- (1) 35 knots from sunrise to sunset during the boating season; and
- (2) 20 knots from sunset to sunrise during the boating season.

B. [The] Route 2 [bridge area] *Bridge Area. This encompasses the area upstream of a line beginning at a point at or near Lat. 38° 56.783' N., Long. 76° 32.981' W., then running 32° (True) to Shadow Point, at or near Lat. 38° 57.057' N., Long. 76° 32.762' W., and downstream of a line beginning at a point, at or near Lat. 38° 56.916' N., Long. 76° 33.429' W., then running 358° (True) to a point, at or near Lat. 38° 57.377' N., Long. 76° 33.447' W., and not including Warehouse and Gingerville Creeks. [This area has a 6-knot speed limit all year.] Except as otherwise restricted, the speed limit for this area is 6 knots.*

C. [The area between] *Area Between Riva Bridge and [the] Route 2 Bridge. This encompasses the area upstream of a line beginning at a point Lat. 38° 56.916' N., Long. 76° 33.429' W., then running 358° (True) to a point, at or near Lat. 38° 57.377' N., Long. 76° 33.447'*

W., and downstream of a line beginning at a point at or near Lat. 38° 57.229' N., Long. 76° 34.330' W., then running 30° (True) to a point, at or near Lat. 38° 57.451' N., Long. 76° 34.166' W. [This area has a:] *Except as otherwise restricted, the speed limits for this area are:*

- (1) [20-knot] 35 knots [speed limit,] from sunrise to sunset [sunset to sunrise,] during the boating season; and
- (2) [35-knot] 20 knots [speed limit,] from sunset to sunrise [sunrise to sunset,] during the boating season.

D. [The] Riva [bridge area] *Bridge Area*. This encompasses the area upstream of a line beginning at a point at or near Lat. 38° 57.229' N., Long. 76° 34.330' W., then running 30° (True) to a point, at or near Lat. 38° 57.451' N., Long. 76° 34.166' W., and downstream of a line beginning at a point, at or near Lat. 38° 57.211' N., Long. 76° 34.545' W., then running 20° (True) to Addison Point, at or near Lat. 38° 57.495' N., Long. 76° 34.412' W. [This area has a 6-knot speed limit] *Except as otherwise restricted, the speed limit for this area is 6 knots on Saturdays, Sundays, and Holidays during the boating season.*

E. [The area between the] *Area Between Riva Bridge* and [the] Upper South River [controlled ski area] *Controlled Ski Area*. This encompasses the area upstream of a line beginning at a point at or near Lat. 38° 57.211' N., Long. 76° 34.545' W., then running 20° (True) to a point, at or near Lat. 38° 57.495' N., Long. 76° 34.412' W., and downstream of a line beginning at a point, at or near Lat. 38° 58.637' N., Long. 76° 36.365' W., then running 72° (True) to a point, at or near Lat. 38° 58.685' N., Long. 76° 36.177' W. [This area has a:] *Except as otherwise restricted, the speed limits for this area are:*

- (1) [20-knot] 35 knots [speed limit,] from sunrise to sunset [sunset to sunrise,] during the boating season; and
- (2) [35-knot] 20 knots [speed limit,] from sunset to sunrise [sunrise to sunset,] during the boating season.

F. [The Route 50 bridge area encompasses the area upstream of a line beginning at a point at or near Lat. 38° 58.637' N., Long. 76° 36.365' W., then running 72° (True) to a point, at or near Lat. 38° 58.685' N., Long. 76° 36.177' W., and running to the head of the river. This area has a minimum wake zone all year.] *Upper South River Controlled Ski Area*. This encompasses the area upstream of a line beginning at a point at or near Lat. 38° 58.085' N., Long. 76° 36.013' W., then running 65° (True) to a point, at or near Lat. 38° 58.168' N., Long. 76° 35.780' W., and downstream of a line beginning at a point at or near Lat. 38° 58.637' N., Long. 76° 36.365' W., then running 72° (True) to a point, at or near Lat. 38° 58.685' N., Long. 76° 36.177' W. *Except as otherwise restricted, the speed limit for this area is 6 knots. This area may have a controlled ski course as set forth in COMAR 08.04.16.*

G. [The lower South River area encompasses the area upstream of a line beginning at Thomas Point, at or near Lat. 38° 54.433' N., Long. 76° 27.615' W., then running 227° (True) to Saunders Point, at or near Lat. 38° 53.108' N., Long. 76° 29.445' W., and downstream of a line beginning at Shadow Point, at or near Lat. 38° 56.783' N., Long. 76° 32.981' W., then running 32° (True) to a point, at or near Lat. 38° 57.057' N., Long. 76° 32.762' W., excluding any creek or area otherwise regulated under this chapter. This area has a:

- (1) 35-knot speed limit, sunrise to sunset, during the boating season; and
- (2) 25-knot speed limit, sunset to sunrise, during the boating season.] *Route 50 Bridge Area*. This encompasses the area upstream of a line beginning at a point at or near Lat. 38° 58.637' N., Long. 76° 36.365' W., then running 72° (True) to a point, at or near Lat. 38° 58.685' N., Long. 76° 36.177' W., and running to the head of the river. *Except as otherwise restricted, the speed limit for this area is a minimum wake zone.*

MARK J. BELTON
Secretary of Natural Resources

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.21 Employee Injury and Illness Records and Reports

Authority: Labor and Employment Article, §§2-106(b)(4), 5-312, and 5-702—
5-704, Annotated Code of Maryland

Notice of Proposed Action [16-052-P]

The Commissioner of Labor and Industry proposes to amend Regulation .02 under **COMAR 09.12.21 Employee Injury and Illness Records and Reports**. This action was considered by the Maryland Occupational Safety and Health Advisory Board pursuant to a meeting held on June 17, 2015, notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to incorporate by reference recent amendments to the OSHA Final Rule on Occupational Injury and Illness Recording and Reporting Requirements—NAICS Update and Reporting Revisions.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andi Morony, Policy Director, Division of Labor and Industry, Department of Labor, Licensing, and Regulation, 1100 N. Eutaw Street, Room 606, Baltimore, MD 21201, or call 410-767-2962, or email to andi.morony@maryland.gov, or fax to 410-767-2986. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.02 Incorporation by Reference.

- A. (text unchanged)
- B. Documents Incorporated.
 - (1) (text unchanged)
 - (2) 29 CFR §1904.2 [(2001)] (2014).
 - (3) — (17) (text unchanged)
 - (18) 29 CFR §1904.39 [(2001)] (2014).
 - (19) — (22) (text unchanged)
 - (23) 29 CFR §1904 Non-Mandatory Appendix A to Subpart B—Partially Exempt Industries [(2001)] (2014).

C. The following amendments apply to the documents incorporated by reference in §B of this regulation:

- (1) (text unchanged)
- (2) For 29 CFR §1904.2, *in*:
 - [2] For 29 CFR §1904.2(a)(1), [a] *Subsection (a)(1)*, where the words “all employers must report to OSHA” appear, substitute “MOSH” for “OSHA”; *and*
 - (b) *Subsection (b)(2)*, where the words “OSHA office or State agency” appear, substitute “MOSH office”;
 - (3) — (10) (text unchanged)
 - (11) For 29 CFR §1904.38[:], *in*:
 - (a) [In subsection] *Subsection (a)*, where the words “Basic requirement.” appear, substitute “Private sector basic variance requirements.”;
 - (b) [In subsection] *Subsection (a)*, the word “you” means “an employer as defined in §5-101(d) [(1)(i)] of the Maryland Occupational Safety and Health Act”; *and*
 - (c) [In subsection] *Subsection (b)(4)*, where the words “If I have already been cited by OSHA” appear, substitute “MOSH” for “OSHA”;
 - (12) For 29 CFR §1904.39:
 - (a) Except as provided in paragraphs (b)—[(e)] (j) of this subsection, wherever the word “OSHA” appears, substitute “MOSH”;
 - (b) [In subsection (a)], where the words “Area Office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor,” appear, substitute “MOSH Central Office” and strike the last sentence; *In subsection (a)(1)*, where the words “the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor” appear, substitute “MOSH”;
 - (c) *In subsection (a)(2)*, where the word “OSHA” appears, substitute “MOSH”;
 - (d) *In subsection (a)(3)(i)*, where the words “OSHA Area Office” appear, substitute “MOSH Central Office”, and delete the words “that is nearest to the site of the incident”;
 - (e) *In subsection (a)(3)(ii)*, where the words “OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742)” appear, substitute “MOSH Central Office toll-free telephone number, 1-800-759-6297”;
 - (f) *In subsection (a)(3)(iii)*, substitute “form” for “application”, “MOSH’s” for “OSHA’s”, and “www.dllr.maryland.gov/labor/mosh/” for “www.osha.gov”;
 - [c] (g) *In subsection (b)(1)*, substitute “MOSH Central Office” for “Area Office”, substitute “MOSH’s” for “OSHA’s”, [and] substitute “MOSH Central Office toll-free [emergency] telephone number [1-888-257-MOSH (1-888-257-6674)] 1-800-759-6297” for the words “800 number”, substitute “form” for “application”, and substitute “MOSH’s public Web site at www.dllr.maryland.gov/labor/mosh/” for “OSHA’s public Web site at www.osha.gov”;
 - [d] (h) *In subsections (b)(2)*, [(b)(3) and (4)], except for references to “OSHA injury and illness records”, wherever the word “OSHA” appears, substitute “MOSH”; [and]
 - [e] (i) *In subsection (b)(5)*, where the words “your local OSHA Area Office director” appear, substitute “the MOSH Assistant Commissioner”; *and*
 - (j) *In subsections (b)(6)*, (7), (8) and (10), except for a reference to “OSHA injury and illness records”, wherever the word “OSHA” appears, substitute “MOSH”;
 - (13) — (15) (text unchanged)
 - (16) *In 29 CFR §1904 Non-Mandatory Appendix A to Subpart B—Partially Exempt Industries*, [where the words “must report to OSHA any workplace incident” appear,] *except for a reference to “OSHA injury and illness records”*, substitute “MOSH” for “OSHA” *in the last sentence*.

THOMAS MEIGHEN
Commissioner of Labor and Industry

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.31 Maryland Occupational Safety and Health Act — Incorporation by Reference of Federal Standards

Authority: Labor and Employment Article, §§2-106(b)(4) and 5-312(b), Annotated Code of Maryland

Notice of Proposed Action [16-051-P]

The Commissioner of Labor and Industry proposes to adopt, through incorporation by reference under **COMAR 09.12.31 Maryland Occupational Safety and Health Act — Incorporation by Reference of Federal Standards**, amendments relating to Confined Spaces in Construction, 29 CFR Part 1926, published in 80 FR 25366 — 25526 (May 4, 2015).

This action was considered by the Maryland Occupational Safety and Health Advisory Board pursuant to a meeting held on June 17, 2015, notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to add a new subpart to provide protections to employees working in confined spaces in construction.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andi Morony, Policy Director, Division of Labor & Industry, Dept. of Labor, Licensing, and Regulation, 1100 N. Eutaw Street, Room 604, Baltimore, MD 21202, or call 410-767-2962, or email to andi.morony@maryland.gov, or fax to 410-767-2986. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

A.—O-1. (text unchanged).

O-2. Confined Spaces in Construction. All amendments and revisions to 29 CFR §1926 that appear in the Federal Register on May 4, 2015 (80 FR 25366—25526) are adopted by reference. Effective date:

P.—ZZ-2. (text unchanged).

THOMAS MEIGHEN
Commissioner of Labor and Industry

Subtitle 21 BOARD OF ARCHITECTS

09.21.01 General Regulations

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

Notice of Proposed Action

[16-047-P]

The Board of Architects proposes to amend Regulation .04 under **COMAR 09.21.01 General Regulations**. This action was considered by the Board of Architects at a public meeting held on December 8, 2015, notice of which was given by publication in the Daily Record on November 19, 2015, pursuant to General Provisions Article §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to clarify the current education equivalency matrix for those exam applicants who do not possess an accredited degree or wish to qualify for the exam with less than an accredited undergraduate degree or have no undergraduate degree.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to James A. Baseman, Assistant Executive Director, Board of Architects, 500 N. Calvert Street, Room 308, Baltimore, MD 21202, or call 410-230-6263, or email to james.baseman@maryland.gov, or fax to 410-962-8483. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Architects during a public meeting to be held on March 23, 2016, 10 a.m., at 500 N. Calvert Street, Third Floor Conference Room, Baltimore, MD 21202.

.04 Educational Requirements.

A. (text unchanged)

B. If an applicant does not meet the *professional education degree* requirements referenced in §A of this regulation, an applicant shall [accumulate a total of 5 educational equivalency credits that may be earned] *comply with the education requirements* by either [a] work experience or academic training, or a combination of both, in accordance with the following *Education Equivalency Matrix*:

[EQUIVALENCY MATRIX]	
Academic Training	Maximum Credits Allowed*
Full-time academic training toward a first or second professional architectural degree accredited by the National Architectural Accrediting Board (NAAB)	3 credits at the following rate: 75% for the first 2 years; 100% for subsequent years
A bachelor of science or a bachelor of arts degree or their equivalent in architecture not accredited by NAAB	3 credits
A bachelor of science or a bachelor of arts degree or their equivalent in engineering, landscape architecture or interior design	2.5 credits
A bachelor of science or a bachelor of arts degree or their equivalent in a discipline other than those listed above	2 credits
* An applicant may not accumulate more than 3 credits in aggregate from the academic training described above.	
Work Experience	Maximum Credits Allowed**
Experience directly related to architectural work as an employee in the office of a licensed architect	5 credits
Experience as an employee of an organization other than the office of a licensed architect if the experience is directly related to architectural work and is under the direct supervision of a licensed architect	4 credits
** One equivalency credit shall equal 2 full-time years of work experience acceptable to the Board.]	

EDUCATION EQUIVALENCY MATRIX

For early exam eligibility, a candidate using the Education Equivalency Matrix should complete the education requirements before completing the Intern Development Program (IDP) requirements in Regulation .05 of this chapter.

TYPE OF DEGREE OR EDUCATIONAL EXPERIENCE (See Note 1)	WORK EXPERIENCE FOR EDUCATIONAL EQUIVALENCY (See Note 2)
FULL-TIME ACADEMIC TRAINING TOWARD A FIRST OR SECOND PROFESSIONAL ARCHITECTURAL DEGREE ACCREDITED AS FOLLOWS:	
Complete 1 academic year in NAAB professional program	8.5 years — separate from experience used for IDP
Complete 2 academic years in NAAB professional program	7 years — separate from experience used for IDP
Complete 3 academic years in NAAB professional program	5 years — separate from experience used for IDP
Complete 4 academic years in NAAB professional program	4 years — separate from experience used for IDP
BS OR BA IN ARCHITECTURE	4 years — separate from experience used for IDP

BS OR BA IN ENGINEERING, LANDSCAPE ARCHITECTURE OR INTERIOR DESIGN	5 years — separate from experience used for IDP
BS OR BA IN OTHER DISCIPLINE (including B.F.A.)	6 years — separate from experience used for IDP
AAS from community college (See Note 3)	10 years — separate from experience used for IDP
None	10 years — separate from experience used for IDP

Notes:

1. Combinations of Educational Experience not explicitly stated in the Education Equivalency Matrix shall be considered on a case-by-case basis by the Board.
2. Work experience shall be directly related to architectural work and be completed under the direct supervision of a licensed architect. The work experience shall be full-time, a minimum of 40 hours per week. The work experience shall be completed in the office of a licensed Architect except that 80% of the required work experience may be completed as an employee of an organization other than the office of a licensed Architect if the work experience is directly related to architectural work and is completed under the direct supervision of a licensed Architect. All work experience must be documented on the Board's ERC Forms.
3. No credit is given.

DIANE CHO
Chair

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 17 [SWIMMING POOLS AND SPAS] AQUATIC FACILITIES AND VENUES

10.17.01 [Public Swimming Pools and Spas] Aquatic Facilities and Venues

Authority: Health-General Article, §§2-102, 2-104, 18-102, and 20-303, Annotated Code of Maryland, and U.S.C. §8003

Notice of Proposed Action

[16-009-P-I]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01—.02, .06—.29, .31—.51, and .53—.54, repeal existing Regulations .03—.05, .28-1, and .52, and adopt new Regulations .03—.05, .06-1, .06-2, .18-1, .22-1, .22-2, .48-1, .48-2, .52, and .55 under **COMAR 10.17.01 Aquatic Facilities and Venues**.

Statement of Purpose

The purpose of this action is to:

- (1) Revise the subtitle and chapter name;
- (2) Update the incorporation by reference documents;
- (3) Revise the construction, partial construction, alteration, and replacement permit application process to facilitate a faster turnaround time of applications;
- (4) Incorporate new and innovative technologies and design;
- (5) Incorporate best management practices outlined by the Centers for Disease Control and Prevention;
- (6) Implement a standardization and auditing process for local health departments (LHDs) to interpret and enforce regulations; and
- (7) Make stylistic changes.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action will have an indeterminate economic impact on LHDs, owners of aquatic facilities and venues, other industry and trade groups, and the general public. LHDs will experience an increase in expenditures to perform additional inspections not previously done by LHDs. However, the magnitude of these expenditures is indeterminate due to the lack of standardization in inspections among the LHDs. Owners will be required to update their aquatic facilities and venues in order to bring them into compliance with the proposed regulations. Owners will also need to update their aquatic facilities and venues in up to three phases over several years, which will allow them to spread the financial burden over several years and allocate funds within their budgets to cover the cost of updates to their aquatic facilities and venues. Based on the number, type, and size of the renovation each aquatic facility and venue must complete to comply with the proposed regulations and the variation in cost, this will result in an indeterminate impact to owners.

Other industry and trade groups include pool and spa renovation companies. These companies will benefit from the renovations made to an owner's aquatic facilities and venues because they will complete the updates to each of the aquatic facilities and venues. However, due to the variation in cost among each aquatic facility and venue this will result in an indeterminate benefit to renovation companies and manufacturers. The public will benefit from a decrease in waterborne outbreaks and injuries associated with aquatic facilities and venues; however, because it is difficult to quantify the number of individuals who will benefit from this reduction this proposal will result in an indeterminate impact.

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

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	Indeterminable
E. On other industries or trade groups:	(+)	Indeterminable
F. Direct and indirect effects on public:	(+)	Indeterminable

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

C. The magnitude of expenditures on LHDs associated with performing additional inspections is indeterminate due to the lack of standardization in inspections among the LHD. Some LHDs currently inspect aquatic facilities and venues frequently enough to meet the proposed regulations and will not have any additional expenditures associated with inspections. However, LHDs who currently inspect aquatic facilities and venues once per year will experience an increase in expenditures associated with inspecting aquatic facilities and venues more frequently.

D. Owners within the regulated industry will experience additional costs to bring their aquatic facilities and venues into compliance with the proposed regulations. To ease the financial burden, the regulated industry will be allowed to allocate funds within their budgets to cover the cost of renovations in order to bring their aquatic facilities and venues into compliance over several years. Owners in the regulated industry will need to complete simpler requirements by May 30, 2016. Other items required by the proposed regulations need to be completed by January 1, 2017, while final items need to be completed by January 1, 2018. These additional costs will vary among each aquatic facility and venue, resulting in an indeterminate impact.

E. Pool and spa renovation companies will benefit from this proposal by completing the renovations at the aquatic facilities and venues. Manufacturers will also benefit from this proposal by providing equipment and services to the renovation companies performing the updates to the aquatic facilities and venues. The timeframe allocated to owners to complete these renovations serve to spread the economic benefit to the industry and manufacturers over several years. However, due to the variation in cost among each aquatic facility and venue this will result in an indeterminate benefit to renovation companies and manufacturers.

F. The public will benefit from a decrease in waterborne outbreaks and injuries associated with aquatic facilities and venues because these changes will translate into fewer visits to primary care physicians, hospital emergency rooms, and urgent care centers.

Economic Impact on Small Businesses

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

Each aquatic facility and venue is unique in its design, size, and compliance with current regulations. Pool and spa renovation companies and manufactures that are small businesses will benefit from the renovations made to aquatic facilities and venues. Additionally, owners of aquatic facilities and venues that are small businesses will experience the costs associated with renovations. Based on the number, type, and size of the renovation each aquatic facility and venue must complete to comply with the proposed regulations and the variation in cost, this will result in an indeterminate benefit to 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, 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 22, 2016. A public hearing has not been scheduled.

Editor’s Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, American National Standard for Public Swimming Pools (ANSI/APSP/ICC-1 2014); Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities (NSF/ANSI 50-2013); America National Standard for Residential Inground Swimming Pools (ANSI/APSP/ICC-5 2011); American National Standard for Aboveground/Onground Residential Swimming Pools (ANSI/APSP/ICC-4 2012); and American National Standard for Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs (ANSI/APSP-16 2011) have been declared documents generally available to the public and appropriate for incorporation by reference. For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 43:1 Md. R. 10 (January 8, 2016), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Purpose and Scope.

A. The purpose of this chapter is to enact regulations that protect and promote the public health and safety of individuals at [public spas and pools] *aquatic facilities and venues* in Maryland. [Public pools] *Aquatic facilities and venues* include limited public-use pools, recreational pools, [and semipublic pools. Public spas include semipublic spas] *semipublic pools, public spas, semipublic spas, and public spray grounds*.

B. This chapter adopts construction standards, updates disinfection standards, recognizes certain new technologies and design concepts, and establishes minimum [criteria for public pools and spas] *standards for aquatic facilities and venues*.

.02 Exclusions.

This chapter does not apply to a:

A.—B. (text unchanged)

C. Pool or spa that is completely emptied of water, disinfected, and refilled with water between each use and that is intended for use or used by a single individual during each use; [or]

D. Pool [or a], spa, *or spray ground* at a bed and breakfast, if the bed and breakfast facility has eight or fewer guest rooms; *or*

E. *Private spray ground*.

.03 Documents Incorporated by Reference.

The following documents are incorporated by reference in this chapter:

A. *American National Standard for Public Swimming Pools (ANSI/APSP/ICC-1 2014) except Articles 6.8, 6.9.1, 6.9.3, 7.1.6, 7.1.7, 7.1.7.1, 8.1.1, 12.3, 12.3.1, 12.3.2, 13.2.1.2, 13.2.3, 15.3, 17.4, 17.5.1, 18.1, 18.1.2, 18.1.2.1, 18.1.2.2, 18.1.2.3, 18.6, and 22.2.1, and except that in Appendix E, the term “shall” is substituted for “should” whenever it appears;*

B. American National Standard for Public Spas, (ANSI/NSPI-2 1999), except Articles 7.6 and 7.6.1;

C. Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities (NSF/ANSI 50-2013);

D. American National Standard for Residential Inground Swimming Pools (ANSI/APSP/ICC-5 2011);

E. American National Standard for Aboveground/Onground Residential Swimming Pools (ANSI/APSP/ICC-4 2012);

F. American National Standard for Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs (ANSI/APSP-16 2011); and

G. 15 U.S.C. §8003, as amended.

.04 Definitions.

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

B. Terms Defined.

(1) "Agitated water" means an aquatic venue with mechanical means to discharge, spray, or move the water's surface above and/or below the static water line of the aquatic venue so people are standing or playing vertically.

(1-1) "AF" means alkalinity factor.

(2) Alteration.

(a) "Alteration" means to:

(i) Change or modify an equipment room, a bathhouse, a component, or the configuration of an aquatic venue;

(ii) Move a component from one location or position to another; or

(iii) Install a new component.

(b) "Alteration" does not include a repair or replacement.

(3) "Approved" means found by the Secretary to be in satisfactory compliance with applicable statutes and regulations promulgated or enforced by the Secretary.

(4) "APSP" means the Association of Pool and Spa Professionals.

(5) "Aquatic facility" means a physical place that contains one or more aquatic venues and support infrastructure.

(6) Aquatic venue.

(a) "Aquatic venue" means an artificially constructed structure or modified natural structure where the general public is exposed to water intended for recreational or therapeutic purpose.

(b) "Aquatic venue" includes a public pool, spa, and spray ground.

(c) "Aquatic venue" does not include a private pool, spa, or spray ground.

(7) "Barrier" means a fence, wall, or a combination of a fence and wall that completely surrounds and obstructs access to the aquatic venue.

(7-1) "CF" means calcium hardness factor.

(8) "Cfm" means cubic feet per minute.

(9) "Component" means:

(a) A piece of aquatic venue equipment;

(b) A deck;

(c) A barrier;

(d) One or more skimmers;

(e) One or more filters, including piping and valves;

(f) A ventilation system;

(g) Lighting provided for water, deck, and walkways; or

(h) Pipe material for aquatic venue water.

(9-1) "CPR" means cardiopulmonary resuscitation.

(10) "Critical violation" means failure to comply with:

(a) Regulation .06 of this chapter;

(b) Regulation .06-1 of this chapter;

(c) Regulation .08 of this chapter;

(d) Regulation .21 of this chapter;

(e) Regulation .25 of this chapter;

(f) Regulation .28 of this chapter;

(g) Regulation .29 of this chapter;

(h) Regulation .40 of this chapter;

(i) Regulation .43 of this chapter;

(j) Regulation .44 of this chapter;

(k) Regulation .45 of this chapter;

(l) Regulation .46 of this chapter; and

(m) Regulation .48 of this chapter.

(11) "Deck" means surface areas serving the aquatic venue, including the dry deck, perimeter deck, and pool deck.

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

(12-1) "DPD" means diethyl-p-phenylene diamine.

(13) Dry Deck.

(a) "Dry deck" means all pedestrian surface areas within the aquatic venue barrier not subject to frequent splashing or constant wet foot traffic.

(b) "Dry deck" does not include perimeter deck, pool deck or landscape areas.

(13-1) "EDTA" means ethylenediamine-tetraacetate.

(14) "Flat water" means an aquatic venue in which the water line is static except for movement made by users usually as a horizontal use as in swimming or from diving spargers.

(15) "Full compliance inspection" means an inspection that verifies compliance with this chapter.

(16) "Gpm" means gallons per minute.

(17) "Handhold" means a coping, horizontal bar, or cantilevered decking.

(18) "Latch" means a device attached to a gate for the purpose of securing the gate closed.

(19) Latch Release.

(a) "Latch release" means a mechanism to disengage the latch to allow the gate to open.

(b) "Latch release" includes but is not limited to an electronic lock, a key fob system, or a swipe card entry system.

(20) "Lazy river" means an aquatic venue where water is moved by pumps or other means of propulsion that transports bathers over a defined path.

(21) "Lifeguard" means an individual who is 15 years old or older and who has a valid lifeguard certificate from:

(a) The American Red Cross;

(b) The Boy Scouts of America, not including a lifeguard merit badge;

(c) The Young Men's Christian Association;

(d) Ellis and Associates' International Lifeguard Training Program;

(e) Starfish Aquatics Institute; or

(f) An organization with a lifesaving training program equivalent to that of the American Red Cross as determined by the Department.

(22) Limited Public-Use Pool.

(a) "Limited public-use pool" means a private pool which is made available for use by:

(i) Children in family day care under the care of a family day care provider at a family day care home as defined in COMAR 13A.15.01; or

(ii) An organized group, agency, or other person for swimming lessons or water safety training.

(b) "Limited public-use pool" does not include a pool that is emptied of water, disinfected, and refilled with water between each use.

(23) "Make-up water" means the potable water used to maintain the water level in a pool, spa, or within the surge tank of a spray ground.

(24) "NSF" means the National Sanitation Foundation International.

(25) "Operator" means a person who supervises, controls, conducts, or manages the operation of an aquatic facility or venue.

(26) "Owner" means a person who has a legal interest in an aquatic facility or venue or in the property on which an aquatic facility or venue is or is to be constructed or altered.

(27) "Oxidation reduction potential (ORP)" means a measure of the tendency for a solution to either gain or lose electrons.

(28) "Perimeter deck" means the hardscape surface area immediately adjacent to and within four feet of the edge of the public pool, spa or spray ground.

(29) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(30) "PHMB" means poly(iminoimidocarbonyliminoimidocarbonylimino)hexamethylene hydrochloride or polyhexamethylene biguanidine hydrochloride.

(31) "Plummet" means the center of the end of the diving board over the water, in the position where it will be installed.

(32) "Pool" means an artificial enclosure of water that is used for the immersion of the human body for recreation, therapy, or exercise, including a structure that is installed in the ground, above ground, outside, or in a building or portable structure.

(33) "Pool deck" means the surface areas serving the aquatic venue, beyond perimeter deck, which is expected to be regularly trafficked and made wet by bathers.

(34) "Ppm" means parts per million.

(35) "Primary disinfectant" means chlorine or bromine.

(36) Private Pool, Private Spa, and Private Spray Ground.

(a) "Private pool," "private spa," and "private spray ground" mean a pool, spa, or spray ground that is:

(i) Not open to the public;

(ii) On a property on which not more than eight private residences are located; and

(iii) Used exclusively by the residents of the property and nonpaying individuals invited to use the pool, spa, or spray ground by a resident.

(b) "Private pool," "private spa," or "private spray ground" include a pool, spa, or spray ground at a private residence used for short-term rentals including weekly, monthly, or seasonal rentals.

(37) "PSI" means pounds per square inch.

(38) Public Pool, Public Spa, and Public Spray Ground.

(a) "Public pool," "public spa," and "public spray ground" mean a pool, spa, or spray ground that is not a private pool, spa, or spray ground.

(b) "Public pool" includes a:

(i) Limited public-use pool;

(ii) Recreational pool; and

(iii) Semipublic pool.

(c) "Public spa" includes a semipublic spa.

(39) "Recreational pool" means a pool that:

(a) Is not a limited public-use pool, private pool, semipublic pool, or spray ground;

(b) Is provided as the owner's primary business or the facility's primary purpose, for example, a swim club or similar facility;

(c) Is open for general admission to the public;

(d) Is available to an individual paying a fee for use of the pool;

(e) Is equipped with a sliding board, diving platform, water slide, water flume, or water recreational play equipment that is built into or attached to the pool structure;

(f) Is provided by, or used by a:

(i) Youth camp;

(ii) College, university, or school;

(iii) Municipality;

(iv) Water park, amusement park, or water recreational attraction; or

(v) An apartment complex, housing subdivision, or mobile home park with more than ten units, except as provided in §B(45) of this regulation; or

(g) Is used more than 4 times a week for swimming lessons, water safety instruction, or swimming competition.

(40) Repair.

(a) "Repair" means substituting a component having the same make and model as the previously approved component for the previously approved component.

(b) "Repair" does not include:

(i) Replacements;

(ii) Alterations;

(iii) Installation of additional equipment; or

(iv) Substitutions involving a component which does not meet the requirements of this chapter.

(41) Replacement.

(a) "Replacement" means substituting a component, which has a different make or model but has the same operating characteristics and certifications as the previously approved component, for the previously approved component.

(b) "Replacement" does not include:

(i) Repairs;

(ii) Alterations;

(iii) Installation of additional equipment; or

(iv) Substitutions involving a component which does not meet the requirements of this chapter.

(c) "Replacement" includes the installation of any component which is being installed at an aquatic facility that received approval after construction from the Secretary before May 30, 2016, to bring an aquatic facility into compliance with new provisions of this chapter.

(42) "Routine inspection" means an inspection that includes but is not limited to verifying compliance with:

(a) Regulation.21 of this chapter;

(b) Regulation .25 of this chapter;

(c) Regulation .28 of this chapter;

(d) Regulation.29 of this chapter;

(e) Regulation .40 of this chapter;

(f) Regulation .44 of this chapter;

(g) Regulation .45 of this chapter;

(h) Regulation .46 of this chapter;

(i) Regulation .48 of this chapter; and

(j) Regulation .48-1 of this chapter.

(43) "Safety vacuum release system" means a vacuum release system that:

(a) Is capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to a suction outlet flow blockage; and

(b) Complies with 15 U.S.C. §8003.

(44) "Secretary" means the Secretary of Health and Mental Hygiene or the Secretary's designee, including a local health officer.

(45) "Semipublic pool" and "semipublic spa" means a pool or spa at a facility that:

(a) Has pool use or spa use restricted to an individual:

(i) Staying at the facility, where the facility is a temporary dwelling, including a hotel, motel, campground, bed and breakfast having nine or more guest rooms, or similar temporary dwelling;

(ii) Holding membership at the facility, where the facility is an adult health club, retirement community, marina, condominium, or similar facility;

(iii) Residing at an apartment complex, housing subdivision, or mobile home park with ten units or less;

(iv) Receiving treatment at a physical therapy center pool or spa, where the pool or spa is used for providing therapy; or

(v) Who is the owner or an owner of the pool or spa; and

(b) Has a pool or spa that is not:

(i) Open for admission to the general public, except as provided in §B(45) of this regulation;

(ii) Available to an individual upon the payment of a fee for the use of the pool and spa;

(iii) A limited public-use pool, a private pool, a private spa, a private spray ground, a recreational pool, or a spray ground;

(iv) Equipped with a swimming pool sliding board, diving platform, water slide, water flume, or water recreational play equipment that is built into or attached to the pool structure; and

(v) At a bed and breakfast that has eight or fewer guest rooms.

(46) "Shallow" means 5 feet or less in depth.

(47) Spa.

(a) "Spa" means a pool, hot tub, or whirlpool that is:

(i) Primarily designed for relaxation or therapeutic use and not for swimming;

(ii) Not more than 4 feet in depth;

(iii) Equipped with built-in seats or benches; and

(iv) Usually equipped with hydrotherapy jets, heated water, an air injection system, or some combination of these features.

(b) "Spa" does not include a pool, hot tub, or whirlpool classified as a swim spa.

(48) "Splash zone" means the maximum distance the water from a spray ground can project horizontally at designed flow rates.

(49) Spray Ground.

(a) "Spray ground" means an area for water play into which treated and filtered water is sprayed but not allowed to accumulate on the play surface.

(b) "Spray ground" includes splash pads and interactive fountains.

(c) "Spray ground" does not include decorative fountains where interaction with the water is prohibited.

(50) "Stadium seating" means an area of high-occupancy seating provided above the pool level for observation.

(51) "Supplemental disinfectant" means, other than chlorine or bromine, any disinfectant, sanitizer, or antimicrobial pesticide approved by the Environmental Protection Agency.

(52) "Swimming pool slide" means a water-contact device less than 10 feet in height that an individual may use to enter a pool by sliding down an inclined plane.

(53) "Swim spa" means a spa designed to create a current of water against which an individual may swim for exercise or therapy.

(53-1) "TDSF" means total dissolved solids factor.

(53-2) "TF" means temperature factor.

(54) Theoretical Peak Occupancy.

(a) "Theoretical peak occupancy" means the anticipated peak number of bathers in an aquatic venue and the anticipated peak number of occupants on the decks of an aquatic facility.

(b) "Theoretical peak occupancy" is calculated by dividing the surface area in square feet of the aquatic venue by the density factor (D) in Regulation .19B of this chapter, that fits the specific aquatic venue being considered.

(55) "Therapy pool" means a pool that is exclusively used in the physical treatment of a disease, injury, or disorder.

(56) "Total dynamic head" means the hydraulic calculation of the resistance to flow in a circulation system based on the Hazen-Williams formula in Regulation .25C of this chapter.

(57) "Tube ride" means a pool designed to move an individual on a tube, raft, or other floating support along a channel filled with water.

(58) "Turnover rate" means the time required to circulate a quantity of water equal to the pool or spa volume or for a spray ground, the surge tank volume.

(59) "Unblockable drain" means a suction outlet such that:

(a) Its perforated area cannot be shadowed by the area of the 18 inch by 23 inch body blocking element of the American National Standard for Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs (ANSI/APSP-16 2011); and

(b) The rated flow through the remaining open area cannot create a suction force in excess of the removal force values in Table 1 of American National Standard for Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs (ANSI/APSP-16 2011).

(60) "User load" means the maximum number of individuals, as determined by the Secretary, for sanitary purposes, allowed:

(a) In a pool or spa based on the water surface area and water depths; or

(b) To use a spray ground based on the splash zone area.

(61) "Wading pool" means a pool with a water depth of 24 inches or less that is intended for use by children.

(62) "Warm water" means an aquatic venue with a water temperature over 90°F (32°C).

(63) Water recreational attraction.

(a) "Water recreational attraction" means special water circulation and operational features or unconventional design and operational features which provide patrons recreational activity different from that associated with a conventional swimming pool.

(b) "Water recreational attraction" includes but is not limited to a:

(i) Piece of water play equipment;

(ii) Lazy river;

(iii) Tube ride;

(iv) Water slide; and

(v) Wave pool.

(c) "Water recreational attraction" does not include a spray ground, a floating or temporarily attached volleyball net, or a floating or temporarily attached basketball hoop.

(64) "Water slide" means a water-contact amusement ride when the height of the slide is 10 feet or more.

(65) "Wave pool" means a pool designed with mechanical or hydraulic apparatus to generate waves in the pool.

(66) "WRI" means water replacement interval.

.05 Previously Constructed Aquatic Facilities and Venues.

A. The owner of an aquatic facility or venue that was constructed before February 10, 1997:

(1) Except as provided in §A(2)(b) and (4) of this regulation, is exempt from bringing an aquatic facility and venue into compliance with Regulations .13C, .14A(3), .16G(1), .16G(2)(a)—(b), .17C, .18A(3), .22, .22-1, .23B(3)—(4), .24A, .25B, .26H(1)(a), .33, .34C, and .35 of this chapter;

(2) Shall:

(a) Except as required by §A(2)(b)—(c) of this regulation, maintain an aquatic facility and venue as originally constructed;

(b) Ensure that a condition that jeopardizes the health or safety of the public is corrected to meet the requirements of this chapter;

(c) Maintain the minimum turnover rate for the aquatic venue in compliance with §C of this regulation;

(d) By January 1, 2017, bring an aquatic facility and venue into compliance with Regulations .14C(2), .19C(3), .21D, .24 .26I, .40F(10), and .55 of this chapter; and

(e) By January 1, 2018, bring an aquatic facility and venue into compliance with Regulations .23B(5) and (7), .26D, F(4),G(2)—(12), .29B(1)—(2), .40B(2), and .42 of this chapter;

(3) May complete a repair according to Regulation .06-2 that restores an aquatic facility and venue to its original condition before damage or deterioration without the component complying with the requirements of this chapter;

(4) Who intends to alter an aquatic facility or venue shall ensure that the alteration complies with the requirements of this chapter; and

(5) Shall ensure that, notwithstanding any exemption set forth at §A(1) of this regulation, the diving area dimensions shall comply with Regulation .27B of this chapter.

B. The owner of an aquatic facility or venue that received approval after construction from the Secretary between February 10, 1997 and May 30, 2016:

(1) Except as provided in §B(2)(b) and (3) of this regulation, is exempt from bringing an aquatic facility and venue into compliance with Regulations .16G(1) and (2)(a)—(b), .18-1B—C, .22A(2)(b), .22-1, .22-2, .23B(3)—(4), .25B and D(4), .26H(1)(a), .33, and .35A(2)(a) of this chapter;

(2) Shall:

(a) Maintain an aquatic facility and venue as originally constructed with regards to the exemptions as set forth in §B(1) of this regulation;

(b) Ensure that a condition that jeopardizes the health or safety of the public is corrected to meet the requirements of this chapter;

(c) Maintain the minimum turnover rate for the aquatic venue in compliance with §C of this regulation;

(d) By January 1, 2017, bring an aquatic facility and venue into compliance with Regulations .14C(2)(a)—(b), .19C(3), .21D, .24 .26I, .34C, .40F(10), and .55 of this chapter; and

(e) By January 1, 2018, bring an aquatic facility and venue into compliance with Regulations .23B(5) and (7), .26D, F(4),G(2)—(12), .29B(1)—(2), .40B(2), and .42 of this chapter; and

(3) Who intends to alter an aquatic facility or venue shall ensure that the alteration complies with the requirements of this chapter.

C. The owner of an aquatic facility or venue that was constructed before February 10, 1997 or that received construction approval from the Secretary between February 10, 1997 and May 30, 2016 shall maintain the following minimum turnover rates based on the aquatic venue type:

Type of Aquatic Venue	Minimum Turnover Time (t)
Any Aquatic Venue Not Specifically Listed	480 minutes
Limited Public-Use Pool	720 minutes
Spa	30 minutes
Spray Ground	120 minutes
Therapy Pool	360 minutes
Wading Pool	120 minutes
Water Recreational Attraction	360 minutes

D. Except as provided in §A(2)(b) and (4) of this regulation, the owner of a spa or wading pool that was constructed or that received construction approval from the Secretary before May 30, 2016, and is equipped with a single skimmer with a disabled equalizer line, is exempt from bringing the spa or wading pool into compliance with Regulation .26H of this chapter.

.06 Construction[, Alteration, and Replacement Permits for Recreational Pools, Semipublic Pools, and Public Spas] and Alteration Permits.

A. An owner who intends to construct or alter [a recreational pool, semipublic pool, or public spa or replace a public pool or spa component shall obtain a construction, alteration, or replacement permit from the Secretary before beginning construction, alteration, or replacement work] an aquatic facility or venue shall obtain a construction or alteration permit from the Secretary before beginning construction or alteration.

B. An owner may not construct or alter [a recreational pool, semipublic pool, or public spa or replace a public pool or spa component] an aquatic facility or venue without a construction[, or alteration[, or replacement] permit.

C. To obtain a construction[, or alteration[, or replacement] permit, an owner shall submit to the Secretary:

(1) An application for a construction[, or alteration[, or replacement] permit on an application form provided by the Secretary that includes:

(a) The full names and addresses of the owner and authorized agents of the owner who may act on the owner’s behalf during the construction or alteration of [the pool or spa, or the replacement of the public pool or spa component] an aquatic facility or venue;

(b) A statement saying “I hereby acknowledge that all items either listed or shown in these plans and specifications as not in contract, by others, or equivalent, are my responsibility. I also realize that this entire project must be completed in accordance with the approved plans and specifications and all conditions listed in the construction[, or alteration[, or replacement] permit and meet the requirements of this chapter before the issuance of an operating permit by the Secretary”; and

(c) The owner’s signature, which:

(i) (text unchanged)

(ii) Is in agreement with the statement set forth in [§C(1)(b)] §C of this regulation; [and]

(2) Plans and specifications for the construction[, or alteration[, or replacement] which:

(a) Are prepared by a licensed or certified professional engineer, architect, draftsman, or a person with extensive experience in the design of [pools and spas] aquatic facilities and venues;

(b) Are drawn to scale, in a professional and accurate manner, with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed; [and]

(c) Include specific information on the quality or performance of the material or equipment when necessary to establish conformance with this chapter[.]; and

(d) Are supplied in triplicate; and

(3) The application review fee required by COMAR 10.01.17.02.

D. Except [for an alteration or replacement] as provided in §E of this regulation, an owner shall ensure that the plans and specifications required [in] by §C of this regulation include the following:

(1)—(2) (text unchanged)

(3) [Pool or spa] Aquatic venue layout plan, sectional views, and appurtenant equipment;

(4) [Pool or spa] Aquatic venue piping layout plan;

(5)—(18) (text unchanged)

E. An owner shall ensure that, for an alteration [or, replacement,] or partial construction, the plans and specifications required [in] by §C of this regulation include the information that pertains to the alteration [or, replacement] or partial construction.

F. An owner shall obtain necessary local zoning approval and building, electrical, plumbing, and other applicable local permits before beginning construction [or alteration of a recreational pool, semipublic pool, or public spa or replacement of a public pool or spa component], *partial construction, or alteration work.*

[G. Before issuing a construction, alteration, or replacement permit, the Secretary may require changes in the design of the facilities if the design does not meet the criteria set forth in this chapter.

H. Upon an owner's compliance with the provisions of this chapter, the Secretary shall approve the plans and specifications and issue a construction, alteration, or replacement permit, which is valid for the start of the construction, alteration, or replacement for 1 year from the date of issue and for 1 additional year from the date construction, alteration, or replacement begins.]

[I.] G. The local health department may not approve a local building permit for [recreational pool, semipublic pool, or public spa] or that includes construction, *partial construction, or alteration* [, or replacement] of an aquatic facility or venue until the plans and specifications for [pool or spa] construction, *partial construction, or alteration*[, or the replacement of a public pool or spa component] of an aquatic facility or venue have been approved by the Secretary.

[J.] H. The Secretary shall review the plans and application [and shall approve or deny issuance of] for a construction, *partial construction, or alteration*[, or replacement] permit within 30 business days of receipt of the application.

[K.] I. If plans are submitted that are [not]:

(1) Not in compliance with the requirements of this chapter, the Secretary shall [disapprove the plans and deny the issuance of a construction, alteration or replacement permit.]:

(a) Notify the owner of the deficiencies in the application;

(b) Deny the application if additional information to correct the deficiencies in the application are not received during the resubmittal window; or

(c) Allow the owner a resubmittal window of 30 calendar days to submit information to correct the deficiencies before denying the application according to §I of this regulation; and

(2) In compliance with the requirements of this chapter, the Secretary shall approve the plans and issue a construction, *partial construction, or alteration* permit, which is valid for the start of the construction, *partial construction, or alteration* for 1 year from the date of issue and for 1 additional year from the date construction, *partial construction, or alteration* begins.

J. If the Secretary denies the issuance of a construction, *partial construction, or alteration* permit, an owner may reapply for a new construction, *partial construction, or alteration* permit according to §C of this regulation and pay the applicable fees.

[L.] K. An owner may not deviate from the approved plans and specifications for construction, *partial construction, or alteration*[, or replacement at a recreational pool, semipublic pool, or public spa] of an aquatic facility or venue unless [revised] the :

(1) Revised plans are submitted [to and approved in writing by the Secretary] through the application review process in §C of this regulation;

(2) Owner pays the applicable fees; and

(3) Secretary issues a construction, *partial construction, or alteration* permit for the revised work.

[M.] L. If [a recreational pool, semipublic pool, or public spa] an aquatic facility or venue is not being constructed, partially constructed, or altered [or components are not being replaced] in accordance with the approved plans, the Secretary may revoke the construction, *partial construction, or alteration*[, or replacement] permit and the owner shall immediately [shall] cease construction, *partial construction, or alteration*[, or replacement].

[N.] M. If the Secretary denies the issuance of a construction, *partial construction, or alteration*[, or replacement] permit as set forth in [§K] §I of this regulation, or revokes a construction, *partial construction, or alteration*[, or replacement] permit as set forth in [§M] §L of this regulation, the Secretary shall notify the owner in writing:

(1)—(2) (text unchanged)

(3) That to preserve the right to a hearing, the owner shall contact the Department within [30] 10 calendar days of the receipt of the notice of denial or revocation.

[O.] N. An owner shall ensure that a construction, *partial construction, or alteration*[, or replacement] permit is posted in a conspicuous location at the site of construction, *partial construction, or alteration*[, or replacement].

[P. An owner may make a repair to a previously approved structure, component, or piece of equipment in accordance with this chapter without:

(1) Obtaining a construction, alteration or replacement permit from the Secretary; or

(2) Notifying the Secretary.]

.06-1 Replacements.

A. An owner may replace a component at an aquatic facility or venue before obtaining approval from the Secretary.

B. An owner shall obtain necessary local zoning approval and building, electrical, plumbing, and other applicable local permits before replacing a component at an aquatic facility or venue.

C. The local health department may approve a local building permit for or that includes replacement of a component at an aquatic facility or venue before the replacement application is approved by the Secretary.

D. An owner shall submit, on a form provided by the Secretary, an application for the replacement of a component at an aquatic facility or venue within 10 calendar days of completing the replacement.

E. The Secretary shall inspect the replacement of a component at an aquatic facility or venue within 30 business days of receipt of the application.

F. If, during the inspection, the replacement of a component at an aquatic facility or venue is:

(1) In compliance with the requirements of this chapter, the Secretary shall;

(a) Provide the owner a copy of the inspection report; and

(b) Issue an approval letter; or

(2) Not in compliance with the requirements of this chapter, the Secretary shall:

(a) Deny the replacement application; and

(b) Notify the owner:

(i) Of the reason or reasons for the denial;

(ii) That the owner may request from the Secretary an opportunity for a hearing on the denial pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, if the owner wishes to contest the denial;

(iii) That to preserve the right to a hearing, the owner shall contact the Department within 10 calendar days of the receipt of the notice of denial; and

(iv) That the owner shall cease operation of an aquatic facility or venue if the component is essential to operation or cease operation of the replaced component where the replacement of a component was found to violate this chapter until the violation is corrected, a new replacement application and applicable fee is submitted to the Secretary, and the Secretary inspects and approves the replacement of the component.

.06-2 Repairs.

An owner may make a repair to an aquatic facility or venue in accordance with this chapter without:

- A. Obtaining a construction, partial construction, alteration, or replacement permit from the Secretary; or
- B. Notifying the Secretary.

.07 [Permit for Construction of Part of a Recreational Pool, Semipublic Pool, or Public Spa.] Partial Construction Permits.

A. An owner may request a *partial construction* permit for [construction of part of a recreational pool, semipublic pool, or public spa] *an aquatic facility or venue* by submitting to the Secretary[:

- (1) A detailed written explanation of why construction plans for the entire pool or spa cannot be submitted; and
- (2) Plans] *plans*, information, and statements as required [in] by Regulation .06 of this chapter that pertain to the construction of part of [a recreational pool, semipublic pool, or public spa] *an aquatic facility or venue*[.];
- [(3) A site plan;
- (4) Information regarding the proposed water supply and waste disposal system; and
- (5) A signed statement indicating that the permit holder for construction of part of a recreational pool, semipublic pool, or public spa will be proceeding at the owner's risk without the assurance that a permit for the construction of the rest of the pool or spa will be granted.

B. Upon an owner's compliance with the provisions of this chapter and local codes, the Secretary shall approve the plans and issue a permit for construction of part of a recreational pool, semipublic pool, or public spa.

C. If a person submits plans for the construction of part of a recreational pool, semipublic pool, or public spa that are not in compliance with the provisions of this chapter, or if a local code prohibits the issuance of a permit for partial construction, the Secretary shall disapprove the plans and deny a permit for the construction in accordance with Regulation .06 of this chapter.

[D.] B. A person may not operate [a recreational pool, semipublic pool, or public spa] *an aquatic facility or venue* until the entire project has been constructed and approved in accordance with Regulations [.06----.09].06—.09 of this chapter.

.08 Approval After Construction, Partial Construction, or Alteration[, or Replacement].

[A. After construction, alteration, or replacement of a component at a recreational pool, semipublic pool, or public spa is completed, the owner shall contact the Secretary for approval of the pool or spa within 30 days.]

[B.] A. A person may not operate or permit the use of [a recreational pool, semipublic pool, or public spa] *an aquatic facility or venue* that has not received written approval from the Secretary after its [alteration or construction] *construction, partial construction, or alteration*.

[C. A person may operate or permit the use of a recreational pool, semipublic pool, or public spa for 30 days after completing the replacement of a public pool or spa component without receiving a final inspection and written approval from the Secretary.]

[D.] B. The Secretary shall conduct an inspection [or inspections] to ensure that [a recreational pool, semipublic pool, or public spa] *an aquatic facility or venue* is constructed or altered[, or that a public pool or spa component is replaced] according to the approved plans and meets the requirements of this chapter, and shall:

- (1) Grant written approval for [the pool or spa] *an aquatic facility or venue* if it was constructed, *partially constructed*, or altered[, or a public pool or spa component was replaced] according

to the approved plans, *meets the requirements of this chapter*, and the owner has received local approval for any building, electrical, plumbing, or other work that requires a local permit; or

- (2) Deny approval for [the pool or spa] *an aquatic facility or venue* if it was not constructed, *partially constructed*, or altered[, or a public pool or spa component was not replaced] according to the approved plans, *does not meet the requirements of this chapter*, or the owner has not received local approval for any building, electrical, plumbing, or other work that requires a local permit.

[E.] C. The Secretary shall grant written approval or deny approval of the completed construction, *partial construction*, or alteration[, or replacement of a public pool or spa component within 30 days of receipt of notice of completion from the owner] *of an aquatic facility or venue within 15 business days of inspecting*.

[F.] D. If minor items that do not affect the health or safety of the public need to be corrected, the Secretary may issue a partial approval for [the pool or spa] *an aquatic facility or venue* after construction[, alteration, or replacement of a public pool or spa component] pending full compliance according to the following conditions:

- (1) The owner shall fully comply with this chapter by the end of the 30 *calendar* day period in order to obtain written approval of [the recreational pool, semipublic pool, or public spa] *an aquatic facility or venue*; and

(2) If at the end of the 30 *calendar* day period, the Secretary is unable to approve [the recreational pool, semipublic pool, or public spa] *an aquatic facility or venue* pursuant to [§C] §B of this regulation, the Secretary shall [disapprove the construction, or alteration] *disapprove the construction of an aquatic facility or venue*.

[G.] E. If the Secretary does not grant approval for [the pool or spa] *an aquatic facility or venue* after it is constructed, *partially constructed* or altered[, or a public pool or spa component is replaced.] the Secretary shall notify the owner in writing:

- (1) (text unchanged)
- (2) That the person may request, from the Secretary, an opportunity for a hearing on the disapproval pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland[, if the person wishes to contest the disapproval]; [and]
- (3) That to preserve the right to a hearing, the person shall [contact] *submit a written request for a hearing* to the Secretary within [30] 10 *calendar* days of the receipt of the notice of disapproval[.]; and

(4) *That the person may submit a new plan review application and pay any applicable fees according to Regulation .06 of this chapter.*

.09 Permits for Operation.

A. A person may not operate [a public pool or spa] *an aquatic venue* without an annual operating permit, issued by the Secretary, except that in the case of [a pool or spa] *an aquatic venue* that has received a partial approval of construction [or alteration] pursuant to Regulation [.08E] .08D of this chapter, the Secretary may issue a [nontransferable] *nontransferable* 30 *calendar* day permit for the temporary operation of the [pool or spa] *aquatic venue*.

B. On an application form provided by the Secretary, [a person] *an owner* shall apply to the Secretary for [a] *an annual* permit to operate [a public pool or spa at least 30 days before the pool or spa is scheduled to open for use for the first time and 30 days before a previous permit expires.] *an aquatic venue for, whichever day is later:*

- (1) *At least 30 calendar days before the aquatic venue is scheduled to open for the first time; or*
- (2) *Thirty calendar days before the previous permit expires.*

C. The Secretary shall:

(1) Issue, *for each aquatic venue*, a nontransferable permit to an owner whose [public pool or spa] *aquatic venue* is in compliance with this chapter *as verified by a full compliance inspection completed within the 12 months before the application for a permit to operate*; and

(2) When [a public pool or spa] *aquatic venue* does not meet the requirements of this chapter, deny the permit within 30 *business* days by notifying the owner in writing:

(a) Of the reason or reasons for the denial[.];

(b) Of the action to be taken in order for the [pool or spa] *aquatic venue* to qualify for a permit[.];

(c) That the owner may request from the Secretary an opportunity for a hearing on this denial pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland[.]; and

(d) That to preserve the right to a hearing, the person shall contact the Secretary within [30] *10 calendar* days of the receipt of the notice of denial.

D. A person who operates [a public pool or spa] *aquatic venue* shall post the operating permit in a conspicuous place [at the pool or spa site] *near the entrance to the aquatic venue*.

.10 Suspension or Revocation of an Operating Permit.

A. Suspension.

(1) The Secretary may:

(a) (text unchanged)

(b) Summarily suspend an operating permit and close [a public pool or spa] *aquatic venue* when protection of the public health, safety, or welfare imperatively requires emergency action.

(2) The Secretary may summarily suspend an operating permit pursuant to §A(1) of this regulation for any [of the following:

(a) Residual disinfection levels in violation of Regulation .44 of this chapter;

(b) Sanitary water quality in violation of Regulation .48 of this chapter;

(c) Water pH in violation of Regulation .45A(1) of this chapter;

(d) Water clarity in violation of Regulation .45A(7) of this chapter;

(e) A malfunctioning or nonworking recirculation or disinfection system;

(f) A condition that may endanger the health and safety of an individual using a pool or spa, for example, a missing drain cover or other suction outlet entrapment hazard; and

(g) A lifeguard has not been provided as required in Regulation .40 of this chapter] *critical violation as defined in Regulation .04B of this chapter*.

(3) *The Secretary may reinstate an operating permit to an owner whose operating permit was suspended when the owner:*

(a) *Corrects the violation;*

(b) *Pays any applicable fees; and*

(c) *Complies with all applicable provisions of this chapter.*

B. Revocation and Permitting After Revocation.

(1) The Secretary may revoke a permit [upon a repeated violation] *for:*

(a) *Consecutive repeat violations of a requirement of this chapter[.]; or*

(b) *An owner whose operating permit was revoked within the past 2 years, upon determination that the owner is in violation of the same requirement of this chapter that resulted in the previous revocation; and*

(2) *The Secretary may issue an operating permit to an owner whose operating permit was revoked:*

(a) *After the 6 month waiting period from the date of revocation has expired; and*

(b) *When the owner:*

(i) *Corrects the violations;*

(ii) *Applies for an operating permit;*

(iii) *Pays any applicable fees; and*

(iv) *Complies with all applicable provisions of this chapter.*

C. Hearing.

(1)—(2) (text unchanged)

(3) To preserve a right to a hearing, a person shall contact the Secretary within [30] *10 calendar* days of the receipt of the notice.

.11 Inspections and Right of Entry.

A. The Secretary may enter, at a reasonable time, public or private property *for the purpose of inspecting and investigating conditions relative to the enforcement of this chapter*.

B. (text unchanged)

C. *The Secretary shall conduct:*

(1) *A full compliance inspection of the aquatic venue relative to the enforcement of this chapter at least once every 12 months;*

(2) *Except as provided in §C(4) of this regulation, a full compliance or routine inspection of the aquatic venue relative to the enforcement of this chapter at least once every 90 business days;*

(3) *For an aquatic venue that had a critical violation of this chapter on the previous inspection, a full compliance or routine inspection of the aquatic venue relative to the enforcement of this chapter at least once every 30 business days until the aquatic venue has no critical violations of this chapter; and*

(4) *For an aquatic venue that had no critical violations on the three previous consecutive inspections, a full compliance inspection of the aquatic venue relative to the enforcement of this chapter at least once every 12 months.*

.12 Conflict of Regulations.

An owner shall comply with:

A. The provision that establishes a [higher] *more stringent* standard for the promotion and protection of public health and safety if a provision of this chapter is in conflict with a local code, ordinance, statute, or other regulation; and

B. (text unchanged)

.13 Standards for Recreational and Semipublic Pools.

An owner shall ensure that [an existing, newly built, or altered] *a recreational or semipublic pool is in compliance with:*

A.—C. (text unchanged)

.14 Standards for Public Spas.

A. An owner shall ensure that [an existing, newly built, or altered] *a public spa is in compliance with:*

(1)—(3) (text unchanged)

B. (text unchanged)

C. An owner shall ensure that a spa hydrojet circulation system:

(1) (text unchanged)

(2) Has a shut-off switch *located:*

(a) *Within sight of the spa; and*

(b) *At least 5 feet horizontally from the inside walls of the spa.*

.15 Standards for Limited Public-Use Pools.

A. An owner of a limited public-use pool shall ensure that:

(1) (text unchanged)

(2) The barrier around the pool is in compliance with:

(a) [Appendix E of the] *The American National Standard for Residential Inground Swimming Pools (ANSI/APSP/ICC-5 2011)*, if the pool is used by a family day care home; or

(b) (text unchanged)

(3) The pool and the operation of the pool are in compliance with Regulations [.01—.05] .01—.06-2, .09—.12, .15, .19—.20, .24, [.25B(3)].25B(1), .28, .31, .34, .37—.41, and .43—[.54].55 of this chapter;

(4) (text unchanged)

(5) The dimensions of a diving area are:

(a) In conformance with Regulation [.27B] .27A of this chapter; or

(b) If the diving area does not conform to Regulation [.27B] .27A, the diving equipment is restricted from use by temporary barriers or is removed;

[(6) A suction outlet is in compliance with Regulation .28 of this chapter to prevent suction entrapment;]

[(7) (6) The following safety equipment is immediately available:

(a) A first aid kit [as recommended by the American Red Cross;

(b) A mouth piece for CPR;

(c) Disposable latex plastic gloves;

(d) *that complies with Regulation .40A of this chapter;*

(b) *A blood borne pathogen control kit the complies with Regulation .40A of this chapter;*

(c) A light, strong rescue pole [with a rescue hook designed for lifesaving] *that complies with Regulation .40A of this chapter;*

[(e)] (d) (text unchanged)

[(f)] (e) A telephone for reaching 911 emergency service [and the telephone location posted with the:

(i) Name and phone number of the nearest available police, fire, and ambulance or rescue unit,

(ii) Name of the facility or the name of the owner of the property where the pool is located, and

(iii) Location of the pool] *that complies with Regulation .40B of this chapter;*

[(8)] (7) An individual certified in [cardiopulmonary resuscitation (CPR)] *CPR* for the professional rescuer and certified in first aid is on duty while the pool is in use;

[(9)] (8) Pool chemicals are used and stored in accordance with manufacturers' directions and the [material] safety data sheet for [a] *the particular chemical;* and

[(10)] (9) The pool has backflow protection:

(a) For a potable water supply, in conformance with COMAR 09.20.01[.]; and

(b) (text unchanged)

B. An owner of a family day care home using a limited public-use pool shall ensure that water safety supervision is provided in compliance with COMAR [07.04.01.22] *13A.15.08.04.*

C. An organized group, agency, or other person using a limited public-use pool for swimming lessons or water safety training shall ensure that water safety supervision is provided as follows:

(1) (text unchanged)

(2) Aquatic rescue staff [are] *is* on site as follows:

(a) An individual certified in American Red Cross Basic Water Rescue, or with equivalent certification as approved by the Secretary, for each ten bathers, or fraction of ten bathers, if the pool:

(i) Is no more than 3 1/2 feet in depth at the shallow end of the swimming area[.];

(ii) Is no more than 5 feet in depth at the deepest point[.];

(iii) Has a rescue pole that can be practically used to reach beyond the midpoint of the pool and can be used within the pool enclosure without an obstruction, such as a wall or tall fencing, that restricts the use of the pole[.]; and

(iv) (text unchanged)

(b) An individual certified in American Red Cross Lifeguarding, or with an equivalent certification as approved by the Secretary, for each 25 bathers, or fraction of 25 bathers, if the pool:

(i) Is more than 3 1/2 feet in depth at the shallow end of the swimming area[.];

(ii) Has an area more than 5 feet in depth at the deepest point[.];

(iii) Does not have a rescue pole that can be practically used to reach beyond the midpoint of the pool, or an obstruction, such as a wall or tall fencing, exists within the pool enclosure that restricts the use of the pole[.]; or

(iv) (text unchanged)

D. (text unchanged)

.16 Standards for Water Recreational Attractions.

An owner shall ensure that:

A. (text unchanged)

B. Plans for supervision, attendants, and lifeguards are submitted as part of the construction *or alteration* plans and include safety personnel at all potentially hazardous activity areas;

C. A swimming pool slide is in conformance with the American National Standard for Public Swimming Pools and has:

(1)—(3) (text unchanged)

(4) A centerline distance [from]:

(a) *From* the end of a slide to a wall, lifeline, transition point, centerline from another slide, or obstruction that eliminates the potential for an individual using the slide to strike a wall, lifeline, transition point, an individual using another slide, or an obstruction;

or

(b) *In conformance with the manufacturer's installation instructions;*

(5) A minimum side distance [of]:

(a) *Of* 4 feet from the centerline of a slide to a wall, lifeline, transition point, or obstruction; *or*

(b) *In conformance with the manufacturer's installation instructions;*

(6)—(8) (text unchanged)

D. A water slide:

(1) Complies with the conditions set forth [at] *in* COMAR 09.12.63 as evidenced by written documentation from:

(a)—(b) (text unchanged)

(2) Exits to a [plunge] *splash* pool or slide runout *as defined in* COMAR 09.12.63.02 *or a plunge pool;*

E.—F. (text unchanged)

[G. A spray pool has:

(1) A bottom that slopes from 1/4 inch per foot to 5/8 inch per foot to a drain with grate;

(2) No standing water; and

(3) No obstruction less than 4 feet in height;]

G. A lazy river:

(1) *Does not have:*

(a) *Handrails, steps, stairs, or propulsion jets that protrude into the river; or*

(b) *Obstructions around the perimeter of the lazy river, such as bridges or landscaping, that impact lifeguarding, sight lines, or rescue operations;*

(2) *Has:*

(a) *A means of access and egress provided at 150 foot intervals around the lazy river;*

(b) *A handhold, meeting the requirements of Regulation .22-1 of this chapter, on at least one side of the lazy river for the entire perimeter of the river; and*

(c) *Inlets which are:*

(i) *Equipped with directional fittings;*

(ii) *Positioned behind a grate with a maximum mesh size of 1½ inches; or*

(iii) *Plumbed to pumps connected to the same power source so that no one pump can be operated independently from the rest to ensure that all inlets have continuous flow through them while the lazy river is in operation;*

(3) *That incorporates a bridge which spans the river shall install the bridge so that the minimum clearance from any structure overhead to the:*

(a) *Bottom of the lazy river is 7 feet; and*

(b) *Static water surface is 4 feet; and*

(4) *Using inlets complying with §G(2) of this regulation is allowed to operate if a pump that provides current to a lazy river is not running.*

[H.] A single-lane pool used for swimming laps has:

(1) A minimum width of 7 1/2 feet; and

(2) A sign on the deck that reads, "Warning: No Diving—Shallow Water" if the water depth is 5 feet or less;]

[I.] *H. A decorative fountain or waterfall [installed in or] connected to a pool or spa circulation system does not create a health or safety hazard;*

[J.] *I. A spray fixture, fountain, piece of play equipment, bridge, ramp, stair, float, swing, or other recreational equipment located within a pool or spa:*

(1)—(5) (text unchanged)

(6) *Is provided with recirculated, treated [pool] water for a spray, stream, or other flow of water; and*

(7) (text unchanged)

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

[L.] *At least two interconnected main drains are installed in the deepest part of a pool and] K. One or more suction outlet covers, meeting the requirements of Regulation .28 of this chapter, are connected to the filtration system;*

[M.] *L. A pump reservoir or surge tank is provided for a swimming pool slide [or], water feature, or water slide circulation pump intake and:*

(1)—(6) (text unchanged)

[N.] *M. A swimming pool slide, water slide or water feature circulation pump has a check valve on the discharge side; and*

[O.] *Returns] N. A return from a filtration system [are] is placed to provide even and positive circulation and to eliminate any dead spots.*

.17 Standards for Public Wading Pools.

An owner shall ensure that a public wading pool is in compliance with:

A. (text unchanged)

B. *Applicable State and local codes; and*

C. *The American National Standard for Public Swimming Pools[; and*

D. *Article 10.6 of the American National Standard for Public Spas].*

.18 Standards for Public Therapy Pools.

An owner shall ensure that a public therapy pool:

A. *Is in compliance with:*

(1)—(3) (text unchanged)

B. *Has:*

(1) (text unchanged)

(2) *A transition area between a shallow and a deep area that has:*

(a) *A floor slope that does not exceed 1 foot of drop to 3 feet of run; [or]*

(b) *Steps [or ramps];*

(c) *A ramp with handrails [or a];*

(d) *A swing lift to transfer bathers from a shallow area to a deep area; [and] or*

(e) *A floor slope that exceeds 1 foot of drop to 3 feet of run that is equipped with a protective barrier; and*

C. (text unchanged)

.18-1 Standards for Spray Grounds.

An owner shall ensure that a spray ground:

A. *Is in compliance with:*

(1) *This chapter; and*

(2) *Applicable State and local codes;*

B. *Except when it is within a barrier, is equipped with a mechanism for controlling the operation of a spray ground, which can be locked to prevent unauthorized use of the spray ground; and*

C. *Has a pump reservoir or surge tank provided for a spray ground circulation pump intake and:*

(1) *Is made of concrete or other impervious material with a smooth slip-resistant finish;*

(2) *Has inlets through a weir or a gravity-fed drain with a secure grate;*

(3) *Has a minimum volume equal to 2 minutes of the combined flow of all pumps connected to the reservoir or tank;*

(4) *Is accessible only to authorized individuals;*

(5) *Has pump intakes located in the pump reservoir that are designed to allow cleaning without danger of entrapment; and*

(6) *The water velocity through grate or drain openings does not exceed 2 feet per second.*

.19 User Load and Theoretical Peak Occupancy.

A. *The Secretary shall determine the user load, as defined in Regulation [.05B(32)] .04 of this chapter, for each aquatic venue based on the following criteria:*

(1) *For a pool [and its deck], one individual is allowed for:*

(a) *Every 12 square feet of water surface in shallow areas[.];*

(b) *Every 15 square feet of water surface in areas exceeding 5 feet of water depth, excluding a diving area[.]; and*

(c) (text unchanged)

(2) *For a spa, one individual is allowed for every 9 square feet of water surface; [and]*

(3) *For a therapy pool, one individual is allowed for every:*

(a) *Therapy station[.]; or*

(b) *20 square feet of water surface, whichever is less[.]; and*

(4) *For a spray ground, one individual is allowed for every 10 square feet of splash zone.*

B. *The Secretary shall determine the theoretical peak occupancy, as defined in Regulation .04 of this chapter, for an aquatic facility based on the density factors (D) for:*

(1) *Flat water: 20 square feet per individual;*

(2) *Agitated water: 15 square feet per individual;*

(3) *Warm water: 10 square feet per individual;*

(4) *Waterslide landing pool: the manufacturer-established capacity at any given time;*

(5) *Spray ground: 10 square feet per individual;*

(6) *Deck: 50 square feet per individual; and*

(7) *Stadium seating: 6.6 square feet per individual.*

[B.] *C. An owner shall ensure that the:*

(1) *Number of individuals [in a pool or spa and on the required deck area] using an aquatic venue does not exceed the user load as set forth in §A of this regulation;*

(2) *Number of individuals [using an enclosed pool or spa area or a spectator area] using an aquatic facility is in conformance with the theoretical peak occupancy as set forth in §B of this regulation and local fire code requirements; and*

(3) User load [of a pool or spa is posted in a conspicuous place at the pool or spa] *for each aquatic venue is posted at the entrance to each aquatic facility or venue.*

.20 [Public Pool or Spa Site] Aquatic Venue Site.

An owner shall ensure that [a public pool or spa] *an aquatic venue site:*

- A. Drains away from the [pool or spa] *aquatic venue area;*
- B. Has water and waste water facilities that conform to the requirements of:
 - (1) COMAR 09.20.01[.];
 - (2) COMAR [26.04.01-----26.04.04.] *26.04.01—26.04.04;* and
 - (3) (text unchanged)
- C. Has a walkway between [a pool or spa] *an aquatic venue* and appurtenant buildings such as a bathhouse or equipment room; and
- D. (text unchanged)

.21 Barriers.

A. Except as set forth in [§§B, C, and D] §§B—E of this regulation, an owner shall ensure that [a recreational pool, semipublic pool, or public spa,] *an aquatic venue*, including the required deck area, is completely surrounded by a barrier that complies with the following requirements:

- (1) The top of the barrier is at least 72 inches above grade measured on the side of the barrier that faces away from the [pool or spa] *aquatic venue;*
- (2) The maximum vertical clearance between grade and the bottom of the barrier is 4 inches measured on the side of the barrier that faces away from the [pool or spa] *aquatic venue;*
- (3)—(9) (text unchanged)
- (10) The barrier main access gate:
 - (a) Is located toward the shallow end of [a pool] *of the aquatic venue;*
 - (b) Has a latch release located at least 54 inches from grade level;
 - (c) Is [lockable] *locked when the aquatic venue is not open for use;*
 - (d) Is hung to open away from the [pool or spa] *aquatic venue;* and
 - (e) Has a minimum width of 4 feet; and
 - [f] Complies with Regulation .37 of this chapter; and]
- (11) Doors and windows that open into the [pool or spa] *aquatic venue* area enclosed by the barrier have locks or latches to prevent unauthorized entry.

- B. (text unchanged)
- C. Except as provided in §D of this regulation, an owner may surround [a pool and spa, multiple pools, or multiple spas] *an aquatic venue or multiple aquatic venues* at one facility with one barrier instead of separate barriers for each [pool or spa] *aquatic venue.*

D. [An] *Except as provided by §§E—G of this regulation*, an owner shall ensure that a wading pool or a spray ground [or infant pool is] *are separated from [a pool or spa] all other bodies of water by a barrier that has:*

- (1)—(2) (text unchanged)
- (3) No opening that allows the passage of a sphere 4 inches in diameter; [and
- (4) An entrance gate with a latch.]
- (4) *Has an entrance gate that is self-closing and self-latching that is hung to open toward the wading pool or spray ground; and*
- (5) *Except as provided in §A(10) of this regulation, complies with the requirements in §A(2)—(11) of this regulation.*

E. *An owner of a spray ground that is not part of an aquatic facility with a body of water is not required to provide a barrier.*

F. *An owner of a wading pool or spray ground is not required to separate the wading pool and spray ground with a barrier.*

G. *An owner of a spray ground that is part of an aquatic facility with a body of water is not required to provide a barrier if:*

- (1) *An unobstructed path with a minimum horizontal distance of 30 feet is provided between the edge of the spray ground deck closest to the body of water and the water's edge closest to the spray ground; or*
- (2) *An obstructed path with a minimum horizontal distance of 15 feet is provided between the edge of the spray ground deck closest to the body of water and the water's edge closest to the spray ground.*

.22 Decks.

A. An owner shall ensure that:

- (1) [A deck at a recreational or semipublic pool] *A perimeter deck at a public pool or spray ground:*
 - (a) [Completely surrounds] *Surrounds at least 75 percent of the pool or spray ground perimeter;*
 - (b) Is [continuous]:
 - (i) *Continuous*, with a minimum unobstructed width of 4 feet and an average width of 6 feet[.]; and
 - [(c) Is in] (ii) *In conformance with the American National Standard for Public Swimming Pools; and*
 - (c) *Is not:*
 - (i) *Constructed of wood; and*
 - (ii) *More than 30 inches below the static water level;*
- (2) A perimeter deck at a public spa is [in]:
 - (a) *In conformance with the American National Standard for Public Spas; and*
 - (b) *Not constructed of wood;*
- (3) The slope of a deck is away from [a pool or a spa] *an aquatic venue*, toward points of disposal, and not less than [1/4] *3/16* inch per foot, or greater than 1/2 inch per foot;
- (4) The deck has drainage to deck drains or other points of disposal *in compliance with COMAR 26.04.02;*
- (5)—(6) (text unchanged)
- (7) A brick, stone, aggregate, or similar deck surface has a subdeck [in the required deck area];
- (8) A wood deck has a gravel and plastic ground barrier or a concrete subdeck [in the required deck area]; [and]
- (9) The deck does not trap dirt or support [or harbor algae.] *the harborage of algae; and*
- (10) *Carpet is not installed on the deck surface of the perimeter or pool deck.*

B. An owner may:

- (1) Include the *deck level coping of a pool or spa [coping]* in the measurement of the deck width; and
- (2) (text unchanged)

C. Except as provided in §B(2) of this regulation, an owner may not have light poles, structural supports, decorative fountains, waterfalls, and other obstacles or obstructions within 4 feet of a pool or within the required deck area of a spa *or spray ground.*

D. (text unchanged)

.22-1 Handholds.

An owner shall ensure that:

- A. A handhold is installed:
 - (1) *Anytime the water depth of the aquatic venue exceeds 24 inches;*
 - (2) *Not greater than 9 inches above or 3 inches below the static water level of the aquatic venue; and*
 - (3) *Not greater than 2 inches or less than 1 inch from the vertical plane of the aquatic venue wall; and*
- B. *The thickness of the handhold does not exceed 3.5 inches for the last 2 inches of the overhang.*

.22-2 Infinity Edges.

An owner shall ensure that:

A. The length of an infinity edge shall be no more than 30 feet long when in water depths greater than five feet;

B. Handholds conforming to the requirements of Regulation .22-1 of this chapter are provided for infinity edges;

C. Infinity edges are constructed of reinforced concrete or other impervious and structurally rigid material(s), and designed to withstand the loads imposed by pool water, bathers, and adjacent soils or structures;

D. Troughs, basins, or capture drains designed to receive the overflow from infinity edges:

- (1) Are watertight and free from structural cracks;
- (2) Have a non-toxic, smooth, and slip-resistant finish; and
- (3) Are equipped with grates;

E. The maximum height of the wall outside of the infinity edge does not exceed 30 inches to the adjacent grade and capture drain;

F. The perimeter deck of an infinity edge pool must surround a minimum of 50 percent of the pool;

G. The maximum height of the wall outside of the infinity edge shall be a minimum of 16 inches and a maximum of 19 inches to the adjacent grade and capture drain for the deck to be considered a perimeter deck; and

H. The height of the wall outside of the infinity edge is at least 16 inches to the adjacent grade and capture drain.

.23 Equipment Rooms.

An owner shall ensure that [a recreational pool, semipublic pool, or public spa] an aquatic venue has an equipment room that:

A. [Houses the pool or spa] Except when the manufacturer requires a piece of equipment to be outside the equipment room for proper operation, houses the aquatic venue circulation, filtration, and disinfection equipment; and

B. Has:

- (1)—(3) (text unchanged)

(4) [A waterproof floor that drains to a floor drain] A floor:

(a) Constructed of concrete or other suitable material having a smooth slip resistant finish and a positive drainage, including a sump drain pump if necessary; and

(b) Sloped toward the floor drain or a sump drain pump adequate to prevent standing water at all times;

(5) [A lockable entrance door that allows complete and unencumbered access to the equipment room;] An entrance door that:

(a) Allows complete and unencumbered access to the equipment room;

(b) Is equipped with:

- (i) An automatic closer;
- (ii) An automatic lock; and

(iii) A lock that requires a key or combination to open from the outside;

(c) Is installed and maintained to ensure that the door closes completely and latches without human assistance; and

(d) Is designed and installed to be opened by one hand from the inside of the room under all circumstances, without the use of a key or tool;

(6) A minimum of [20 foot-candles] 20 lumens of artificial illumination per square foot of floor space within the equipment room;

(7) Ventilation sized at 2 cubic feet per minute per square foot of floor area that [is:

(a) Mechanical] has a continuous mechanical exhaust ventilation with the exhaust vent intake placed at a height less than or equal to 3 feet from the floor of the equipment room, discharged to

limit exposure to the public [if chemicals are used or stored in the equipment room, or

(b) Natural or mechanical exhaust ventilation if chemicals are not used or stored in the equipment room];

(8) (text unchanged)

(9) A hose bibb with an atmospheric vacuum breaker or a hose bibb with an atmospheric vacuum breaker that is accessible within 50 feet of the equipment room so that a hose can service the entire equipment room; and

(10) A water-resistant data sheet that is posted in a conspicuous place for each [pool or spa] aquatic venue and includes the following information:

(a) Volume of water[,] in the pool, spa, or surge tank of a spray ground;

(b) Minimum turnover rate[,] in gpm;

(c) Maximum filter capacity[,] in gpm;

(d) Water surface [area,] or splash zone area in square feet;

(e) [Length] Except for a spray ground, the length of water perimeter[,] in feet;

(f) Maximum [bather] user load[, and];

(g) Operating instructions for valves and equipment[.]; and

(h) For aquatic venues that use salt chlorine generators, the total dissolved solids level in ppm once the minimum amount of salt has been added to an aquatic venue.

.24 Pipe Material and Identification.

An owner shall ensure that [pipe]:

A. Pipe material for [a public pool or spa] an aquatic venue conforms to COMAR 09.20.01[.];

B. Identification is provided for main drains, skimmers, filtered water, make-up water, backwash water, disinfection feeds, acid feeds, compressed air lines, gutters, chemical sample piping, and heating lines;

C. All piping is marked with directional arrows to indicate flow direction during filtration; and

D. All valves are:

(1) Clearly identified by number with a brass tag, plastic laminate tag or permanently affixed alternate; and

(2) Described as to their function in an operating instruction manual.

.25 Circulation Systems.

A. Gauges and Release Valves. An owner shall ensure that the circulation system for [a recreational pool, semipublic pool, or public spa] an aquatic venue includes the following, a:

(1) [A pressure] Pressure gauge on [the] each filter or on the influent side of the filter piping;

(2) [A pressure] Pressure gauge on the effluent side of the filter piping;

(3) [A vacuum] Vacuum or compound gauge on the influent side of a pump;

(4) [A flow] Flow meter that:

(a) (text unchanged)

(b) Has a permanent scale readable in [gallons per minute] gpm;

(c)—(d) (text unchanged)

(5) [A thermometer] Thermometer on the return line to [a pool or spa] an aquatic venue if the circulation system includes a heating system; and

(6) [A manually] Manually operated air release valve on a pressure filter or a separation tank, or both.

B. Turnover Rate.

(1) An owner shall ensure that an aquatic venue is constructed to produce a minimum turnover rate (volume of the aquatic venue

divided by maximum turnover time (*t*), with continuous 24 hour flow using the values for (*t*) provided in the following table:

(1) A recreational pool, semipublic pool, or public spa is constructed to produce the following minimum turnover rates, with continuous 24-hour flow:

(a) Pools for swimming and diving: Minimum turnover rate = volume of pool in gallons/480 minutes;

(b) Pools for water recreational attractions and therapy: Minimum turnover rate = volume of pool in gallons/360 minutes;

(c) Pools for wading have a minimum turnover rate equal to the greater of:

(i) Volume of pool in gallons/120 minutes; or

(ii) The minimum flow required for the skimmer system and main drain to operate according to the manufacturer's specifications; and

(d) Spas: Minimum turnover rate = volume of spa/30 minutes;

(2) The flow through a circulation system is maintained between the minimum turnover rate and the design capacity of the filter system and associated piping; and

(3) A limited public-use pool has a turnover rate in conformance with:

(a) American National Standard for Residential Inground Swimming Pools; or

(b) American National Standard for Aboveground/Onground Residential Swimming Pools.]

Type of Aquatic Venue	Maximum Turnover Time (<i>t</i>)
Any Aquatic Venue Not Specifically Listed	360 minutes
Limited Public-Use Pool	720 minutes
Spa	30 minutes
Spray Ground	30 minutes
Therapy Pool	240 minutes
Wading Pool	60 minutes
Water Recreational Attraction	120 minutes

C. Head Loss Calculations. An owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* shall ensure that head loss calculations include the following:

(1)—(2) (text unchanged)

(3) Elevation of pump suction and discharge in relation to the [pool or spa] *aquatic venue* water surface level or the surge tank; and

(4) (text unchanged)

D. Surface to Bottom Flow Ratio and Water Circulation.

(1) An owner of a recreational pool, semipublic pool, or public spa constructed with both surface and bottom outlets shall ensure that:

(a)—(b) (text unchanged)

(2) (text unchanged)

(3) An owner of a public spray ground shall ensure that piping for outlets is designed to accommodate 100 percent of the flow.

(4) An owner of a recreational pool, semipublic pool or spa may construct the pool or spa with only surface outlets provided:

(a) Where the width of the pool or spa exceeds 30 feet, return inlets are not installed solely on the wall; and

(b) The circulation system is capable of meeting the required minimum turnover rate in §B of this regulation.

E. Filter Capacity. An owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* shall ensure that a filter:

(1) Operates within the filter design flow rate; and

(2) (text unchanged)

F. Interconnections Between [Pools] *Aquatic Venues*. An owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* shall ensure that a pool is not interconnected with a:

(1) Spa or wading pool except during the filling of a spa or wading pool; [and] or

(2) Spray [pool] *ground*.

.26 Circulation System Components.

A. Except as provided in [§B] §§B and H(1) of this regulation, an owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* shall ensure that circulation system components, including skimmers, pumps, filters, multiport valves, adjustable output rate chemical feeders, flow-through chemical feeders, chemical process equipment, chlorine generators, ion generators, and other [pool and spa] *aquatic venue* equipment comply with [Circulation System Components and Related Materials for Pools, Spas/Hot Tubs] *Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities*.

B. The Secretary shall accept [swimming pool, spa, or hot tub] *aquatic venue* circulation system components as meeting the requirements set forth in §A of this regulation if these items are in the current published NSF listing of swimming pool, spa, or hot tub circulation system components or a listing from organizations accredited by the American National Standards Institute (ANSI) for the certification of circulation system components.

C. Chemical Feeder and Process Equipment. An owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* shall ensure that the capacity of chemical feeder and process equipment is adequate to:

(1) Provide the minimum required disinfectant residual to the [pool or spa] *aquatic venue* water, as required [in] by Regulation .44A of this chapter; and

(2) Establish breakpoint when the combined chlorine level is at or over [0.2] 0.4 ppm.

D. Chlorine Gas Feeders. An owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* [shall ensure that the:

(1) Equipment installation, and operation of a chlorine gas feeder are in compliance with the American National Standard for Public Swimming Pools, with the exception that the word “shall” is substituted for the word “should”, and the owner is required to comply with the specifications of Appendix E; and

(2) Recirculated water is treated downstream of the chlorine gas injection point to maintain the water's pH between 7.2 and 7.8.] *may not allow the use of chlorine gas feeders as a means of disinfecting an aquatic venue*.

E. Vacuum Systems.

(1) An owner shall ensure that a [recreational pool, semipublic pool, or] public *pool or spa* has a vacuum system for cleaning the pool or spa floor.

(2) An owner of a [recreational pool, semipublic pool, or] public *pool or spa* may use skimmer outlet pipes for vacuum purposes for a circulation [systems] *system* with four or fewer skimmers.

(3) For a circulation [systems] *system* with more than four skimmers or a gutter system, an owner of a [recreational pool, semipublic pool, or] public *pool or spa* shall ensure that a vacuum system is provided that is separate from the skimmer or gutter system.

(4) If a vacuum [fittings are] *fitting* is provided within a [recreational pool, semipublic pool, or] public *pool or spa*, the owner shall ensure that the [fittings are] *fitting* is:

(a) Located at a convenient [locations] *location* approximately 1 foot below the water surface; and

(b) Provided with a flush removable [caps] cap or a spring loaded safety cover either of which shall be in place at all times.

(5) When the vacuum system is an integral part of the circulation system, an owner of a [recreational pool, semipublic pool, or] public pool or spa shall ensure that the vacuum line connection is before the pump hair and lint strainer.

F. Carbon Dioxide Feeders. An owner of [a recreational pool, semipublic pool, or public spa] an aquatic venue shall ensure that a carbon dioxide feeder system is:

- (1) (text unchanged)
- (2) Located in a [ventilated] chemical storage area that meets the requirements provided in Regulation .29 of this chapter; [and]
- (3) Secured to prevent damage to the gas cylinder if the cylinder is subject to tipping[.]; and
- (4) Where carbon dioxide cylinders are located indoors, a monitor and alarm is provided to alert patrons and operators of carbon dioxide levels at or exceeding 1,000 ppm or an oxygen concentration at or below 19.5 percent.

G. Ozone Systems. An owner of [a recreational pool, semipublic pool, or public spa] an aquatic venue shall ensure that:

- (1) Chemicals, solvents, or combustible materials, other than those required for the operation of the recirculation and ozone generating equipment, are not stored in a room where ozone is used;
- (2) Rooms which are designed to include ozone equipment are equipped with an emergency ventilation system capable of six air changes per hour;
- (3) The exhaust intake is located 6 inches from the floor, on the opposite side of the room from the make-up air intake;
- (4) The emergency ventilation system is arranged to run on command of an ozone-leak alarm or on command of a manual switch;
- (5) The manual emergency ventilation switch is located outside the room and near the door to the room containing the ozone generation equipment;
- (6) Ozone rooms which are below grade are equipped with forced-draft ventilation capable of six air changes per hour;
- (7) The ventilation system is arranged to run:
 - (a) Automatically concurrent with the ozone equipment and for at least a time allowing for 15 air changes after the ozone equipment is stopped;
 - (b) Upon activation of the ozone detection and alarm system; and
 - (c) On command of a manual switch;
- (8) A room containing ozone generation equipment is equipped with an audible and visible ozone detection and alarm system;
- (9) The alarm system consists of both an audible alarm capable of producing at least 85 decibels at 10 feet distance, and a visible alarm consisting of a flashing light mounted in plain view of the entrance to the room containing the ozone generation equipment;
- (10) The ozone sensor is located at a height between 18 and 24 inches above floor level and is capable of measuring ozone in the range of 0 to 2 ppm;
- (11) The alarm system will alarm when the ozone concentration equals or exceeds 0.1 ppm in the room;
- (12) The activation of the alarm system will shut off the ozone generating equipment and turn on the emergency ventilation system;
- [(1)] (13) An ultraviolet light ozone system is used and installed according to [Circulation System Components and Related Materials for Pools, Spas/Hot Tubs] Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities (NSF/ANSI 50-2013);
- [(2)] (14) A corona discharge ozone system is used and installed according to [Circulation System Components and Related Materials for Pools, Spas/Hot Tubs] Equipment for Swimming Pools,

Spas, Hot Tubs and Other Recreational Water Facilities (NSF/ANSI 50-2013), and the following requirements:

- (a)—(b) (text unchanged)
- (c) The system is designed to provide a contact time of:
 - (i) [2] Two minutes when used in conjunction with a chlorine disinfectant; or
 - (ii) [1] One minute when used in conjunction with a bromine disinfectant;
- (d)—(l) (text unchanged)
- (m) The ozone gas output is under negative pressure or a vacuum; and
- [(n)] (n) The ozone generation area is ventilated at 2 cfm per square foot of floor area to prevent the build up of excess ozone; and]
- [(o)] (o) (text unchanged)

H. [An owner of a recreational pool, semipublic pool, or public spa may connect an equalization line for a skimmer to the main drain line in a wading pool, or other pool that does not have sufficient water depth, for the installation of the equalizer line through the pool wall below the skimmer throat.] Skimmers.

(1) The Secretary shall accept skimmers on a recreational pool, semipublic pool, or public spa as meeting the requirements set forth in §A of this regulation and not require the installation of equalizer lines or equalizer line covers if:

- (a) The skimmer is connected to another skimmer or main drain line that cannot be isolated by a valve or other means;
- (b) The skimmer is provided with a vented lid;
- (c) Except for an equalizer line, the skimmer is in compliance with Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities;
- (d) The flow rate through the skimmer is not less than 14 or greater than 35gpm; and
- (e) The skimmer is provided with a means for adjusting the flow rate; and
- (2) The owner shall ensure that:
 - (a) One skimmer is provided per:
 - (i) 50 feet of aquatic venue perimeter; or
 - (ii) 500 square feet of aquatic venue water surface area or fraction thereof, whichever is greater;
 - (b) A minimum of two skimmers are installed; and
 - (c) The skimmers are spaced to provide maximum skimming action of the water surface.

I. An owner shall ensure that all chemical feeders that operate independently of the circulation pump are provided with an automatic means to be disabled through an electrical interlock with at least one of the following:

- (1) Recirculation pump power;
- (2) Flow meter, flow switch, or pressure switch in the return line; or
- (3) Chemical control power and paddle wheel or flow cell on the chemical controller if safety test confirms feed systems are disabled through the controller when the pump is turned off, loses prime, or filters are backwashed.

.27 Diving Area and Equipment.

An owner of a public pool shall ensure that:

[A.] — [B.] (proposed for repeal)

A. The dimensions of aquatic venue diving area are in conformance with §§6.5—6.6.2 of the American National Standard for Public Swimming Pools;

[C.] B. Diving equipment is installed in compliance with [§§7.2.5—7.2.5.6] §§7.2.5—7.2.5.7 of the American National Standards for Public Swimming Pools;

[D.] C. Unobstructed clearance is provided for a diving board in conformance with the following minimum dimensions:

- (1) A minimum height [of:

(a) 13 feet measured upward from the plummet of a diving board; or

(b) Greater than 13 feet if specified by the manufacturer of the diving board] *in conformance with §7.2.3 of the American National Standard for Public Swimming Pools;*

(2) A clearance as required [in §D(1)] *by §C(1) of this regulation extending;*

(a)—(c) (text unchanged)

(3) (text unchanged)

(4) A minimum distance between a diving board plummet and a side wall of:

(a) 10 feet for a diving board [20 inches] *1 meter* or less above the water line; and

(b) 12 feet for a diving board greater than [20 inches] *1 meter* above the water line;

[E.] D.—[F.] E. (text unchanged)

.28 [Suction] Entrapment Prevention.

To prevent [a suction] *an* entrapment hazard, an owner shall ensure that:

[A. A vacuum fitting is capped when not in use;]

[B.] A. A vacuum line *is equipped with an independent valve and the valve is in the closed position when not in use;*

[C.] B. Except as provided in [§§F and G] *§E* of this regulation, the main drain for a [public]:

(1) *Public* pool or spa complies with 15 U.S.C. §8003 and is:

[(1)] (a) Connected to a minimum of two main drain outlets that are:

[(a)] (i) Not isolated by a valve or other means;

[(b)] (ii) Spaced at least 3 feet [from edge to edge] *apart measured from center to center of sump or located on two different planes;* and

[(c)] (iii) Hydraulically balanced; or

[(2)] (b) An unblockable drain[.]; *and*

(2) *Within the splash zone of a public spray ground complies with 15 U.S.C. §8003;*

[D.] C. A drain is covered with a securely attached drain cover in compliance with the:

[(2)] (1) American National Standard for Public Swimming Pools; and

(2) 15 U.S.C. §8003[.];

[E.] D. A skimmer [is:

(1) Connected to an equalization line, main drain line, vent, or another skimmer that cannot be isolated by a valve or other means, or

(2) Provided with a vented lid;] *complies with Regulation .26A of this chapter;*

[F.] E. A *public* pool or spa constructed before February 10, 1997 is provided [by June 1, 2002.] with:

(1) At least two hydraulically balanced drain outlets [spaced a minimum of 3 feet from edge to edge that cannot be isolated to create a single outlet for each circulation pump, as illustrated in Regulation .28-1A of this chapter] *in compliance with §B(1) of this regulation;*

(2) [A channel] *An unblockable* drain system that [is at least 3 feet from edge to edge, as illustrated in Regulation .28-1B of this chapter] *complies with §B(1) of this regulation;* or

(3) An approved safety vacuum release system[.]; *and*

[G. As an interim measure, until a pool or spa constructed before February 10, 1997 is in compliance with §F of this regulation:

(1) A pool or spa has a minimum of two outlets that cannot be isolated to create a single outlet per pump; and

(2) These outlets are provided by connecting the main drain line to a skimmer line so that the lines cannot be isolated to create a

single outlet, as illustrated in Regulation .28-1C of this chapter, assuring that:

(a) The skimmer line does not become blocked within the skimmer housing at any time;

(b) Associated valves are locked in an open position to prevent the drain or the skimmer from becoming a single source of suction; and

(c) Associated valves are permanently tagged with a warning to maintain the valves in the open position at all times when the pool or spa is in use;

H. A pool or spa is in compliance with the following:]

F. *An owner shall ensure that:*

(1) A *submerged* suction outlet is provided with a cover that complies with the American National Standard for Public Swimming Pools;

(2) A *submerged* suction [fitting] *outlet* complies with 15 U.S.C. §8003;

(3) [Suction] A *submerged suction* outlet [covers are] *cover is* in good condition, with no breaks, cracks, or other defects that could affect the structural integrity of the cover;

(4) [Suction] A *suction* outlet [covers are] *cover is* secured according to manufacturers' directions and in such a way that the [covers] *cover* cannot be removed without the use of [tools] *a tool;*

(5) [A pool or spa that does not have] *When an aquatic venue has a submerged* suction [outlets] *outlet that is not* in compliance with this regulation [has], all pumps *are* immediately shut off *and the aquatic venue is closed* until [the pool or spa has been] brought into compliance with this regulation;

(6) (text unchanged)

[(7) A pool or spa facility has a comprehensive written maintenance program that addresses the following:

(a) If a suction outlet cover is cracked or broken, the pump shall be immediately shut off and the cover shall be replaced;

(b) Covers shall be anchored in accordance with the manufacturer's specifications and supplied parts, and only manufacturer specified, noncorrosive fasteners may be used;

(c) Lines and equipment shall be labeled or color coded for ready identification; and

(d) The on/off switch for circulation pumps shall be clearly identified and labeled; and]

(7) *A comprehensive written maintenance program is prepared and implemented that includes procedures for the operator to:*

(a) *Keep the written maintenance program on file with the operating records at the aquatic venue;*

(b) *Make the written maintenance program available to the Department for inspection;*

(c) *Shut off the pump and close the aquatic venue should the operator discover a suction outlet cover that is cracked, broken or otherwise not in compliance with §F(3) of this regulation;*

(d) *Replace a suction outlet cover that is cracked, broken or otherwise not in compliance with §F(3) of this regulation;*

(e) *Close the aquatic venue if the circulation pump is off for longer than 15 minutes; and*

(f) *Not allow the use of the aquatic venue until the circulation pump is operating if the circulation pump is found to be off before opening the aquatic venue; and*

(8) [Check valves] *A check valve* in the suction line to [pumps are] *a pump* is removed to allow backflow of water or air to release the suction when the pump is shut off or when an influent blockage detection device is activated[; and

I. A pool and spa operator completes the Pool and Spa Entrapment Hazards Checklist provided by the Secretary, or an equivalent form, on a daily basis before the pool or spa is open for that day's use].

.29 Chemical Storage Area.

An owner shall ensure that [a recreational pool, semipublic pool, or public spa] *an aquatic venue* has a chemical storage area that:

A. (text unchanged)

B. Has:

(1) [A lockable door which can be opened from the inside,] *An entrance door that:*

(a) *Allows complete and unencumbered access to the chemical storage area;*

(b) *Is equipped with:*

(i) *An automatic closer;*

(ii) *An automatic lock; and*

(iii) *A lock that requires a key or combination to open from the outside;*

(c) *Is installed and maintained to ensure that the door closes completely and latches without human assistance; and*

(d) *Is designed and installed to be opened by one hand from the inside of the room under all circumstances, without the use of a key or tool;*

(2) [Ventilation] *Continuous mechanical exhaust ventilation with the exhaust vent intake placed at a height less than or equal to 3 feet from the floor of the chemical storage area, discharged to limit exposure to the public that is sized at 2 cfm per square foot of floor area and that exhausts to the open air[.];*

(3) A minimum of 20 [footcandles] *20 lumens of illumination[.] per square foot of floor space within the chemical storage area; and*

(4) Storage for chemicals in accordance with the [material] safety data sheet for a particular chemical.

.31 Filter Backwash Water and Deck Drainage Disposal.

A. An owner shall ensure that:

(1) The disposal of filter backwash water and [pool or spa] *aquatic facility and venue* wastewater conforms with:

(a) COMAR 09.20.01[.];

(b) Local sanitary code requirements[.]; and

(c) Discharge requirements of COMAR [26.08.01 ----- 26.08.04] *26.08.01—26.08.04; and*

(2) Deck drainage disposal conforms with:

(a) COMAR 09.20.01[.]; and

(b) (text unchanged)

B. An owner may not return filter backwash water or other wastewater to [a pool or spa,] *an aquatic venue* except for filter backwash water that has been filtered to remove particulates and treated to eliminate coliform bacteria and waterborne pathogens.

.32 Illumination of Water, Deck, and Walkway.

An owner shall ensure that an indoor [recreational pool, semipublic pool, or public spa,] *aquatic venue* or one used [during nighttime] *before sunrise or after sunset*, is provided with:

A. (text unchanged)

B. Illumination of the water and deck *of an aquatic venue* that is:

(1) A combination of underwater lighting and deck lighting so that the:

(a) Underwater lighting [yields] *provides* at least [0.5 watt] *8 lumens* per square foot of water surface area[.]; and

(b) [Deck lighting yields] *Lighting for the required deck area provides* at least [0.6 watt] *10 lumens* per square foot of required deck area [or at least 15 footcandles]; or

(2) [Overhead lighting yielding] *Lighting for the required deck area provides* at least [2 watts] *20 lumens* per square foot of required deck area [or at least 20 footcandles of light] that is directed onto the deck and the water surface so that the *bottom of the entire [pool or spa bottom] aquatic venue* is clearly visible;

C. Lighting that minimizes reflection from the water surface [so that the visibility of the pool or spa bottom is not obscured; and] *so that the entire bottom of an aquatic facility is clearly visible;*

D. Walkway lighting yielding at least [15 footcandles of light.] *10 lumens per square foot of the walkway; and*

E. *Illumination of the splash zone and deck that provides at least 10 lumens per square foot of the splash zone and deck.*

.33 Ventilation of an Indoor [Recreational Pool, Semipublic Pool, or Public Spa] Aquatic Venue.

An owner shall ensure that an indoor [recreational pool, semipublic pool, or public spa] *aquatic venue* has:

A. A [ventilating] *ventilation* system capable of:

(1) Exhausting 1 1/2 cfm of air per square foot of enclosed area[, or]; and

(2) Dehumidifying the recirculated air from the enclosed area; [and]

B. Make-up air equal to the volume of exhausted air or as required [in] by the ventilation system specifications[.], *has a ventilation system equipped with:*

C. *An exhaust vent placed at a height less than or equal to 3 feet from the floor of the natatorium; and*

D. *A make-up air vent place on the opposite side of the natatorium from the exhaust vent.*

.34 Plumbing.

A. Water Supply System. An owner shall ensure that a water supply system at [a public pool or spa] *an aquatic venue* is in conformance with:

(1) COMAR 26.04.01[, 26.04.03, and 26.04.04;]

[(2) COMAR 09.20.01; and]

[(3)] (2) *COMAR 26.04.03;*

(3) *COMAR 26.04.04;*

(4) *COMAR 09.20.01; and*

(5) (text unchanged)

B. Sewage Disposal System. An owner shall ensure that a sewage disposal system at [a public pool or spa] *an aquatic venue* is in conformance with:

(1) COMAR 26.04.02 [and 26.04.03];

(2) [COMAR 09.20.01; and] *COMAR 26.04.03;*

(3) *COMAR 09.20.01; and*

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

C. Drinking Fountains. An owner shall ensure that [a recreational pool, semipublic pool, or public spa enclosure] *an aquatic venue* has at least one drinking fountain *within 100 feet of the entrance gate to an aquatic venue* for every 5,000 square feet of water surface *or splash zone* area.

D. Hose Bibbs. An owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* shall ensure that the following locations have an accessible hose bibb equipped with an atmospheric vacuum breaker:

(1) (text unchanged)

(2) *In an equipment room or that is accessible within 50 feet of the equipment room so that a hose can service the entire equipment room; and*

(3) (text unchanged)

E. Fill Spouts and Automatic Water Level Controllers.

(1) If a fill spout is installed at a public pool or spa, the owner shall ensure that the fill spout is:

[(1)] (a) Installed within 10 inches of a ladder or handrail or in front of a lifeguard stand whose supports are immediately adjacent to the pool or spa [rim] *coping*, so that the fill spout does not present a tripping hazard or a puncture hazard;

[(2)] (b) (text unchanged)

[(3)] (c) Braced or constructed so the fill spout does not flex downward; [and]

[(4)] (d) Provided with a flexible cover on the tip of the fill spout [if the spout presents a potential for injury to an individual using a pool or spa.]; and

(e) Installed with an air gap that:

(i) Is two times the diameter of the fill spout; and

(ii) Separates the fill spout from the maximum water level of the pool or spa.

(2) If an automatic water level controller or inline manual fill is installed at a public pool, spa or spray ground, the owner shall ensure that an air gap or other approved backflow prevention device is provided.

F. Backflow Prevention. An owner of [a public pool or spa] *an aquatic facility* shall ensure that:

(1) A pool or spa] *an aquatic facility* has backflow protection for:

[(a)] (1) A potable water supply, in conformance with COMAR 09.20.01[.]; and

[(b)] (2) Wastewater, in conformance with COMAR 09.20.01[.]; and

(2) An air gap that is two times the diameter of the fill spout separates the fill spout from the flood rim level of the pool or spa.]

G. Source of Water. An owner of [a public pool or spa] *an aquatic venue* shall ensure that:

(1) When [a public pool or spa] *an aquatic venue* is filled with water from a [nonpotable] *non-potable* source, such as a water tank holding [nonpotable] *non-potable* water or surface water[, the]:

(a) [Water] *The water* is filtered, treated, and disinfected after addition to the [pool or spa] *aquatic venue* to meet the requirements of Regulation .44 of this chapter[.]; and

(b) [Pool or spa] *An aquatic venue* is not used until a bacteriological sample taken by the Secretary indicates that there are no coliform organisms in the water; and

(2) [Public pool or spa] *Aquatic venue* make-up water:

(a) Is from a potable source[.]; and

(b) Having an iron level over 0.3 ppm is treated to lower the iron level to 0.3 ppm or less before the make-up water is added to [a pool or a spa] *an aquatic venue*.

.35 Toilet, Hand Sink, and Shower Facilities.

A. Except as provided in §B of this regulation, an owner shall ensure that [a recreational pool, semipublic pool, or public spa] *an aquatic venue* has:

(1) A bathhouse, toilets, hand sinks, and showers within 100 feet of an entrance gate to the [pool or spa] *aquatic venue* [in accordance with the American National Standard for Public Swimming Pools, Articles 19.1—19.6.13];

(2) At least a minimum number of toilets, hand sinks, and showers based on:

(a) The [maximum user load of the pool or spa] *theoretical peak occupancy* as set forth in Regulation [.19].19B of this chapter;

(b) Fixture ratios [set forth in §A(1) of this regulation] *in accordance with the American National Standard for Public Swimming Pools, Articles 19.1—19.6.13*; and

(c) (text unchanged)

(3) 50 percent of the required fixtures designated for use by each sex, unless the [pool or spa] *aquatic venue* is for one sex only; and

(4) (text unchanged)

B. An owner is not required to provide [toilet, hand sink, and] shower facilities at [a recreational pool, semipublic pool, or public spa] *an aquatic venue* when bathers have access to equivalent facilities in:

(1) Living quarters not more than 500 feet from [a pool or a spa] *an aquatic venue* entrance; or

(2) A building or buildings not more than 500 feet from [a pool or a spa] *an aquatic venue* entrance.

C. An owner shall ensure that equivalent facilities used by [recreational pool, semipublic pool, or public spa] *aquatic venue* bathers and patrons of a recreational center, health club, marina, or other facility are in compliance with:

(1)—(2) (text unchanged)

.36 Antiscald Protection for Showers.

An owner of [a recreational pool, semipublic pool, or public spa] *an aquatic venue* shall ensure that each shower has an approved pressure-balanced, [antiscald] *anti-scald* device that limits the delivered water temperature to below 115°F.

.37 Accommodations for Disabled Individuals.

An owner shall ensure that [a public pool or spa] *an aquatic venue* is in compliance with all applicable federal, State, and local codes governing facilities for disabled individuals, including COMAR 05.02.02.

.38 Equipment Installation and Operating Instructions.

An owner of [a public pool or spa] *an aquatic venue* shall ensure that:

A. [Pool and spa] *Aquatic venue* equipment is installed according to manufacturers' instructions and this chapter;

B.—C. (text unchanged)

D. Operating instructions for the circulation and water treatment systems:

(1) Refer to the number, label, or color code of the valves, controls, and piping[.]; and

(2) (text unchanged)

.39 Maintenance.

An owner of [a public pool or spa] *an aquatic facility or venue* shall ensure that:

A. An inspection of [the pool or spa and related facilities] *an aquatic facility and venue* is made at least once a [week] *day* by the operator for the purpose of maintaining [the pool or spa] *an aquatic facility and venue* in compliance with this chapter;

B. [The pool or spa and its related facilities are] *An aquatic facility and venue* is maintained in a safe, clean, and orderly condition;

C. A broken, damaged, or malfunctioning [fixture] *component* is promptly repaired or replaced; and

D. [The pool or spa is] *An aquatic facility and venue* are left in a safe condition when closed for the season.

.40 [Public Pool and Spa] Aquatic Facility and Venue Safety.

A. First Aid and Lifesaving Equipment. An owner shall ensure that a:

(1) [A recreational] *Recreational* pool is provided with a:

(a) [A first aid kit as recommended by the American Red Cross] *Continuously stocked, adequate supply of first aid supplies to include, at a minimum:*

(i) *A First Aid Guide;*

(ii) *Absorbent compresses;*

(iii) *Adhesive bandages;*

(iv) *A roll of adhesive tape;*

(v) *Sterile pads;*

(vi) *Scissors;*

(vii) *A roll of elastic wrap;*

(viii) *An emergency blanket;*

[(b) A face mask for CPR] (ix) *A resuscitation mask with one-way valve; and*

[(c)] (x) *Disposable medical grade examination gloves;*

(d) (b) [A bloodborne] *Blood borne* pathogen control kit, to include, at a minimum:

- (i) *Three antimicrobial towelettes;*
- (ii) *One 7 to 10 gallon biohazard bag with tie;*
- (iii) *One bottle of alcohol gel;*
- (iv) *One roll of body fluid clean-up kit paper;*
- (v) *One pair of nitrile ANSI gloves;*
- (vi) *One 2 ounce bag of absorbent powder;*
- (vii) *One bag;*
- (viii) *One scoop; and*
- (ix) *One small scraper;*

(e) (c) [A backboard] *Backboard* designed for medical emergency use that is equipped with straps and head immobilizer;

(f) (d) [A light] *Light*, strong rescue pole not less than 10 feet long; and

(g) (e) [A rescue] *Rescue* tube designed for lifesaving for each required lifeguard;

(2) [Except as set forth in §A(3) of this regulation, a public] *Public* spa is provided with the safety equipment required [in §A(1)(a)—(e)] *by §A(1)(a)—(c)* of this regulation; and

(3) [A semipublic] *Semipublic* spa or *public spray ground* is provided with the safety equipment required [in] *by* [§A(1)(a)—(d)] *§A(1)(a)—(b)* of this regulation; and

(4) [A semipublic] *Semipublic* pool is provided with a:

(a) (text unchanged)

(b) Ring buoy or similar approved floatation device with an attached throwing rope measuring 50 feet in length or [11/2] *1.5* times the width of the pool, whichever is longer.

B. Telephone. An owner shall ensure that, in case of an emergency, a telephone is available within the [pool or spa enclosure] *aquatic venue barrier* to individuals using [a public pool or spa] *an aquatic venue* that:

(1) *For a recreational pool, public spa, or public spray ground:*

(a) Can directly reach a 911 emergency service without the use of a coin and without connection to an internal switchboard;

(2) (b) Is posted with:

(a) (i) The names and phone numbers of the nearest available police, fire, and ambulance or rescue unit; or

(b) (ii) 911 or with any numbers necessary to reach a 911 emergency service center directly; and

(3) (c) Is posted with the name and [location of the pool or spa facility.] *physical address of the aquatic venue; and*

(2) *For a semipublic pool:*

(a) *Except for a guarded pool that is compliant with §B(1) of this regulation, can directly reach a 911 emergency service without dialing, the use of a coin, and without connection to an internal switchboard; and*

(b) *Complies with §B(1) of this regulation.*

C. (text unchanged)

D. Lifeguards.

(1) (text unchanged)

(2) Except as set forth in §D(1) and (3) of this regulation, an owner of a recreational pool shall have at least one lifeguard on duty on the deck observing the pool while [an individual is in the pool] *patrons are inside the pool barrier*, and shall have at the pool:

(a)—(b) (text unchanged)

(c) In addition to the number of lifeguards required [in §D(2)(b)] *by §D(2)* of this regulation, additional lifeguards on duty if:

(i)—(iv) (text unchanged)

(3) (text unchanged)

(4) In addition to meeting the other requirements of this chapter, an owner or operator of [a] *an aquatic* facility specified in the following paragraphs shall ensure that a:

(a) (text unchanged)

(b) Child care center has water safety supervision for pool activities at a child care center in compliance with COMAR [07.04.02.41] *13A.15.08.04*; and

(c) (text unchanged)

(5) The owner may only use or employ a lifeguard who holds a valid lifeguard certification from:

(a)—(c) (text unchanged)

(d) Ellis and Associates [National Pool and Waterpark] *International Lifeguard Training Program*; or

(e) (text unchanged)

(6) Except as set forth in §D(1) and (3) of this regulation, an owner of a semipublic pool that has a water surface area greater than 2,500 square feet or that is part of a multiple pool facility within one enclosure that has a combined water surface area greater than 2,500 square feet shall ensure that at least one lifeguard is on duty on the deck observing a pool *at all times patrons are within the pool barrier* and in the ratio of one guard per 50 individuals in the water :

(a)—(b) (text unchanged)

E. CPR and First-Aid Personnel. Except at a *semipublic pool, semipublic spa, or public spray ground* an owner of [a recreational pool, public spa, and a limited public use pool] *an aquatic venue* shall ensure that:

(1) When the [pool or spa] *aquatic venue* is open for use, an individual is present and on site, holding a valid certification for:

(a) Infant/child/adult or professional rescuer [cardiopulmonary resuscitation (CPR)] *CPR*; and

(b) (text unchanged)

(2) The CPR and first aid certifications of the individual required [in] *by* §E(1) of this regulation are from:

(a)—(c) (text unchanged)

F. Safety Signs. An owner of [a public pool or spa] *an aquatic venue* shall ensure that:

(1)—(7) (text unchanged)

(8) A semipublic pool or public spa that does not have a lifeguard on duty has a conspicuous sign posted adjacent to entrances to the pool or spa reading “WARNING; NO LIFEGUARD ON DUTY. **SWIM AT YOUR OWN RISK.** DO NOT SWIM ALONE. CHILDREN UNDER 15 SHOULD NOT USE THE POOL WITHOUT ADULT SUPERVISION.”; [and]

(9) House rules are posted at the entrance to [a pool or spa.] *an aquatic venue; and*

(10) *A conspicuous sign posted adjacent to entrances to the aquatic venue reading, “Use of a public pool, spa, or spray ground is prohibited if you have an infectious or contagious disease that may be transmitted through water, an open cut, blister, other lesion, or diarrhea.”*

.41 [Pool and Spa] Aquatic Venue Operator Certification.

A. A person may not act as or perform the duties of [a public pool or spa] *an aquatic venue* operator without [a pool and spa] *an aquatic venue* operator certification card issued by the Secretary as required [in] *by* [§B and G] *§§B and J* of this regulation.

[B. The Secretary shall issue a 3-year public pool and spa operator certification card only to an individual 16 years old or older who has:

(1) Completed a 14-hour approved public pool and spa operator’s course or a course offered by the Secretary with a minimum grade of 70 percent on an approved written examination given following the completion of that course; or

(2) Presented proof of previous certification and has:

(a) Completed an approved 4-hour refresher course; or

(b) Passed a challenge exam offered by the Secretary.]

B. *The Secretary shall issue an aquatic venue operator certification card to an individual who:*

(1) *Is 16 years old or older; and*

(2) Has:

(a) Completed a 14 hour aquatic venue operator's course approved by the Secretary and passed, with a minimum grade of 75 percent, a written exam approved by the Secretary; or

(b) Presented a current aquatic venue operator certification card and has:

(i) Completed a 4 hour refresher course approved by the Secretary, and passed, with a minimum grade of 75 percent, a written exam approved by the Secretary; or

(ii) Passed, with a minimum grade of 75 percent, a challenge exam offered by the Secretary.

C. An individual who fails an exam, required by §B(2) of this regulation, may retake the exam one time before having to take the course and pass the exam.

D. An aquatic venue operator's certification card shall be valid for 3 years from the date the individual complies with §B(2) of this regulation.

[C.] E. The Secretary may summarily suspend [a pool and spa] an aquatic venue operator's certification card for 6 months if the operator does not comply with Regulation .43 of this chapter.

[D.] F. Hearing for Summary Suspension. In the case of the summary suspension of certification pursuant to [§C] §E of this regulation, the Secretary shall provide the certification card holder with written notice of the suspension and an opportunity for a hearing pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

[E.] G. To preserve the right to a hearing, the certification card holder shall contact the Secretary within [30] 10 calendar days of the receipt of the notice of the suspension.

H. An aquatic venue operator whose certification card is suspended may apply for a new certification card:

(1) At the conclusion of the suspension period specified in §E of this regulation; and

(2) After completing the training requirements in §B(2)(a) of this regulation post suspension.

[F.] I. The Secretary shall recognize [a pool and spa] an aquatic venue operator certification as valid throughout the State.

[G.] J. The Secretary shall issue [a 3-year limited public-use pool operator certification card to an individual 16 years old or older who has completed:

(1) (text unchanged)

(2) The requirements of §B of this regulation.] a limited public-use pool operator certification card to an individual who:

(1) Is 16 years old or older; and

(2) Has:

(a) Completed a 4 hour limited public-use pool operator's course approved by the Secretary and passed with a minimum grade of 75 percent, a written exam approved by the Secretary; or

(b) Met the requirements of §B of this regulation.

[H.] K. An individual who possesses [a public pool and spa] an aquatic venue operator certification card may perform the duties of [a public pool and spa] an aquatic venue operator at [a limited public-use, recreational, and semipublic pool and public spa] any aquatic venue. An individual who possesses a limited public-use pool operator certification card may perform the duties of a limited public-use pool operator only at a limited public-use pool.

.42 Approval of Operator's Course.

The Secretary shall approve [a pool and a spa] an aquatic venue operator's course based on the following criteria:

A. An approved course shall cover general aspects of [public pool and spa] aquatic venue operation including:

(1) [Applicable regulations,] State and local regulations;

(2) Disease prevention[,] which shall cover CT values, recreational water infections (RWI), and response to formed-stool, diarrhea, blood, and vomit in and around an aquatic venue;

(3) Disinfection[,] which shall cover sanitation, cyanuric acid, non-chlorine oxidizers, combine chlorine, breakpoint chlorination, and alternate and supplemental systems;

(4) Filtration[,] which shall cover types of filters, normal operation, filter backwashing, cleaning, and pressure;

(5) Circulation which shall cover turnover rates, flow rates, and turnover times;

[(5)] (6) Circulation system components, operation, and maintenance[.];

[(6)] (7) General [pool and spa] aquatic venue maintenance and cleaning equipment[.];

(7) Operation and maintenance of equipment[.];

(8) Water chemistry[,]which shall cover water balance, saturation index, and dosing;

(9) Water testing[,]which shall cover testing methods and frequency;

(10) Record keeping and required reporting[.];

(11) [General pool and spa] Other aquatic venue chemicals[,] which shall cover water clarifiers, stain and scale inhibitors, enzymes, oxidizers, algae prevention, problems related to green hair, and other issues;

[(12) Chemical handling,] Other Aquatic Venues which shall cover spas and spray grounds;

(13) Waste water disposal[.];

(14) Safety[,] which shall cover risk management and reduction, the Virginia Graeme Baker Pool and Spa Safety Act (VGB), gates and entry to the aquatic venue, barriers, chemical handling, spills, storage and disposal, safety equipment, and spa shut-off switch; and

[(15) Sanitation, and]

[(16)] (15) Other pertinent topics as specified by the Secretary[.]; and].

B. An approved course shall be taught by an individual who has demonstrated to the Secretary:

(1) Expertise in the operational aspects listed in §A of this regulation, as evidenced by combined work experience, training, and formal education[, and];

(2) Successful completion of an approved [public pool and spa] aquatic venue operator's course; and

(3) Current certification according to Regulation .41.

C. An individual approved to teach according to §B of this regulation may conduct the course online provided an individual taking the course completes the written examination required by Regulation .41 of this chapter in person.

D. The Secretary may audit an aquatic venue operator's course, the course materials, or the instructor's credentials at any time.

.43 [Pool and Spa] Aquatic Venue Operation.

An owner shall ensure that a certified [pool and spa] aquatic venue operator:

A. (text unchanged)

B. Is available at a semipublic pool, public spa, [and at a] limited public-use pool, and public spray ground for performance of all requirements of this chapter and is able to [respond to operational problems] arrive at the aquatic venue within 15 minutes when not available on site;

C. Measures and records[, or supervises and verifies the measurement and recording of,] all information required [in] by Regulation .46 of this chapter;

D. Performs all duties related to the operation of [a pool or spa] an aquatic venue as required [in] by this chapter;

E. Cleans the filtration system when the filter pressure differential reaches a level specified by the equipment's manufacturer or as specified below:

- (1) High rate sand filters at 15 psi[.];
- (2) Rapid rate sand filters at 8 psi[.];
- (3) Cartridge filters at 10 psi[.];
- (4) Pressure diatomaceous earth filters at 10 psi[.]; and
- (5) (text unchanged)

F. (text unchanged)

G. Maintains water chemistry according to Regulation .45 of this chapter; [and]

H. Adds, *while the aquatic venue is closed*, a [nonstabilized] *non-stabilized* oxidizer into the [pool or spa] *aquatic venue* water equivalent to an amount of free chlorine equal to at least 10 times the measured combined chlorine residual plus sufficient free chlorine to oxidize the ammonia and nitrogenous compounds in the water, on a [recommended] schedule of once per week for a pool and once per day for a wading pool [and for a], spa[.]*or spray ground; and*

I. Documents the:

- (1) Date;
- (2) Time;
- (3) Combined chlorine residual, in ppm, before adding the oxidizer;
- (4) The amount of non-stabilized oxidizer added to the aquatic venue; and
- (5) The combined chlorine residual, in ppm, after adding the oxidizer.

.44 Disinfection of [a Pool and Spa] an Aquatic Venue.

A. An owner or operator of [a public pool or spa] *an aquatic venue* shall ensure that [a]:

(1) A primary disinfectant [or combination of disinfectants] is added to the water automatically through an approved chemical feeder to maintain [continuously] a residual level as specified below:

[(1) Free] (a) *Except as provided by §A(1)(b) of this regulation, free chlorine shall be between:*

- [(a)] (i) 1.5 ppm and [10.0] 10 ppm in pools for swimming and diving and water recreational attractions;
- [(b)] (ii) [3.0] 3 ppm and [10.0] 10 ppm in pools for wading or therapy *or for a public spray ground; and*
- [(c)] (iii) [4.0] 4 ppm and [10.0] 10 ppm in spas;

(b) *For an aquatic venue where ORP is maintained above 680 and monitored by an approved automatic controller, free chlorine shall be between:*

- (i) 1 ppm and 10 ppm in pools for swimming and diving and water recreational attractions;
- (ii) 2.5 ppm and 10 ppm in pools for wading or therapy *or for a public spray ground; and*
- (iii) 3.5 ppm and 10 ppm in spas;

[(2)] (c) The maximum amount of combined chlorine shall be [0.2] 0.4 ppm for all [pools and spas] *aquatic venues;*

[(3)] (d) [Total] *Except as provided in §A(1)(e) of this regulation, total bromine shall be between:*

- [(a)] (i) [3.0] 3 ppm and [8.0] 10 ppm in pools for swimming and diving and water recreational attractions; and
- [(b)] (ii) [4.0] 4 ppm and [8.0] 10 ppm in spas [and in], pools for wading or therapy, *and public spray grounds; and*

(e) *For an aquatic venue where ORP is maintained above 680 and monitored by an approved automatic controller, total bromine shall be between:*

- (i) 2 ppm and 10 ppm in pools for swimming and diving and water recreational attractions; and

(ii) 3 and 10 ppm in spas, pools for wading or therapy, *and public spray grounds; and*

(2) *For an aquatic venue using supplemental disinfectant in conjunction with a primary disinfectant that:*

[(4) For pools and spas] (a) *For an aquatic venue using copper and silver ions [as a secondary disinfectant in conjunction with chlorine or bromine as a primary disinfectant]:*

[(a)] (i) Copper ions shall be between 0.2 ppm and [1.0] 1 ppm;

[(b)] (ii) Silver ions may not exceed 0.05 ppm;

[(c) Free] (iii) *In pools for swimming and diving and water recreational attractions, chlorine in combination with copper and silver ions shall be between[:*

(i) 0.5 ppm and 10 ppm [in pools for swimming and diving and water recreational attractions, and];

[(ii)] (iv) *In spas, pools for wading or therapy, and public spray grounds, chlorine in combination with copper and silver ions shall be between 1.5 ppm and [10.0] 10 ppm [in spas and in a pool for wading or therapy; and];*

[(d) Total bromine in combination with copper and silver ions shall be between:]

[(i)] (v) *In pools for swimming and diving and water recreational attractions, total bromine in combination with copper and silver ions shall be between [1.0] 1 ppm and [8.0 ppm in pools for swimming and diving and water recreational attractions,] 10 ppm; and*

[(ii)] (vi) *In spas, pools for wading or therapy, and public spray grounds, total bromine in combination with copper and silver ions shall be between [3.0] 3 ppm and [8.0 ppm in spas and pools for wading or therapy] 10 ppm;*

[(5)] (b) For [pools and spas] *aquatic venues* using an ozone generator, the maximum amount of ozone measured 2 inches [above] *below* the water surface shall be 0.1 ppm;

[(6)] (c) For [pools] *an aquatic venue* using PHMB, the minimum level of PHMB shall be 30 ppm; and

[(7)] (d) For [pools and spas] *an aquatic venue* using an ultraviolet light/hydrogen peroxide system, the minimum level of hydrogen peroxide shall be 20 ppm.

B. An owner or operator shall ensure that for [public pools and spas] *an aquatic venue* using cyanuric acid or a similar chlorine stabilizer, the cyanuric acid *or similar chlorine stabilizer* is maintained [between 30 ppm and 100] *at less than 50 ppm.*

C. An owner or operator of [a public pool or spa] *an aquatic venue* may not use:

- (1) PHMB in [a pool or spa] *an aquatic venue* that uses jets or sprays;
- (2) PHMB in conjunction with [any]:
 - (a) Any halogen compound [or ozone]; *or*
 - (b) Ozone;
- (3) Cyanuric acid in conjunction with [a]:
 - (a) A bromine compound [or in]; *or*
 - (b) At an indoor [pool or spa] *aquatic venue; or*
- (4) (text unchanged)

.45 Water Chemistry of [a Pool and Spa] an Aquatic Venue.

A. An owner or operator shall ensure that the water chemistry of [a public pool or spa] *an aquatic venue* is maintained according to the following requirements:

- (1)—(2) (text unchanged)
- (3) [The] *Except for spas, calcium hardness of the water is maintained between 150 ppm and [400] 1,000 ppm;*
- (4) [The Langelier Saturation Index of the water is maintained between -0.5 and +0.5 as calculated by:] *For spas, calcium harness of the water is maintained between 100 ppm and 800 ppm;*

(5) *The Langelier Saturation Index of the water is maintained between -0.3 and +0.5 as calculated by:*

temperature factor, CF = calcium hardness factor, and AF = alkalinity factor, and] *TDSF; and*

(a) The Langelier Saturation Index formula: Langelier Saturation Index = pH + TF + CF + AF - [12.1 where: TF =

[(b) The following factor table:

Temperature (°F)	Temperature Factor	Calcium Hardness (ppm)	Calcium Factor	Total Alkalinity (ppm)	Alkalinity Factor
32	0.0	5	0.3	5	0.7
37	0.1	25	1.0	25	1.4
46	0.2	50	1.3	50	1.7
53	0.3	75	1.5	75	1.9
60	0.4	100	1.6	100	2.0
66	0.5	150	1.8	150	2.2
76	0.6	200	1.9	200	2.3
84	0.7	300	2.1	300	2.5
94	0.8	400	2.2	400	2.6
105	0.9	800	2.5	800	2.9
128	1.0	1000	2.6	1000	3.0]

(b) *The following factor table:*

Temperature (°F)	Temperature Factor	Calcium Hardness (ppm)	Calcium Factor	Total Alkalinity (ppm)	Alkalinity Factor	Total Dissolved Solids (ppm)	Total Dissolved Solids Factor
32	0.0	5	0.3	5	0.7	<1000	12.10
37	0.1	25	1.0	25	1.4	1000—1999	12.19
46	0.2	50	1.3	50	1.7	2000—2999	12.29
53	0.3	75	1.5	75	1.9	3000—3999	12.35
60	0.4	100	1.6	100	2.0	4000—4999	12.41
66	0.5	150	1.8	150	2.2	5000—5999	12.44
76	0.6	200	1.9	200	2.3	—	—
84	0.7	300	2.1	300	2.5	—	—
94	0.8	400	2.2	400	2.6	—	—
105	0.9	800	2.5	800	2.9	—	—
128	1.0	1000	2.6	1000	3.0	—	—

[(5)] (6) [The] *Except for an aquatic venue utilizing an electrolytic chlorine generator, the amount of total dissolved solids is maintained so that it does not exceed 1,500 ppm[, except for a salt water pool where the total dissolved solids may not exceed 3,000 ppm];*

[(7)] (10) *The water clarity is maintained so that either a 6 inch secchi disc placed in the deepest part of [a pool or spa] an aquatic venue or the main drain is clearly visible and sharply defined when observed from the side of [the pool or spa] an aquatic venue.*

(7) *For an aquatic venue utilizing an electrolytic chlorine generator, the amount of total dissolved solids is maintained so that it does not exceed 1,500 ppm above the starting value of the total dissolved solids as documented on the aquatic venue’s data sheet for the aquatic venue when balanced; and*

B. An owner or operator shall ensure that:

(1) (text unchanged)

(2) *When chemicals are added directly to [a pool or spa] an aquatic venue, no one is allowed in the water during dispersion or until the chemicals are dissolved and diffused throughout [the pool or spa] an aquatic venue.*

(8) *The starting value of the total dissolved solids for the aquatic venue is updated whenever the aquatic venue is drained and filled;*

C. An owner or operator shall ensure that the water temperature for a mechanically heated [public pool or spa does not exceed] *aquatic venue does not exceed:*

(1) 88°F for a pool or spray ground;

(2) (text unchanged)

(3) 96°F for a therapy pool or for a pool meeting the turnover rate for a therapy pool as required by Regulation .25B and the

[(6)] (9) The amount of dissolved metals is maintained so that it does not exceed the following levels:

(a) Iron, 0.3 ppm[.];

(b) Manganese, 0.3 ppm[.]; and

(c) Copper, 1.3 ppm; and

disinfection of a therapy pool as required by Regulation .44 of this chapter.

.46 Operating Records Required.

An aquatic venue operator shall maintain operating records on a form provided by the Secretary or an equivalent form and shall:

A. Except as provided in §B of this regulation, record the information required [in] by:

(1) §C(1)—(3) of this regulation in:

(a) 2[-] hour intervals for a recreational pool [and for a], public spa, [and three] or public spray ground beginning before opening; or

(b) Intervals no less than 2 hours and no more than 4 hours apart [times per day] for a limited public-use [and] pool, or semipublic pool beginning before opening; and [record the information required in]

(2) [§C(4)—(9)] §C(4)—(10) of this regulation [a minimum of three times per day for a public pool and spa,] in intervals no less than 2 hours and no more than 4 hours apart for an aquatic venue beginning [1/2 hour before] before opening;

B. For [a public pool or spa] an aquatic venue where an approved automatic controller is used, record the information required [in] by §C of this regulation:

[(1) A minimum of three times per day in conformance with the following schedule:

(a) The first recording of the day shall be made 1/2 hour before the pool or spa opens,

(b) The second recording shall be completed between 12 p.m. and 2 p.m., and

(c) The final recording shall be completed 2 hours before closing]

(1) In intervals no less than 2 hours and no more than 4 hours apart; and

(2) (text unchanged)

C. Record the following information in the intervals required [in] by §§A and B of this regulation:

(1) Disinfectant residual in ppm;

(2) Combined chlorine level in ppm, if chlorine is used;

(3)—(4) (text unchanged)

(5) Water temperature in degrees Fahrenheit, if heated;

(6) Flow rate in gpm;

(7) Filter influent pressure and effluent pressure in PSI;

(8) Pump vacuum in PSI; [and]

(9) Total number of bathers; and

(10) If the aquatic venue is equipped with an automatic controller, ORP and pH readings from the automatic controller;

D. Record in [1-week] 1 week intervals for a public pool and in [1-day] 1 day intervals for a public spa or spray ground:

(1) Total alkalinity level in ppm;

(2) Calcium hardness level in ppm; and

(3) Cyanuric acid level in ppm, if used;

E. Record daily for [a public pool or spa] an aquatic venue:

(1) (text unchanged)

(2) An injury or accident at [the pool or spa] an aquatic venue;

(3) Chemicals added to the water; [and]

(4) For a spa:

(a) The water replacement interval;

(b) The interval between the last water change; and

(c) The difference between the water replacement interval and the interval between the last water change; and

[(4)] (5) (text unchanged)

F. Date and sign each record sheet and initial each entry;

G. [Record] Each day before opening the aquatic venue record the results of the following inspections [in the specified intervals] to

complete [a Pool and Spa Entrapment] an Aquatic Venue Hazards Checklist:

[(1) Daily check before the facility is open to verify that:

(a) Drain covers, vacuum fitting covers, skimmer equalizer covers, and any other suction outlet covers are in place, secure, and unbroken,

(b) Skimmer baskets, weirs, lids, flow adjusters, and suction outlet lines are free of any blockage,

(c) Inlet and return covers or fittings are in place, secure, and unbroken,

(d) Safety warning signs are in place around the pool or spa, including emergency instructions and phone numbers, and

(e) On/off switches for pumps are clearly labeled and the location of the pumps is clearly identified; and

(2) Check all information required in §G(1) of this regulation before filling a pool or spa with water, after periodic maintenance, and after pool or filter cleaning procedures;]

(1) Suction outlet covers are:

(a) Secure; and

(b) Free from breaks, cracks, or defects;

(2) Skimmers are:

(a) Free from any blockage; and

(b) Equipped with:

(i) Secure lids; and

(ii) Functioning weirs;

(3) Inlet and return covers are:

(a) In place;

(b) Secure; and

(c) Unbroken;

(4) Warning signs are in place;

(5) The on/off switch to each pump is clearly labeled;

(6) If an aquatic venue is equipped with a suction vacuum release system, that the suction vacuum release system releases suction when tested;

(7) The circulation pump is running;

(8) The flow rate for the aquatic venue is between the minimum and maximum turnover rate; and

(9) The certified operator has verified compliance and signed or initialed the checklist.

H. Keep the records on [the premises] file for a minimum of 3 years; and

I. (text unchanged)

.47 Test Kits.

A. In order to comply with the requirements of Regulation .46 of this chapter, an owner shall ensure that:

(1) One or more of the following for measuring the disinfectant level is used:

(a) A chlorine or bromine test kit that is the DPD [(diethyl-p-phenylene diamine)] reagent system for measuring free and combined chlorine or total bromine with an indicator range from 0.0 to 10.0 ppm or with procedures for performing a dilution test to achieve readings up to 10.0 ppm[.];

(b) An ozone test kit that is the indigo trisulfonate method for measuring ozone with an indicator range from [0.0] 0 to [1.0] 1 ppm[.];

(c) A copper test kit that is accurate to within +/- 0.1 ppm for measuring copper[.];

(d) A PHMB test kit with an indicator range from [0.0] 0 ppm to 75 ppm[.]; or

(e) A hydrogen peroxide test kit that is the DPD reagent system with an indicator range from [0.0] 0 to 40 ppm;

(2)—(3) (text unchanged)

(4) An EDTA [(ethylenediamine-tetraacetate)] hardness test is used to measure calcium hardness as milligrams per liter calcium carbonate; and

(5) A cyanuric acid test kit with an indicator range from 0 to 100 ppm is used if cyanuric acid is used in the pool [or], spa, or spray ground.

B. In order to comply with the requirements of Regulation .46 of this chapter, an owner may monitor:

(1) Chlorine and bromine residuals by measuring the [oxidation-reduction potential (ORP)] *ORP* of the water before the disinfectant injection point; and

(2) (text unchanged)

C. If an ORP or pH meter is used, an owner shall ensure that:

(1) Periodic calibration is performed on these instruments to assure accurate measurements; [and]

(2) *Documentation of calibrations are:*

(a) *Kept on file for 3 years; and*

(b) *Made available to the Department upon request; and*

(3) (text unchanged)

.48 Sanitary Quality of Water.

A. Although routine testing is not required, an owner or operator shall ensure that the water in [a public pool or spa] *an aquatic venue:*

[A.] (1) Has a coliform bacteria level of less than 1 coliform per milliliter; [and]

[B.] (2) Is free of pathogenic organisms[.]; and

(3) *Is tested after a fecal or vomit incident.*

B. An owner or operator shall:

(1) *Contact either the local health department or a Maryland certified laboratory to perform bacteriological testing of the water in an aquatic venue within 72 hours of completing the requirements in Regulation .48-1 of this chapter;*

(2) *Ensure that four samples of the water in an aquatic venue are collected from various points around the aquatic venue, including the general area where the incident occurred;*

(3) *Provide the results of the bacteriological tests to the local health department within 24 hours of receipt if the samples were not taken by the local health department; and*

(4) *Immediately close the aquatic venue and repeat the requirements in Regulation .48-1 of this chapter if any sample has a coliform bacteria level that does not meet the requirements in §A(1)—(2) of this regulation.*

C. *The Secretary may perform bacteriological testing of the water in an aquatic venue at any time the aquatic venue is in operation.*

D. *If the Secretary determines that the water in an aquatic venue does not meet the requirements in §A(1)—(2) of this regulation, the owner or operator shall immediately close the aquatic venue and perform the requirements in Regulation .48-1A of this chapter.*

E. *The owner or operator may not operate the aquatic venue until compliance with §A(1)—(2) of this regulation is achieved.*

.48-1 Fecal, Vomit, and Blood Incident Response at an Aquatic Venue

An owner or operator of an aquatic venue where:

A. A fecal or vomit incident has occurred shall:

(1) *Immediately close the aquatic venue, and have patrons exit the venue;*

(2) *Remove as much of the fecal material or vomit as possible and dispose of it in a sanitary manner;*

(3) *Clean and disinfect the items used to remove the fecal material or vomit;*

(4) *Ensure pH is maintained at 7.5 or less;*

(5) *Ensure that the temperature is maintained at 77°F or higher;*

(6) *For a formed-stool fecal or vomit incident, maintain the free chlorine level at:*

(a) *1 ppm for 45 minutes;*

(b) *2 ppm for 23 minutes;*

(c) *3 ppm for 15 minutes;*

(d) *4 ppm for 11 minutes;*

(e) *5 ppm for 9 minutes;*

(f) *6 ppm for 8 minutes;*

(g) *7 to 8 ppm for 6 minutes; or*

(h) *9 to 10 ppm for 5 minutes;*

(7) *For a diarrheal fecal incident, maintain the free chlorine level at:*

(a) *10 ppm for 25.5 hours;*

(b) *15 ppm for 17 hours;*

(c) *20 ppm for 13 hours;*

(d) *25 ppm for 10.5 hours;*

(e) *30 ppm for 8.5 hours;*

(f) *35 ppm for 7.5 hours;*

(g) *40 ppm for 6.5 hours;*

(h) *45 ppm for 6 hours;*

(i) *50 ppm for 5.5 hours; or*

(j) *55 ppm for 5 hours;*

(8) *Record the incident in the Fecal, Vomit, and Blood Incident Response log as required by Regulation .51 of this chapter; and*

(9) *Test the water in the aquatic venue as required by Regulation .48 of this chapter; and*

B. A blood incident has occurred shall:

(1) *Immediately clean and disinfect the area around the aquatic venue contaminated by blood, utilizing the blood borne pathogen control kit required by Regulation .40 of this chapter;*

(2) *Measure the disinfectant level in the aquatic venue water to ensure it is compliant with Regulation .44 of this chapter; and*

(3) *Record the incident in the Fecal, Vomit, and Blood Incident Response log as required by Regulation .51 of this chapter.*

.48-2 Water Replacement.

A. An operator of a public spa shall replace the entire volume of water within the public spa when the difference between the interval since the last water change and the WRI, as calculated according to §B of this regulation, is less than or equal to zero.

B. *Water Replacement Interval.*

WRI (days rounded to the nearest whole number) = $(1/3) \times$ (spa volume in gallons) / (number of bathers since last water change).

C. *Water loss due to evaporation may not be counted as water drained and replaced to meet the requirements of §A or B of this regulation.*

.49 Chemical Handling and Storage.

An owner shall ensure that a:

A. [Material safety] Safety data sheet for [a potentially hazardous] each chemical used at an aquatic venue is [available]:

(1) *Available to the operator;*

(2) *Maintained within:*

(a) *A water proof cover; and*

(b) *A 3 ring binder; and*

(3) *Is current;*

B. *Chemical is handled, used, stored, and disposed of in accordance with the [material] safety data sheet and all applicable federal, State, and local codes; [and]*

C. *Chemical is stored in a chemical storage area which is in compliance with Regulation .29 of this chapter[.]; and*

D. An owner shall ensure that:

(1) *An operator is provided with the:*

(a) *Personal protective equipment listed in the safety data sheet for each chemical used at the aquatic venue; and*

(b) Training necessary to properly use the personal protective equipment listed in the safety data sheet for each chemical used at the aquatic venue; and

(2) Personal protective equipment required by §D(1) of this regulation is maintained at the aquatic venue.

.50 Control of Infectious and Contagious Diseases.

A. An owner may not knowingly permit an individual to enter the water of [a public pool or spa] an aquatic venue who has:

(1)—(3) (text unchanged)

B. An owner or operator may not prohibit an individual from entering the water of [a public pool or spa] an aquatic venue if a physician certifies that the individual's condition is not infectious or contagious by waterborne transmission.

.51 [Injury and Illness] Aquatic Venue Incident Reports.

[A public pool or spa] An owner of an aquatic venue shall ensure that:

A. An [injury, drowning, near drowning, or suction entrapment] incident occurring at [a pool or spa] an aquatic venue that results in death or that requires resuscitation or admission to a hospital is reported to the Secretary within 24 hours of the incident on the Aquatic Venue Incident Report Form;

B. [A waterborne] An illness contracted at [a pool or spa] an aquatic venue is reported to the Secretary within 24 hours of the owner's or operator's knowledge of the incident on the Aquatic Venue Incident Report Form;

C. [A water rescue] Water rescues by aquatic safety personnel [is] are reported to the Secretary every 3 months during operation or at the seasonal closure of [the facility] an aquatic venue, whichever is more frequent [; and], on the Aquatic Venue Incident Report Form;

D. The information required [in A----C] by §§A—C of this regulation is [recorded on a pool and spa injury and illness report form provided by the Secretary] recorded on the Aquatic Venue Incident Report Form which shall include:

- (1) The name of aquatic venue;
- (2) The physical address of the aquatic venue;
- (3) The name of the owner of the aquatic venue;
- (4) The mailing address of the owner of the aquatic venue;
- (5) The phone number of the owner of the aquatic venue;
- (6) The name of the aquatic venue management company, if applicable;
- (7) The license classification of the aquatic venue;
- (8) The type of aquatic venue;
- (9) The type of use;
- (10) The date and time of the incident;
- (11) The type of incident;
- (12) Who the victim was treated by on-site;
- (13) Whether cardiopulmonary resuscitation was required;
- (14) Who performed the resuscitation, if applicable;
- (15) Whether an automated external defibrillator was used;
- (16) Whether the victim was admitted to the hospital;
- (17) The name of the hospital, if applicable;
- (18) Whether the incident resulted in death;
- (19) The date and time of death, if applicable;
- (20) The emergency response units and associated report numbers;
- (21) Whether a certified aquatic venue operator was present during the incident;
- (22) Whether a lifeguard was present during the incident;
- (23) The number of lifeguards present, if lifeguards were on duty;
- (24) An attached aquatic venue:
 - (a) Diagram showing the locations of the victim;

(b) Diagram showing the location of each lifeguard, if applicable;

- (c) Supervision plan;
- (d) List of house rules;
- (e) Emergency plan;
- (f) Lifeguard certification; and
- (g) Certified aquatic venue operator card;

- (25) The State or local agencies notified;
- (26) The date and time the State or local agency was notified;
- (27) The name of the person that was notified, if notification occurred by telephone;
- (28) The signature of the owner or operator completing the form;
- (29) The printed name of the owner or operator completing the form;
- (30) The phone number of the owner or operator completing the form;
- (31) The email address of the owner or operator completing the form; and
- (32) The fax number of the owner or operator completing the form; and

E. All fecal, vomit or blood incidents that occur at an aquatic venue are recorded in the Fecal, Vomit, Blood Incident Response log which shall include:

- (1) Date of the incident;
- (2) The time of the incident;
- (3) Levels for the following before treating the water at the aquatic venue:
 - (a) Free chlorine residual in ppm;
 - (b) pH; and
 - (c) Temperature in degrees Fahrenheit;
- (4) Levels for the following at the halfway point for treating the water at the aquatic venue:
 - (a) Free chlorine residual in ppm;
 - (b) pH; and
 - (c) Temperature in degrees Fahrenheit;
- (5) Levels for the following at the end of treating the water at the aquatic venue:
 - (a) Free chlorine residual in ppm;
 - (b) pH; and
 - (c) Temperature in degrees Fahrenheit;
- (6) Date bacteriological samples were taken; and
- (7) The four locations where the bacteriological samples were taken from within the aquatic venue.

.52 Standardization and Audits of Local Health Departments.

A. The Department shall:

- (1) Standardize one local standardization officer related to the enforcement of this chapter for each local health department;
- (2) Audit local health department aquatic venue programs related to the enforcement of this chapter once every four years according to the current audit protocols; and
- (3) Provide to the local health department an aquatic venue program review final report.

B. Local health departments shall submit to the Department responses to any deficiencies within the aquatic venue program as identified within the aquatic venue program review final report within 30 business days of receipt of the report.

.53 Variances.

A. (text unchanged)

B. An owner may request a variance from a requirement of this chapter by submitting a written application that:

- (1)—(5) (text unchanged)
- (6) Demonstrates that the alternative procedure proposed:

(a) Meets or produces the intended effect of the regulation for which the variance is requested[.]; and

(b) (text unchanged)

C. Upon consideration of an application for a variance, the Secretary may grant the request for a variance if the:

(1)—(3) (text unchanged)

(4) Secretary determines that the alternative procedure proposed by the applicant:

(a) Meets or produces the intended effect of the regulation[.]; and

(b) (text unchanged)

D. The Secretary shall grant or deny an application for a variance in writing and shall mail the decision to the applicant within 60 *business* days of the date the application for a variance is received by the Department.

E. If the determination of the Secretary is to deny a variance request that has been made in compliance with the provisions of §B of this regulation, the applicant may file an appeal of the denial in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and shall contact the Secretary within 10 *calendar* days of receipt of the denial to preserve a right to a hearing.

F. *A local health department that issues or denies a variance under the authority of the Secretary shall mail a copy of the variance application and response to the Department within 60 business days of the date the application for a variance is received by the local health department.*

.54 Compliance Schedules.

A. The owner of [a public pool or, spa] *an aquatic venue* that has a structure, equipment, or appurtenance that is not in compliance with this chapter as determined by the Secretary may submit to the Secretary for approval a compliance schedule for meeting the requirements of this chapter.

B. The request from an owner for approval of a compliance schedule shall include:

(1) The reason that the [noncompliance] *noncompliant* item cannot be immediately corrected;

(2) The plan for correction of the [noncompliance] *noncompliant* item; and

(3) The time schedule for the correction of the [noncompliance] *noncompliant* item.

C. The Secretary may approve the compliance schedule if the:

(1) (text unchanged)

(2) Time schedule for the correction of the [noncompliance] *noncompliant* item is accepted by the Secretary; and

(3) Operation of [the pool or, spa] *an aquatic venue* during the time allowed to bring the [pool or, spa] *aquatic venue* into compliance does not adversely affect the health and safety of the public.

D. The Secretary may not approve a compliance schedule for a newly constructed [pool or, spa] *aquatic venue* that has not received construction approval under Regulation .08 of this chapter.

E. The Secretary shall issue an operating permit or shall refrain from suspending an operating permit to an owner if:

(1) A compliance schedule has been approved by the Secretary for the correction of a [noncompliance] *noncompliant* item;

(2) (text unchanged)

(3) [The pool or, spa] *An aquatic venue* is otherwise in compliance with this chapter.

F. *A local health department that issues or denies a compliance schedule under the authority of the Secretary shall mail a copy of the compliance schedule application and response to the Department within 60 business days of the date the application for a compliance schedule is received by the local health department.*

.55 Bonding.

A. *An owner shall ensure that once every 5 years a licensed electrician:*

(1) *Tests all metal and electrical equipment connected with the aquatic venue;*

(2) *Signs a bonding certification affidavit; and*

(3) *Submits the bonding certification affidavit to the Department before the previous bonding certification affidavit expires.*

B. *A bonding certification affidavit shall be valid for 5 years from the date signed by the licensed electrician.*

VAN T. MITCHELL
Secretary of Health and Mental Hygiene

Subtitle 24 MARYLAND HEALTH CARE COMMISSION

10.24.08 State Health Plan for Facilities and Services: Nursing Home [and Home Health Agency] Services

Authority: Health-General Article, §§19-109(a)(1) [and], 19-118, and 19-120(f), Annotated Code of Maryland

Notice of Proposed Action

[16-041-P-I]

The Maryland Health Care Commission proposes to amend Regulation .01 under **COMAR 10.24.08 State Health Plan for Facilities and Services: Nursing Home Services**. This action was considered by the Commission at an open meeting held on November 19, 2015, notice of which was given through publication in the Maryland Register, under General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to remove home health agency services from COMAR 10.24.08, the existing chapter that covers both nursing home and home health agency services. A separate action places the home health agency services regulations in a new chapter, COMAR 10.24.16. The amended COMAR 10.24.08 will then be focused solely on nursing home services.

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 Cathy Weiss, Program Manager, Center for Health Care Facilities and Development, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, MD 21215, or call 410-764-3339 (TTY 800-735-2258), or email to cathy.weiss@maryland.gov, or fax to 410-358-1236. Comments will be accepted through 4:30 p.m. on February 22, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Health Care Commission during a public meeting to be held on March 17, 2016 at 1 p.m., at 4160 Patterson Avenue, Baltimore, MD 21215.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the State Health Plan for Facilities and Services: Nursing Home Services 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 43:1 Md. R. 10 (January 8, 2016), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Incorporation by Reference.

The State Health Plan for Facilities and Services: Nursing Home [and Home Health Agency] Services is incorporated by reference.

FRANCES B. PHILLIPS, R.N., M.H.A.
Vice-Chair

Subtitle 24 MARYLAND HEALTH CARE COMMISSION

10.24.16 State Health Plan for Facilities and Services: Home Health Agency Services

Authority: Health-General Article, §§19-109(a)(1), 19-118, and 19-120(f), Annotated Code of Maryland

Notice of Proposed Action

[16-042-P-I]

The Maryland Health Care Commission proposes to adopt new Regulation .01 under a new chapter, **COMAR 10.24.16 State Health Plan for Facilities and Services: Home Health Agency Services**. This action was considered by the Commission at an open meeting held on November 19, 2015, notice of which was given through publication in the Maryland Register, under General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to replace the home health agency services portion of the State Health Plan Chapter on nursing home and home health agency services with a new chapter focused solely on home health agency services. The new chapter accounts for changes in the delivery and financing of home health agency services that have occurred since this portion of the State Health Plan was last updated in 2007. This chapter includes: policies; need determination; use of multi-jurisdictional regions; Certificate of Need application acceptance rules; establishment of home health agency quality measures and performance levels for qualified applicants; Certificate of Need review standards; Certificate of Need preference rules in comparative reviews; rules for gradual entry of home health agency providers; rules for acquisition of home health agencies; and rules for merger or consolidation of home health agencies.

This chapter will provide a policy blueprint for the Commission and affected industries to address issues related to the provision of home health agency services. It implements an approach to regulating the development and expansion of home health agency services in Maryland that is based on ensuring consumer choice of high quality

providers in which better performance by home health agency providers is encouraged by development and expansion opportunities. This chapter provides criteria for determining need for additional home health agency providers as well as certificate of need application acceptance rules and review standards to guide the Certificate of Need review process.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This new chapter of the State Health Plan for Facilities and Services: Home Health Agency Services provides planning policies, criteria for determining need for additional home health agency providers, as well as certificate of need application acceptance rules and review standards to guide the development of high quality home health agency services.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency: MHCC	(E+)	Within budget
B. On other State agencies:		
(1) OHCQ	(E+)	Minimal
(2) Medicaid	(E+)	Minimal
C. On local governments:	(R-)	Minimal
	Benefit (+)	
	Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Moderate
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Significant

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

A. Maryland Health Care Commission (MHCC). The Commission accepts Certificate of Need (CON) proposals from qualified applicants when need has been identified. This new chapter describes criteria for determination of need based on consumer choice of quality HHA providers. Opportunities for development as well as for expansion are created. A more streamlined approach for utilizing MHCC staff resources is established with these proposed new regulations by requiring applicants to meet qualifying factors prior to being considered for review. There may also be staff resources devoted to the review of proposed acquisitions, which do not require a certificate of need, but do require review of additional information regarding the proposed acquisition. Furthermore, there may be a greater number of proposed mergers or consolidations, which will also require some staff resources for review of the potential impact on existing agencies, but less intensive staff resources than for CON review for establishment of new agencies or expansion of existing agencies. Any anticipated CON reviews and staff efforts to support this chapter can be accommodated by current staff within the Commission's budget.

B(1). Office of Health Care Quality (OHCQ). Any new home health agency provider in Maryland approved by the Commission would need to be licensed and Medicare certified by the Office of Health Care Quality (OHCQ). This requires OHCQ staffs' expertise in determining that the proposed new HHA would meet all applicable state and federal regulations, including conducting on-site surveys to confirm that Medicare's Conditions of Participation are appropriately addressed. However, it is anticipated that some of the identified need for additional HHA providers may be met by existing HHA providers seeking to expand their service area to serve in a new jurisdiction not currently authorized to serve. Under this scenario, such an HHA seeking to expand may do so using its existing license and Medicare certification number, without putting any extensive burden on OHCQ staff resources. Furthermore, with regard to acquisition of an existing licensed HHA which does not require CON review as long as the type or scope of services provided is not changed, this action typically permits the new provider to maintain the acquired agency's license and Medicare certification numbers. Such changes in ownership transactions would not require extensive OHCQ staff resources. Any gradual increase in establishment of new HHAs could be accommodated within OHCQ's budget.

B(2). Medicaid. Medicaid accounts for a very small proportion of home health agency care since it is primarily reimbursed under Medicare. In FY 2013, Medicaid was the payor for three percent of home health agency patients. Therefore, any development of Medicare-certified home health agencies should have minimal impact on the Medicaid program.

C. Local Governments. There are currently two home health agencies operated by local county health departments: Baltimore County and Garrett County. For FY 2013, Baltimore County Department of Health's home health agency had 425 admissions with a net operating revenue of \$195,033, and Garrett County Health Department's home health agency had 426 admissions with a net operating revenue of \$880,159. Baltimore County Department of Health's home health agency is one of 21 agencies operating to serve Baltimore County residents, while Garrett County Health Department's home health agency is one of two agencies serving Garrett County. Quality of patient care star ratings which summarize nine of the 29 quality measures reported on Center for Medicare and Medicaid's (CMS) Home Health Compare website provide a single indicator of an agency's performance compared to other agencies nationwide. Baltimore County Department of Health's HHA had 3 ½ stars, and Garrett County Health Department's HHA had 2 ½ stars (on a 5-star rating system). This indicates that quality performance scores were higher for Baltimore County Department of Health with a slightly higher than average performance compared to the national average of 3 stars, while Garrett County performed lower than the national average.

Proposed regulations promote consumer choice of high quality performing agencies, and policy recommendations suggest that each jurisdiction should have no fewer than three operating agencies. Therefore, while there appears to be a greater potential for development of new HHAs in Garrett County than in Baltimore County, it remains uncertain as to whether any applicants would propose to serve Garrett County. Furthermore, with the advent of CMS' proposed home health value-based purchasing model in Maryland anticipated to begin in January 2016 for Medicare payment tied to performance, there could be lower Medicare payment for lower performing agencies. Under the assumption that there would be no additional new providers in Baltimore County, and perhaps one additional new provider in Garrett County, overall revenue could decline in Garrett County and potentially remain the same in Baltimore County. Therefore, the proposed regulations, combined

with changes in the way Medicare proposes to pay agencies based on performance, may allow for revenue to continue to be generated by the respective local county health departments' home health agencies, but perhaps at a lower dollar amount for Garrett County Health Department.

D. Regulated Industries or Trade Groups. The proposed regulations are expected to have a positive impact on regulated industries. By providing clear policy direction on creating opportunities for development of new home health agencies and expansion of existing home health agencies, and developing standards and policies for CON review, the Commission is providing direction for future gradual growth to ensure consumer choice of high performing agencies. In addition, the Commission will continue to work with the industry in selecting quality measures and required performance levels for those quality measures that must be achieved by an applicant in order to be considered for a given review cycle.

F. Public. The proposed regulations are expected to have a positive impact on the public by focusing on ensuring consumer choice of quality home health agencies. The proposed regulations enhance public access to qualified home health agency providers and include a transparent process for consideration of HHA quality measures and performance levels. This process includes Commission staff publishing draft quality measures and performance levels for public review and comment prior to establishing the applicable HHA quality measures and performance levels to be achieved by an applicant in order to be considered in the CON review cycle.

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 Cathy Weiss, Program Manager, Center for Health Care Facilities Planning and Development, Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, MD 21215, or call 410-764-3339 (TTY 800-735-2258), or email to cathy.weiss@maryland.gov, or fax to 410-358-1236. Comments will be accepted through 4:30 p.m. on February 22, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Health Care Commission during a public meeting to be held on March 17, 2016, at 1 p.m., at 4160 Patterson Avenue, Room 100, Baltimore, MD 21215.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the State Health Plan for Facilities and Services: Home Health Agency Services 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 43:1 Md. R. 10 (January 8, 2016), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Incorporation by Reference.

The State Health Plan for Facilities and Services: Home Health Agency Services is incorporated by reference.

FRANCES B. PHILLIPS, R.N., M.H.A.
Vice-Chair

Subtitle 37 HEALTH SERVICES COST REVIEW COMMISSION

10.37.10 Rate Application and Approval Procedures

Authority: Health-General Article, §§19-201, 19-207, and 19-219(c), Annotated Code of Maryland

Notice of Proposed Action

[16-043-P]

The Health Services Cost Review Commission proposes to amend Regulation .07-1 under **COMAR 10.37.10 Rate Application and Approval Procedures**. This action was considered and approved for promulgation by the Commission at a previously announced open meeting held on December 10, 2015, notice of which was given pursuant to General Provisions Article, §3-301(c), Annotated Code of Maryland. If adopted, the proposed amendments will become effective on or about April 11, 2016.

Statement of Purpose

The purpose of this action is to allow the Commission to set rates for outpatient services associated with the federal 340B Program in anticipation of the hospital's obtaining federal provider-based status.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Economic Impact is based on hospitals paying less for certain outpatient drugs under the federal 340B Program.

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 (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	(+)	Moderate
E. On other industries or trade groups:	(+)	Moderate
F. Direct and indirect effects on public:	(+)	Moderate

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

D.—F. The assumption of moderate benefit to regulated hospitals, third party payers and the public, as identified in Section II D, E and

F, is based on hospitals paying less for certain outpatient drugs under the federal 340B Program, which translates to payers and patients paying less as well.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Diana Kemp, Regulations Coordinator, Health Services Cost Review Commission, 4160 Patterson Avenue, Baltimore, MD 21215, or call 410-764-2576, or email to diana.kemp@maryland.gov, or fax to 410-358-6217. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.07-1 Outpatient Services — At the Hospital Determination.

A. — B. (text unchanged)

C. In accordance with Health-General Article, §19-201, Annotated Code of Maryland, the Commission's rate-setting jurisdiction extends to outpatient services provided at the hospital. Outpatient services associated with the federal 340B Program under the federal Public Health Service Act provided in a department of a regulated hospital that, on or before June 1, 2015, is under a merged asset hospital system, and which are physically located at another regulated hospital under the same merged asset hospital system, shall be subject to the rate-setting jurisdiction of the Commission. *The Commission may begin setting rates for these services in anticipation of the hospital's obtaining provider-based status for purposes of the 340B Program.*

D.—J. (text unchanged)

JOHN M. COLMERS
Chairman

**Title 11
DEPARTMENT OF
TRANSPORTATION**

**Subtitle 17 MOTOR VEHICLE
ADMINISTRATION—DRIVER
LICENSING AND IDENTIFICATION
DOCUMENTS**

Notice of Proposed Action

[16-044-P]

The Administrator of the Motor Vehicle Administration proposes to amend:

- (1) Regulation .08 under **COMAR 11.17.06 Identification Cards**; and
- (2) Regulation .03 under **COMAR 11.17.16 Corrected Driver's License**.

Statement of Purpose

The purpose of this action is to amend regulations to eliminate the correction fee charged for a veteran to add or delete a veteran designation on an identification card or driver's license.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This proposed regulation change would no longer constitute the addition or deletion of a veteran designation as a driver's license correction. Additionally, there would no longer be a fee for adding or deleting a veteran designation to an identification card. Currently, the Administration charges a \$20 corrected fee for a veteran designation change between renewal dates. Based on this proposed regulation change, the customer would no longer be charged the \$20 fee. However, if the applicant added the veteran designation at the time of renewal, they would pay the customary renewal fee.

As of October 29, 2015 there were 28,579 MVA products with a veteran designation. There were 27,330 driver licenses issued with a veteran designation and 1,249 identification cards issued with a veteran designation. In FY15, there were 271 veteran designation added between renewal dates resulting in revenue of \$5,420 (\$20 x 271); In FY14, there were 837 designation added between renewal dates resulting in revenue of \$16,740 and in FY13, there were 320 veteran designation added between renewal dates resulting in revenue of \$6,400 (\$20 x 320). Based on the fluctuation in FY14, a determination was made to use the average number of the past three years. Therefore, an assumption has been made to use the average number of MVA products that had veteran designation added by paying a \$20 corrected fee.

For the past three fiscal years, there was an average of 476 (271+837+320) = 1,428/3 customers that paid the \$20 corrected fee. This number was used to determine the fiscal impact of the revenue loss associated with the \$20 corrected fee. In addition, it is estimated that the internal programming costs would be \$56,400 (\$150/hr. x 376) to include requirements and designs, development, build, UAT and Rollout, however, it is anticipated that it could be handled with existing resources.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:		
(1) (MVA/MDOT)	(R-)	\$2,380 (FY16)
(2) (MVA/MDOT)	(R-)	\$9,520 (FY17)
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	
	Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
(1)	(+)	\$2,380 (FY16)
(2)	(+)	\$2,380

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

A(1). In calculating the estimated fiscal impact of this proposal, the following assumptions were made:

This fiscal impact statement is making the assumption that the

population that would have added a veteran designation between the renewal dates for an identification card and driver's license would remain constant in future years. This would result in a \$20 loss in revenue for the cost of a corrected identification card and a driver's license. The customers would no longer have to pay the corrected \$20 fee for the cost of the veteran designation change between renewal dates. An assumption has been made to use the average number of products that had veteran designation added by paying a \$20 corrected fee. For the three fiscal years, there was an average of 476 (271+837+320) = 1,428/3 customers that paid the \$20 corrected fee. There were 476 customers used to determine the fiscal impact of the revenue loss associated with the \$20 corrected fee. If MVA no longer charged the \$20 corrected fee for this population, revenue decrease of \$2,380(476 x 25% x \$20) would be realized.

MVA/MDOT could realize revenue decrease of \$2,380 (476 x 25% x \$20) in FY16.

FY16

The amount of the revenue decrease expected from customers would be \$2,380. The total customers expected in FY16 is 119 (476 x 25%). The revenue of \$2,380 (\$20 x 119 customers) decrease in revenue to the MVA is based on the \$20 fee for the cost of a corrected identification card and driver's license.

A(2). MVA/MDOT could realize revenue decrease of \$9,520 (476 x \$20) in FY17.

FY17

The amount of the revenue decrease expected from customers would be \$9,520. The total customers expected in FY17 is 476. The revenue of \$9,520 (\$20 x 476 customers) decrease in revenue to the MVA is based on the \$20 fee for the cost of a corrected identification card and driver's license.

F(1). MVA/MDOT could realize revenue decrease of \$2,380 (476 x 25% x \$20) in FY16.

FY16

The amount of the revenue decrease expected from customers would be \$2,380. The total customers expected in FY16 is 119 (476 x 25%). The revenue \$2,380 (\$20 x 119 customers) decrease in revenue to the MVA is based on the \$20 fee for the cost of a corrected identification card and driver's license.

F(2). MVA/MDOT could realize revenue decrease of \$9,520 (476 x \$20) in FY17.

FY17

The amount of the revenue decrease expected from customers would be \$9,520. The total customers expected in FY17 is 476. The \$9,520 (\$20 x 476 customers) decrease in revenue to the MVA is based on the \$20 fee for the cost of a corrected identification card and driver's license.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Tracey C. Sheffield, Regulations Coordinator, Maryland Motor Vehicle Administration, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to tsheffield@mdot.state.md.us, or fax to (410) 768-7506. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

11.17.06 Identification Cards

Authority: Transportation Article, §§12-104(b) [and] 12-301 and 12-302, Annotated Code of Maryland

.08 Correction.

- A. —C. (text unchanged)
- D. There is no fee for adding or deleting:
 - (1) [a] *An organ* donor designation to an identification card; or
 - (2) *A veteran designation to an identification card.*

11.17.16 Corrected Driver’s License

Authority: Transportation Article, §§12-104(b), 12-3012, 16-111.1, 16-114.1, and 16-818, Annotated Code of Maryland

.03 Exceptions.

The following circumstances do not constitute a license correction:

- A. (text unchanged)
- B. The addition or deletion of:
 - (1) (text unchanged)
 - (2) *A veteran designation;*
 - [(2)] (3) —[(4)] (5) (text unchanged)

CHRISTINE NIZER
Administrator

**Subtitle 19 MOTOR VEHICLE
ADMINISTRATION — SCHOOL
VEHICLES**

Notice of Proposed Action
[16-046-P]

The Administrator of the Motor Vehicle Administration proposes to amend:

- (1) Regulation .32 under **COMAR 11.19.02 Type I School Vehicles — Construction Standards**; and
- (2) Regulations .30 and .31 under **COMAR 11.19.03 Type II School Vehicles — Construction Standards**.

Statement of Purpose

The purpose of this action is to amend regulations to reflect Federal Standard CFR Title 49 Chapter V Part 571.217 by removing the requirement of nonlocking doors on a school bus.

Comparison to Federal Standards

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

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Tracey C. Sheffield, Regulations Coordinator, Maryland Motor Vehicle Administration, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to tsheffield@mdot.state.md.us, or fax to (410) 768-7506. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

11.19.02 Type I School Vehicles — Construction Standards

Authority: Transportation Article, §§11-173, 12-104(b), and 25-110; Education Article, §7-808; Annotated Code of Maryland

.32 Service Doors, Emergency Windows, Doors, and Exits.

- A. Service Door.
 - (1) — (5) (text unchanged)
 - (6) The service door or doors shall have a [nonlocking] handle for opening it from the outside.
 - (7) The effective date for a positive latching device and [nonlocking] handle is January 1, 1991.
 - (8) There may [not] be a security locking device on the *outside handle of the* service door.
 - (9) Electric-powered service doors shall have a [nonlocking] handle switch directly powered by the battery.
- B. Emergency Door.
 - (1) — (6) (text unchanged)
 - (7) There may not be:
 - (a) Steps] *steps* leading to the emergency door];
 - (b) A security locking device installed on the emergency door].
 - (8) (text unchanged)
 - (9) *The engine starting system of a bus may not operate if any emergency exit is locked from either inside or outside the bus.*
- C. — E. (text unchanged)

11.19.03 Type II School Vehicles — Construction Standards

Authority: Transportation Article, §§11-174, 12-104(b), and 25-110; Education Article, §7-808; Annotated Code of Maryland

.30 Service Door.

- A. The service door shall:
 - (1) — (4) (text unchanged)
 - (5) Be manually or power operated by the seated drive[, nonlocking]; and
 - (6) (text unchanged)
- B. — I. (text unchanged)

.31 Emergency Door.

- A. — F. (text unchanged)
- G. Prohibitions. [There may not be:]
 - (1) [Steps] *There may not be steps* leading to the emergency door; [or] *and*
 - (2) [A security locking device installed on the emergency door] *The engine starting system of a bus may not operate if any emergency exit is locked from either inside or outside the bus.*

CHRISTINE NIZER
Administrator

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Notice of Proposed Action

[16-040-P]

The Secretary of Public Safety and Correctional Services proposes to:

- (1) Repeal existing Regulation .01 and adopt new Regulations .01—.12 under **COMAR 12.02.21 Inmate Marriage**; and
- (2) Amend Regulation .07 under **COMAR 12.12.17 Special Activities**.

Statement of Purpose

The purpose of this action is to repeal existing language under COMAR 12.02.21 and replace the outdated language with current procedures detailing requesting, processing, and approving inmate marriages at a correctional facility and to repeal COMAR 12.12.17.07A—E and replace the text with language indicating that Patuxent Institution shall comply with COMAR 12.02.21 when confronted with a request for an inmate to marry.

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 Stephanie Coates, Director, Religious and Volunteer Services, Department of Public Safety and Correctional Services, 6776 Reisterstown Road Baltimore, Maryland 21215-2342, or call 410-585-3301, or email to , or fax to 410-764-4373. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

Subtitle 02 DIVISION OF CORRECTION

12.02.21 Inmate Marriage

Authority: Correctional Services Article, §2-109(c), Annotated Code of Maryland

.01 Purpose.

A. This chapter establishes the policy for the Department of Public Safety and Correctional Services (Department) concerning inmate marriage.

B. This chapter establishes procedures for:

- (1) Requesting to marry an inmate at a correctional facility;
- (2) Processing and approving a request to marry an inmate at a correctional facility; and
- (3) Arranging for and conducting the marriage ceremony.

C. This chapter is not intended to infringe upon an individual's statutory right to marry, but does govern how the legal right to marry

may be exercised when the marriage involves an inmate confined in a Department correctional facility.

.02 Definitions.

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

B. Terms Defined.

(1) "Business day" means a day of the week other than Saturday or Sunday or any other day that State offices are closed.

(2) "Correctional facility" has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland.

(3) Employee.

(a) "Employee" means an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification.

(b) "Employee" includes:

- (i) An intern; and
- (ii) A volunteer.

(4) Inmate.

(a) "Inmate" means an individual who is actively or constructively detained or confined in a Department correctional facility.

(b) "Inmate" includes an individual referred to as:

- (i) A detainee;
- (ii) An offender;
- (iii) A prisoner; and
- (iv) A resident.

(5) "Marry" means the legal union of two individuals in matrimony.

(6) "Officiant" means an individual authorized by State law to legally marry individuals.

.03 Eligibility.

A. An inmate and the inmate's intended spouse shall comply with minimum requirements established by State and local statute and regulation concerning eligibility to marry.

B. An inmate may not marry:

- (1) An employee; or
- (2) Another inmate.

C. An inmate shall be mentally competent according to State law.

.04 Inmate Records.

An individual planning to marry an inmate may request and be granted access to the inmate's correctional history according to procedures established elsewhere in COMAR for accessing inmate case records after the commitment to marry is agreed to by both the inmate and intended spouse.

.05 Requesting to Marry an Inmate at a Correctional Facility.

A. The inmate and the inmate's intended spouse are required to independently submit a written request to marry.

B. A written request to marry under §A of this regulation shall be submitted to the inmate's managing official:

(1) In a format established by the managing official that, at a minimum, provides the following information:

(a) From the inmate, the:

- (i) Inmate's name;
- (ii) Inmate's identification number;
- (iii) Inmate's facility and housing assignment;
- (iv) Intended spouse's full name;
- (v) Intended spouse's date of birth;
- (vi) The date requested for the ceremony; and
- (vii) The type of ceremony, for example, civil or religious; and

(b) From the intended spouse, the intended spouse's:

- (i) Full name;

- (ii) Current address;
- (iii) Current telephone number;
- (iv) Date of birth;
- (v) Social security number;
- (vi) Statement indicating that the intended spouse has reviewed or declines to view the inmate's correctional history; and
- (vii) Correctional or law enforcement volunteer or employment history, if applicable; and

(2) At least 60 business days before the date requested for the ceremony.

C. If requested, a managing official may approve up to three sessions of premarital counseling involving the inmate, intended spouse, and approved officiant.

D. Only the managing official of the correctional facility where an inmate is requesting to marry may authorize an inmate to marry at the correctional facility.

E. A managing official may not require a chaplain or other religious leader under the authority of the managing official to participate in the inmate marriage process established under this chapter if the chaplain or other religious leader has a religious constraint.

.06 Processing a Request to Marry an Inmate at a Correctional Facility.

A. Within 5 business days of receiving written requests to marry an inmate at a correctional facility from both the inmate and the intended spouse, the managing official shall designate a member of the facility's staff to process the request to marry an inmate at the facility according to this chapter.

B. The individual designated (designee) under §A of this regulation shall:

(1) Review the requests from the inmate and intended spouse; and

(2) At a minimum:

(a) Establish that the:

(i) Commitment to marry is agreed to by both the inmate and intended spouse;

(ii) Marriage does not constitute a threat to security or operation of the facility; and

(iii) Marriage complies with requirements established under this chapter; and

(b) Consider the following information:

(i) The inmate's criminal record to include information contained in related police reports and presentence investigations;

(ii) The inmate's correctional adjustment history;

(iii) Compliance with the inmate's case plan;

(iv) The existence of detainers and pending charges for the inmate and intended spouse;

(v) The inmate's physical and mental health;

(vi) If the inmate is a Patuxent inmate, a statement from the Patuxent inmate's treatment team as to the inmate's mental competency; and

(vii) Whether the intended spouse had any involvement in correctional or law enforcement related services (volunteer or employment) that may have placed the intended spouse in contact with the inmate.

C. The designee processing a request under §A of this regulation shall:

(1) Review the information provided by the inmate and intended spouse, or additional information requested of the parties; and

(2) Determine if the requested marriage:

(a) Meets eligibility requirements established under Regulation .03 of this chapter;

(b) Meets minimum requirements established under §B(2)(a) of this regulation; and

(c) Would not pose a risk to security or the orderly operation of the facility based on the information considered under §B(2)(b) of this regulation.

D. If the designee determines that the inmate marriage does not meet minimum requirements under §C(2) of this regulation the designee shall:

(1) Prepare a written recommendation to deny the request;

(2) Include in the recommendation the basis for the recommendation; and

(3) Forward the recommendation to the managing official no later than 10 business days after being designated to process the request.

E. A managing official receiving a recommendation under §D of this regulation may:

(1) Accept the recommendation, in which case the managing official shall notify the designee to advise the inmate and intended spouse, in writing, that:

(a) The marriage ceremony will not be permitted at the correctional facility and the reasons; and

(b) Unless the inmate demonstrates significant change in the circumstances on which the denial is based as provided under §E(1)(a) of this regulation the managing official's decision is final with no opportunity for appeal; or

(2) Not accept the recommendation and advise the designee to continue to process the request:

(a) As submitted; or

(b) With modification to the original submission.

F. If the designee finds the request meets requirements under §C of this regulation or the managing official directs that the designee continue to process the request, with or without modification, under §E(2) of this regulation, the designee shall process the request as specified under Regulation .07 of this chapter.

.07 Authorization — Request to Marry and Inmate at a Correctional Facility.

A. The managing official's authorization to marry an inmate at the correctional facility is contingent upon receipt and approval of information required under this regulation.

B. A designee processing a request to marry an inmate that has met the conditions established under Regulation .06 of this chapter shall:

(1) Within 5 business days of determining that the request meets conditions established under Regulation .06 of this chapter the designee shall:

(a) Provide the inmate with a copy of an Inmate Marriage Information sheet; and

(b) Instruct the inmate on completing the Inmate Marriage Information sheet advising that:

(i) The authorization of the request to marry an inmate at the correctional facility is predicated on receipt and approval of the information requested on the sheet;

(ii) The inmate shall complete or have the intended spouse complete the sheet and submit the completed sheet to the coordinator a minimum of 10 business days before the requested date of the ceremony;

(iii) The inmate and the intended spouse shall retain a copy of the completed sheet; and

(iv) The inmate or intended spouse shall provide the officiant named on the sheet a copy of the sheet; and

(2) Advise the inmate that:

(a) The inmate, or the intended spouse, is responsible for expenses related to the marriage, for example, the marriage license fee and expenses for the ceremony and officiant;

(b) *The intended spouse is responsible for obtaining the marriage license in the county where the inmate's correctional facility is located;*

(c) *The intended spouse is responsible for providing a legally accepted copy of the marriage license to the coordinator (submitted with the completed Inmate Marriage Information sheet);*

(d) *A Department official may not participate in the arrangements for the inmate marriage and the intended spouse is responsible for obtaining the services of an officiant and notifying the coordinator in writing (included in the completed Inmate Marriage Information sheet);*

(e) *The intended spouse is required to obtain a list of items the officiant intends to use at the ceremony (included with the Inmate Marriage Information sheet);*

(f) *A maximum of four guests (identification information is required to be included in the Inmate Marriage Information sheet) may be permitted to attend the marriage ceremony based on:*

(i) *The intended spouse and officiant are not counted as guests; and*

(ii) *Any individual under 18 years old, including an infant, shall be counted as a guest;*

(g) *The intended spouse, officiant, and guests are required to comply with all policy and procedure and COMAR regarding visitors to the facility; and*

(h) *The maximum time permitted for conducting the marriage ceremony and post-ceremony visitation is 2 hours.*

C. *Upon receipt of the information required under §B of this regulation by the designee, the designee shall, as soon as possible after receipt, present the information to the inmate's managing official for review and authorization of the request to marry an inmate at the correctional facility.*

D. *A managing official shall review the information received in connection with the request to marry an inmate at the correctional facility and notify the designee that the information is:*

(1) *Acceptable and that authorization to marry the inmate at the correctional facility is granted; or*

(2) *Not acceptable and the request to marry an inmate at the correctional facility is denied.*

E. *If the request to marry an inmate at the correctional facility is denied under §D(2) of this regulation, the designee shall notify the inmate and intended spouse, in writing:*

(1) *Of the denial;*

(2) *Of the reason for the denial; and*

(3) *Unless the inmate demonstrates significant change in the circumstances on which the denial is based as provided under §E(2) of this regulation, the denial is final with no opportunity for appeal.*

F. *If the managing official authorizes a request to marry an inmate at the correctional facility, as part of the authorization, the managing official may:*

(1) *Limit the number of guests to less than four;*

(2) *Deny attendance of a specific requested guest;*

(3) *Reduce the time permitted for conducting the marriage ceremony and post-ceremony visitation;*

(4) *Deny the use of items to be used by the officiant;*

(5) *Approve the original date and time requested for the ceremony; or*

(6) *Establish an alternate date and time for the ceremony.*

.08 Arrangements for Inmate Marriage Ceremony.

A. *When notified under Regulation .07 of this chapter of the managing official's authorization of a request to marry an inmate at the correctional facility, the designee shall finalize arrangements for conducting the ceremony.*

B. *The designee shall:*

(1) *Notify the affected shift supervisor, or a designee, of the date and time of the ceremony;*

(2) *Arrange for entry to the facility of:*

(a) *The intended spouse;*

(b) *Approved guests; and*

(c) *Officiant, including approved ceremonial items;*

(3) *If appropriate, register the inmate's wedding ring with the facility property officer; and*

(4) *Arrange for approved post-ceremony visitation.*

C. *After the ceremony is completed, the inmate or the inmate's spouse shall:*

(1) *Immediately obtain a copy of the certificate of marriage signed by the officiant; and*

(2) *Within 5 business days of the date of the ceremony provide the designee with a copy of the court-approved certificate of marriage.*

D. *Upon receipt of the court-approved certificate of marriage, the designee shall forward all documents related to the inmate's marriage to Case Management for inclusion in the inmate's base file.*

.09 Nondisciplinary Inmate Transfer — Subsequent to Approved Request to Marry an Inmate at the Correctional Facility.

A. *If authorization to marry an inmate at a correctional facility has been granted and the involved inmate is transferred to a different Department correctional facility for nondisciplinary reasons, the inmate, if the inmate intends to continue with the plan to marry, is required to notify the managing official of the receiving correctional facility, as soon as possible after the transfer is completed, of the intent to marry.*

B. *A managing official notified under §A of this regulation shall:*

(1) *Obtain from the inmate's previous managing official documentation concerning the request and authorization to marry an inmate at the correctional facility; and*

(2) *Review the information obtained.*

C. *After review of the information concerning the request and authorization, the new managing official may, according to provisions established under this chapter:*

(1) *Overturn the previous managing official's authorization and deny the request to marry an inmate at the new correctional facility; or*

(2) *Modify the previous managing official's authorization.*

D. *Notifications and arrangements related to conducting the marriage ceremony at the receiving correctional facility shall be in accord with those established in this chapter.*

.10 Disciplinary Inmate Transfer — Subsequent to Approved Request to Marry an Inmate at the Correctional Facility.

If an inmate who has been granted permission to marry at a correctional facility under this directive is transferred to a different Department correctional facility for disciplinary reasons, the inmate, if the inmate intends to continue with the plan to marry, is required to initiate a new request to marry at the correctional facility in accord with provisions of this chapter.

.11 Federal or Interstate Corrections Compact Transfer — Subsequent to Approved Request to Marry an Inmate at the Correctional Facility.

A. *If an inmate who is housed in a Department correctional facility, but who is under federal or another state's jurisdiction, requests to marry at the correctional facility, the inmate is required to:*

(1) *Comply with policy and procedure and statute and regulation concerning inmate marriage of the sending jurisdiction; and*

(2) *If the inmate is a federal detainee, obtain authorization from the United States Marshall and the prosecutor in the detainee's case.*

B. If an inmate under §A of this regulation submits a request to marry at the correctional facility to a Department managing official, the managing official, or a designee, shall include contact with and input from the inmate's responsible jurisdiction as part of processing the request to marry at the correctional facility as established under this chapter.

.12 Housing a Married Inmate.

A. If an individual, who is not in the custody of the Department and married to an inmate, is subsequently placed in the custody of the Department, the married couple may not be housed in the same dormitory or housing unit.

B. If a married couple, who at the time of the marriage is not in the custody of the Department, is subsequently placed in the custody of the Department, the married couple may not be housed in the same dormitory or housing unit.

Subtitle 12 PATUXENT INSTITUTION

12.12.17 Special Activities

Authority: Correctional Services Article, §4-208, Annotated Code of Maryland

.07 Inmate Request to Marry.

[A. An inmate who wishes to marry may discuss his or her intentions with the Institution chaplain and a member of the inmate's unit treatment team.

B. An inmate shall submit his or her marriage ceremony plan to the Institution chaplain for review. The Institution chaplain shall assist an inmate in the development of a marriage ceremony plan.

C. The Director shall ensure that the Warden reviews the ceremony plan to ensure that it is consistent with the following Institution security concerns:

- (1) Time;
- (2) Place;
- (3) Number of visitors; and
- (4) Manner of the ceremony.

D. The Warden shall approve the conducting of the ceremony within the Institution if the plan meets the requirements contained in § C of this regulation.

E. The chairman of the inmate's unit treatment team shall encourage an inmate in the leave program who wishes to marry to plan the marriage ceremony to take place while the inmate is on an approved leave.]

Patuxent Institution shall comply with provisions under COMAR 12.02.21 if an inmate at Patuxent Institution requests to marry.

STEPHEN T. MOYER
Secretary of Public Safety and Correctional Services

Subtitle 02 DIVISION OF CORRECTION

12.02.24 Case Management

Authority: Correctional Services Article, §§2-109(c) and 3-602(d), Annotated Code of Maryland

Notice of Proposed Action

[16-039-P]

The Secretary of Public Safety and Correctional Services proposes to amend Regulation **.05** under **COMAR 12.02.24 Case Management**.

Statement of Purpose

The purpose of this action is to amend current language to clarify actual practice concerning programming availability to an inmate assigned to special confinement housing, such as protective custody and administrative and disciplinary segregation.

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 Dayena Corcoran, Assistant Commissioner, Division of Correction, Department of Public Safety and Correctional Services, 6776 Reisterstown Road Baltimore MD 21215, or call 410 585 3301, or fax to 410 764 4373. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.05 Inmate Programming.

A.—C. (text unchanged)

[D. An inmate may not participate in the programming process who:

- (1) Is on a type of segregation or protective custody;
- (2) Is assigned to a medical or mental health unit; or
- (3) Has been assigned a special housing identifier based on the inmate's:

- (a) Aggressive behavior;
- (b) Medical or mental health; or
- (c) History of victimization.]

D. Inmate participation in programming may be restricted:

(1) If the inmate is in special confinement housing, such as administrative or disciplinary segregation, or protective custody and demonstrates other special needs based on:

- (a) Aggressive behavior;
- (b) A medical or mental health condition; or
- (c) Victimization;

(2) Consistent with established case management procedures, if the inmate's case manager or other authorized staff member determines that participation in programming while in special confinement housing would pose a threat to:

- (a) Facility safety and security; or
- (b) The safety of the inmate, staff, or other participants; or
- (3) Because programming in the special confinement housing status at the facility:
 - (a) Is not available to an inmate; or
 - (b) Would not be beneficial to the inmate.

E.—I (text unchanged)

STEPHEN T. MOYER
Secretary of Public Safety and Correctional Services

Title 13B
MARYLAND HIGHER
EDUCATION COMMISSION

Subtitle 03 FIRE-RESCUE EDUCATION
AND TRAINING COMMISSION

13B.03.01 Certification Standards and
Procedures for Emergency Services Instructors

Authority: Education Article, §11-105(u) and Title 11, Subtitle 5, Annotated Code of Maryland

Notice of Proposed Action

[16-055-P]

The Maryland Higher Education Commission proposes to amend Regulations .01—.06 and .13 under COMAR 13B.03.01 **Certification Standards and Procedures for Emergency Services Instructors**. This action was considered at a public meeting held on November 18, 2015.

Statement of Purpose

The purpose of this action is to update the training requirements for emergency services instructors.

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 Alexia Van Orden, Research and Policy Analyst, Maryland Higher Education Commission, 6 N. Liberty St, 10th Floor Baltimore, MD 21201, or call 410-767-3096, or email to alexia.vanorden@maryland.gov. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.01 Incorporation by Reference.

A. (text unchanged)

B. Document Incorporated. National Fire Protection Association (NFPA) 1041: Standard for Fire Service Instructor Professional Qualifications[, 2007 Edition,] is incorporated by reference.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Application process" means the date the Application for State Emergency Services Instructor Certification or Recertification is received from the sponsoring agency by the MICRB.

[(1)](2)—[(11)](12) (text unchanged)

.03 State Emergency Services Instructor Certification Standard.

A.—E. (text unchanged)

F. Application for Certification.

(1) (text unchanged)

(2) Application Process.

(a)—(b) (text unchanged)

(c) If a candidate has completed the instructor training course between 5 and 10 years before beginning the application process, the candidate shall, in addition to the prescribed initial certification requirements, complete *within 3 years of submitting their application* 12 hours of approved instructor methodology as a *corequisite to the initial completion process*.

(d) If a candidate has completed the instructor training course more than 10 years before beginning the application process, the candidate shall be required to successfully complete [a current, MICRB-approved instructor training program.]:

(i) A current, MICRB-approved instructor training program; or

(ii) The Instructor Training Course Challenge process, as outlined in MICRB's policy on Instructor Training Course Challenge Criteria.

G.—I. (text unchanged)

.04 Certification Standard Instructor Trainer.

A. (text unchanged)

B. Educational Requirements.

(1) To become certified as an emergency service instructor trainer in Maryland, an individual shall have completed:

(a)—(b) (text unchanged)

(c) 3 years of *teaching* experience [as an instructor], which shall be documented as evidence of competence.

(2) (text unchanged)

.05 Certification.

A.—B. (text unchanged)

C. To retain approval, an instructor trainer shall teach at least 60 hours in a 3-year certification cycle, 30 of which shall be in instructor training, have at least one successful evaluation in the 3-year certification period by an approved instructor trainer, and complete one of the following requirements:

(1) Successfully complete a 3 credit-hour course in [teacher education] *educational methodology*, or the equivalent of 3 credit hours on in-service professional development;

(2)—(3) (text unchanged)

D. (text unchanged)

.06 Maryland Instructor Certification Review Board.

A. (text unchanged)

B. The process for issuing certificates under these standards is the responsibility of [a] *the* Maryland Instructor Certification Review Board (MICRB).

C.—H. (text unchanged)

.13 Local Emergency Service Instructor Standards.

A. The instructor candidate shall meet the requirements of *the most current edition of NFPA 1041: Standard for Fire Service Instructor Professional Qualifications* [2007 Edition], or those of recognized instructor training agencies or educational institutions that have similar programs as approved by the MICRB.

B. (text unchanged)

JAMES D. FIELDER, Jr., PhD.
Acting Secretary of Higher Education

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 Proposed Action

[16-053-P]

The Maryland State Commission on Criminal Sentencing Policy proposes to amend Regulation .11 under **COMAR 14.22.01 General Regulations**. This action was considered by the Maryland State Commission on Criminal Sentencing Policy at an open meeting held on December 8, 2015, notice of which was given by publication in 42:23 Md. R. (November 13, 2015), pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to indicate modifications to the sentencing guidelines for seriousness category IV and V offenses in the sentencing matrix for drug offenses.

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 David Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Road, Suite 309, College Park, MD 20742, or call 301-403-4165, or email to dsoule@umd.edu, or fax to 301-403-4164. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.11 Determining the Guidelines Sentence.

A. — C. (text unchanged)

D. Drug Offenses.

(1) (text unchanged)

(2) Sentencing Matrix for Drug Offenses.

SENTENCING MATRIX FOR DRUG OFFENSES OFFENDER SCORE								
OFFENSE SERIOUSNESS CATEGORY	0	1	2	3	4	5	6	7+
VII	P	P	P	P-1M	P-3M	P-6M	3M-6M	6M-2Y
VI	Row VI is available for future use. There are currently no seriousness category VI drug offenses.							
V	[P-6M] <i>P-1M</i>	[P-12M] <i>P-6M</i>	[3M-12M] <i>P-1Y</i>	[6M-18M] <i>1M-1Y</i>	[1Y-2Y] <i>2M-18M</i>	[1.5Y-2.5Y] <i>3M-2Y</i>	[2Y-3Y] <i>4M-3Y</i>	[3Y-4Y] <i>6M-4Y</i>
IV	[P-12M] <i>P-3M</i>	[P-18M] <i>P-9M</i>	[6M-18M] <i>1M-1Y</i>	[1Y-2Y] <i>2M-18M</i>	[1.5Y-2.5Y] <i>3M-2Y</i>	[2Y-3Y] <i>4M-2.5Y</i>	[3Y-4Y] <i>6M-3Y</i>	[3.5Y-10Y] <i>8M-5Y</i>
III-A Marijuana import 45 kilograms or more, and MDMA 750 grams or more	P-18M	P-2Y	6M-2Y	1Y-4Y	2Y-6Y	3Y-8Y	4Y-12Y	10Y-20Y
III-B Non-marijuana and non-MDMA, Except Import	6M-3Y	1Y-3Y	18M-4Y	3Y-7Y	4Y-8Y	5Y-10Y	7Y-14Y	12Y-20Y
III-C Non-marijuana and non-MDMA, Import	1Y-4Y	2Y-5Y	3Y-6Y	4Y-7Y	5Y-8Y	6Y-10Y	8Y-15Y	15Y-25Y
II	20Y-24Y	22Y-26Y	24Y-28Y	26Y-30Y	28Y-32Y	30Y-36Y	32Y-37Y	35Y-40Y

Note: P=Probation M=Months Y=Years

E. (text unchanged)

DAVID SOULE
Executive Director

Title 22 STATE RETIREMENT AND PENSION SYSTEM

Subtitle 06 DISABILITY RETIREMENT

Notice of Proposed Action

[16-050-P]

The Board of Trustees for the State Retirement and Pension System proposes to:

(1) Amend Regulations **.02**, **.04**, and **.05** under **COMAR 22.06.01 Definitions and General Provisions**;

(2) Amend Regulations **.02** and **.04** under **COMAR 22.06.02 Filing for Disability Retirement**;

(3) Amend Regulations **.01** and **.02** under **COMAR 22.06.03 Review of Claims for Disability Retirement**;

(4) Amend Regulation **.01** under **COMAR 22.06.04 Reconsideration**;

(5) Amend Regulations **.02** and adopt new Regulations **.03—**

.05 under **COMAR 22.06.06 Hearings Before the Office**; and

(2) Repeal Regulations **.01—**

.10 under **COMAR 22.06.07 Final Decision by the Board**.

This action was considered by the Board of Trustees for the State Retirement and Pension System at an open meeting held on December 15, 2015, notice of which was given by publication on the website for the Maryland State Retirement and Pension System pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Adopt the recommendation of the Board of Trustees for the State Retirement and Pension System to delegate final decision-making authority for disability appeals to the Office of Administrative Hearings;

(2) Address concerns expressed by the medical board for the State Retirement Agency with regard to the current 180-day time period within which it must determine whether an applicant has reached maximum medical improvement by extending this time period to 1 year; and

(3) Make technical and clarifying changes.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Anne E. Gawthrop, Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, Baltimore, Maryland 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710. Comments will

be accepted through March 7, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Trustees for the State Retirement and Pension System during a public meeting to be held on March 15, 2016, at 120 East Baltimore Street, 16th Floor, Baltimore, Maryland 21202.

22.06.01 Definitions and General Provisions

Authority: State Personnel and Pensions Article, §§21-110 and 29-101—29-118, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (9) (text unchanged)

(10) “Independent medical [examination] *evaluation*” means an [examination] *evaluation* by a medical practitioner who:

(a) — (c) (text unchanged)

(11) — (14) (text unchanged)

(15) “Party” means the Retirement Agency or the applicant whose rights are being adjudicated[:

(a) At] *at* a hearing conducted by a judge at the Office[; or

(b) By the Board of Trustees as provided in COMAR 22.06.07].

(16) — (18) (text unchanged)

.04 When Membership in a State System Ends.

A. (text unchanged)

B. In the event of the death of a member, membership continues until [the end of] *11:59 p.m. on* the date of death of the member.

.05 Effect of Not Diligently Pursuing Claim or Accepting Disability Award.

A. (text unchanged)

B. Subject to §C of this regulation, the Retirement Agency shall close an applicant’s file if the applicant:

(1) (text unchanged)

(2) Does not agree to report for an independent medical [examination] *evaluation*;

(3) Fails to report for a scheduled independent medical [examination] *evaluation* and does not request a postponement at least 5 business days before the date of the [examination] *evaluation*;

(4) — (6) (text unchanged)

C. Extensions.

(1) (text unchanged)

(2) In the case of a request to postpone an appointment for an independent medical [examination] *evaluation* that is received fewer than 5 business days of the date of the scheduled [examination] *evaluation*, the Retirement Agency may only grant the request upon a showing of an emergency or other extenuating circumstances that prevented the applicant’s attendance at the [examination] *evaluation*. The Retirement Agency may require that the applicant make the postponement request in writing and provide documentation to support the request.

D. (text unchanged)

22.06.02 Filing for Disability Retirement

Authority: State Personnel and Pensions Article, §§21-110 and 29-101—29-118, Annotated Code of Maryland

.02 Statement of Disability.

A. A Statement of Disability submitted to the Retirement Agency shall:

- (1) (text unchanged)
- (2) Give the applicant’s consent to report for one or more independent medical [examinations] *evaluations* at the request of the Retirement Agency; and
- (3) (text unchanged)

B. — C. (text unchanged)

.04 Disability Form Filed by a Former Member.

A. — B. (text unchanged)

C. To determine whether the former member’s failure to apply for disability retirement before the date membership ended was attributable solely to the physical or mental incapacity of the former member during the filing period, the medical board:

- (1) — (2) (text unchanged)
- (3) May request the former member to:
 - (a) (text unchanged)
 - (b) Report for an independent medical [examination] *evaluation*.

D. Medical Board Determination.

- (1) — (2) (text unchanged)
- (3) If the medical board determines that the former member’s failure to file was not attributable solely to the physical or mental incapacity of the former member before the date membership ended, the former member may request a reconsideration of the medical board’s decision by following the procedures set forth in COMAR 22.06.03.03. If, after reconsideration, the medical board affirms its initial decision and rejects the former member’s disability forms, the former member may request a hearing before a judge to be conducted as provided in COMAR 22.06.06 *by filing a written request for a hearing not later than 30 days after the date of the notice of the medical board’s determination.*

22.06.03 Review of Claims for Disability Retirement

Authority: State Personnel and Pensions Article, §§21-110 and 29-101—29-118, Annotated Code of Maryland

.01 Disability Unit’s Review.

A. Disability Forms Review.

- (1) — (2) (text unchanged)
- (3) Denial of Disability Claim.
 - (a) If the Disability Unit determines that the applicant has not satisfied the requirement set forth in §A(1)(b) or (c) of this regulation:

- (i) (text unchanged)
- (ii) The Disability Unit shall provide the applicant written notice of the denial of the disability claim and the applicant’s appeal rights under §A(3)(b) and (c) of this regulation and *in accordance with COMAR [22.06.07.06] 22.06.05.05.*

(b) The applicant may appeal the denial of the disability claim by submitting a written request for a hearing *in the format required under COMAR 22.03.04.07B* to the Executive Director within 30 days of the date of the Disability Unit’s notice of the denial of the disability claim.

(c) (text unchanged)

B. — D. (text unchanged)

.02 The Medical Board’s Review.

A. — B. (text unchanged)
 C. Procedures for Medical Board’s Review.

- (1) (text unchanged)
- (2) The medical board may take one or more of the following actions to facilitate its review of the applicant’s claim:
 - (a) (text unchanged)
 - (b) Require the applicant to report for an independent medical [examination] *evaluation*; or
 - (c) Suspend its review for a period not to exceed [180 days] *1 year* in order to evaluate the effectiveness of treatment or consider whether an applicant has reached maximum medical improvement.

22.06.04 Reconsideration

Authority: State Personnel and Pensions Article, §§21-110 and 29-101—29-118, Annotated Code of Maryland

.01 Reconsideration.

A. — B. (text unchanged)

C. The medical board or the Disability Unit may take one or more of the following actions to facilitate reconsideration:

- (1) (text unchanged)
- (2) Require the applicant to report for an independent medical [examination] *evaluation*; or
- (3) Suspend review for a period not to exceed [180 days] *1 year* until a determination can be reached regarding the effectiveness of treatment or whether the applicant has reached maximum medical improvement.

D. — E. (text unchanged)

22.06.06 Hearings Before the Office

Authority: State Personnel and Pensions Article, §§21-110(b) and 29-101—29-118, Annotated Code of Maryland

.02 Hearings — General.

A. When Hearings Shall Be Held.

(1) [At the request of] *If an applicant timely files a written request for a hearing*, a hearing shall be held if:

- (a) The Board of Trustees denied the applicant a disability retirement allowance under COMAR 22.06.05; [or]
- (b) The medical board rejected the disability forms submitted by a former member under COMAR 22.06.02.04; *or*
- (c) *The Disability Unit denied the disability claim of an applicant under COMAR 22.06.03.01A(3).*

(2) (text unchanged)

[(3) The Executive Director or Board of Trustees may refer an appeal for a hearing before a judge on the issue of whether an applicant has satisfied the requirements set forth in COMAR 22.06.03.01A(1)(b) or (c).]

B. — F. (text unchanged)

G. [Proposed] *Final Decision*.

(1) The judge shall prepare a summary of the testimony, comment on credibility and demeanor of the witnesses, and prepare [proposed] *written findings of fact and [proposed] conclusions of law, and shall issue a final decision within 90 days after the completion of the hearing.*

(2) The judge shall mail a copy of the [proposed] decision to the parties and the Board Secretary.

[(3) The judge shall provide written notice to the parties that a party, including the representative of the Retirement Agency, has 15 days from the date of the proposed decision to file written exceptions to the proposed findings.

H. Exceptions.

- (1) Exceptions shall be filed with the Board Secretary within 15 days after the date of the proposed decision.
- (2) Exceptions shall be in writing and contain a concise statement as to each portion of the judge’s determination to which exception is taken and the asserted basis for the exception.
- (3) A party that refers to any evidence produced at the hearing before the judge shall identify the specific evidence in the party’s exceptions.
- (4) A party shall not submit additional evidence for consideration by the Board of Trustees.
- (5) A party may file with the Board Secretary a copy of the transcript of the full hearing, at that party’s expense, at the time of filing the exceptions.
- (6) A copy of the exceptions shall be served on all parties to the proceedings, their representatives, and the Board Secretary.]

.03 Judicial Review.

A party who is aggrieved by a final decision of a judge is entitled to judicial review of the decision in accordance with State Government Article, §10-222, Annotated Code of Maryland.

.04 Adjustment in Allowance.

The Retirement Agency shall adjust the allowance of a retiree who is subsequently granted an ordinary disability retirement or an accidental disability retirement retroactively to the effective date of retirement.

.05 Effect of Death Before Final Decision.

If the applicant dies before the final decision on the applicant’s appeal for an ordinary disability retirement or an accidental disability retirement, or both, the claim shall terminate. Survivor benefits, if any, shall be paid in accordance with the selection made by the applicant for the retirement allowance granted and accepted before death.

R. DEAN KENDERDINE
Executive Director

**Title 26
DEPARTMENT OF THE
ENVIRONMENT**

Subtitle 11 AIR QUALITY

**26.11.39 Architectural and Industrial
Maintenance (AIM) Coatings**

*Authority: Environmental Article, §§1-404, 2-103 and 2-301—2-303,
Annotated Code of Maryland*

Notice of Proposed Action

[16-026-P-I]

The Secretary of the Environment proposes to adopt new Regulations **.01—.08** under a new chapter, **COMAR 26.11.39 Architectural and Industrial Maintenance (AIM) Coatings**.

Statement of Purpose

The purpose of this action is to establish new volatile organic compound (VOC) content limits and standards for a variety of architectural and industrial maintenance (AIM) coatings made available for sale and use in Maryland.

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland’s State Implementation Plan (SIP).

Background

In December 1999, the EPA informed Maryland and several other Northeastern and Mid-Atlantic states of the Ozone Transport Region (OTR) that their air quality plans did not provide for emission reductions sufficient to attain the 1997 ozone National Ambient Air Quality Standard (NAAQS) by 2005. In order to address shortfalls in achieving the 1997 ozone standard by 2005, Maryland promulgated several measures to achieve reductions of at least 13 tons per day of VOCs in the Baltimore Nonattainment Area.

EPA stated that it would grant additional time to implement new measures if those states pursued regional strategies to control ozone and its precursors. In response to this EPA mandate, the Ozone Transport Commission (OTC) developed several VOC reduction measures that were formally supported by the OTC Commissioners in March 2001.

One of the VOC reduction measures developed by a state-led workgroup was a model rule for AIM coatings, which was based upon existing rules developed by the California Air Resources Board (CARB). The model rule was developed to address VOC reduction needs in the OTR, and was based on an analysis and review of proposed coating limits and the availability of compliant coatings on the market. In 2004, the Maryland Department of the Environment (MDE) adopted COMAR 26.11.33 Architectural Coatings which established stringent VOC content limits for architectural and industrial coatings, established recordkeeping and container labeling requirements for manufactures of paints and coatings, and painting practices for the use and application of coatings. COMAR 26.11.33 is based on the model rule developed by the OTC.

In 2011, the OTC developed the amended OTC model rule (AIM Phase II) in consultation with a state-led workgroup to replace the 2001 AIM model rule. Phase II of the AIM model rule was developed for states that need additional VOC emission reductions for the attainment or maintenance of federal ambient air quality standards. The new proposed regulations are based on the OTC Phase II model rule. These proposed regulations, COMAR 26.11.39, update the current version of COMAR 26.11.33 Architectural Coatings by lowering the VOC content limits, creating new categories of coatings, and improving definitions for many coating categories. COMAR 26.11.33 shall remain in effect until January 1, 2017. The Department will then formally repeal COMAR 26.11.33.

Sources Affected and Location

This action applies to any person that manufacturers, blends, thins, supplies, sells, offers for sale, repackages for sale, or applies architectural and industrial maintenance coatings in Maryland. This includes manufacturers and distributors of architectural and industrial coatings that are made available for sale and use in Maryland, painting contractors and government agencies specifying coatings.

Requirements

This action establishes the following VOC content limits and standards for architectural and industrial maintenance coatings:

VOC Content Limits. All architectural and industrial coatings made available for sale and use in Maryland must meet specific VOC limits as specified in the regulation, minus water and exempt compounds.

Container Labeling Requirements. Manufacturers of architectural and industrial maintenance coatings that are sold, distributed, or made available for use are required to prominently display the following product information on the coating container or on the label affixed to the container:

- The date the coating was manufactured, or a date code representing the date of manufacture (manufacturers must file an explanation of date codes with the Department);
- Thinning recommendations;
- VOC content; and
- Specific labeling notifications for the following:
 - Faux finishing coatings,
 - Industrial maintenance coatings,
 - Rust preventive coatings,
 - Specialty primers, sealers, and undercoaters,
 - Non-flat – High gloss coatings,
 - Reactive penetrating sealers,
 - Reactive penetrating carbonate stone sealers,
 - Stone consolidants,
 - Wood coatings, and
 - Zinc rich primers.

Except for certain categories listed in Regulation .04H, the requirements in this proposed regulatory action are effective January 1, 2017. The specific categories of coatings listed in regulation .04H are new coating categories that were previously under the broader Industrial Maintenance Coating category. Beginning May 1, 2016, these specific categories shall be considered in compliance if the coating meets the applicable VOC limit and the other provisions of this proposed action.

Expected Emissions Reductions

Based upon the OTC Model Rule for AIM Coatings, the proposed regulations have an estimated statewide VOC emissions reduction potential of 6 percent from the AIM coatings category of the current 2011 baseline emissions inventory. Based upon calculations and emissions estimates by the Department, Maryland’s 2018 projected emissions inventory indicates that VOC emissions from AIM coatings total 34 tons/day. The proposed regulations will reduce VOC emissions by 2.0 tons/day, through implementation of the coating limits and standards of these proposed regulations.

Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public

Businesses that supply resins, solvents, other ingredients and equipment to coating manufacturers may be potentially impacted by the new regulation. Companies – which include home improvement retailers, painting contractors, government agencies, and consumers who distribute, sell or use architectural and industrial maintenance coatings also may be potentially impacted by the new regulation. The Department believes that the implementation dates will give manufacturers the needed time to reformulate coatings, make coatings compliant with the VOC content limits and standards in the regulation available to the public, and update labeling. As the AIM standards are implemented in other states, the costs of compliance are expected to be reduced.

There will be no additional impact on the Department as a result of this regulation.

Comparison to Federal Standards

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

- (1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

40 CFR Part 59, Subpart D - National Volatile Organic Compound Emission Standards for Architectural Coatings (1998) establishes nationwide VOC content limits and standards for architectural coatings. The applicable VOC content limits and standards in the proposed regulations are more stringent than those in the federal regulations cited above.

- (2) Benefit to the public health, safety or welfare, or the environment:

Ground level ozone is produced when VOC and nitrogen oxides (NOx) react in the presence of heat and sunlight. The reduction of VOC’s contributes to the reduced formation of ozone. The public will benefit from the reduced presence of ground level ozone and its adverse health effects.

- (3) Analysis of additional burden or cost on the regulated person:

Businesses that supply resins, solvents, other ingredients and equipment to coating manufacturers may be potentially impacted by the new regulation. Companies, which include home improvement retailers, painting contractors, government agencies, and consumers who distribute, sell or use architectural and industrial maintenance coatings also may be potentially impacted by the new regulation. The Department believes that the implementation dates will give manufacturers the needed time to reformulate coatings, make coatings compliant with the VOC content limits and standards in the regulation available to the public, and update labeling. As the AIM standards are implemented in other states, the costs of compliance are expected to be reduced.

- (4) Justification for the need for more restrictive standards:

The federal Clean Air Act, 42 U.S.C. § 7401 et seq. requires EPA to establish health-based NAAQS to protect people with an “adequate margin of safety.” States are responsible for developing enforceable SIPs to meet the standards. This regulation is proposed pursuant to Maryland’s obligation under the Clean Air Act to attain and maintain the ozone NAAQS. The proposed regulations will be submitted to EPA as part of the Maryland SIP.

Estimate of Economic Impact

I. Summary of Economic Impact. The Department believes that the implementation dates will give manufacturers the needed time to reformulate coatings, make coatings compliant with the VOC content limits and standards in the regulation available to the public, and update labeling. As the AIM standards are implemented in other states, the costs of compliance are expected to be reduced.

There is no small business in Maryland that has been identified to incur substantial economic impact as a result of the proposed action. Small businesses that purchase and use architectural and industrial maintenance coatings are likely to meet the standards at minimum cost.

There is no expected impact to the Department, State or local government agencies as a result of this action.

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

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

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

D. Businesses that supply resins, solvents, other ingredients and equipment to coating manufacturers may be potentially impacted by the new regulation. Companies, which include: home improvement retailers, painting contractors, government agencies, and consumers who distribute, sell or use architectural and industrial maintenance coatings also may be potentially impacted by the new regulation. The Department believes that the implementation dates will give manufacturers the needed time to both reformulate coatings and make coatings compliant with the VOC content limits and standards in the regulation available to the public. As the AIM standards are implemented in other states, the costs of compliance are expected to be reduced. California already requires the compliance limits of this proposed regulation.

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

The Department of the Environment will hold a public hearing on the proposed action on February 22, 2016 at 10:00 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Mr. Randy Mosier, Chief of the Regulation Division, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or email to randy.mosier@maryland.gov. Comments must be received no later than February 22, 2016 or be submitted at the hearing. For more information, call Randy Mosier at (410) 537-4488.

Copies of the proposed action and supporting documents are available for review at the following locations:

- The Department of the Environment’s website at: <http://www.mde.state.md.us/programs/regulations/air/Pages/reqcomments.aspx>
- The Air and Radiation Management Administration; and
- Regional offices of the Department in Cumberland and Salisbury.

Anyone needing special accommodations at the public hearing should contact the Department’s Fair Practices Office at (410) 537-3964.

TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

Editor’s Note on Incorporation by Reference
Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the following have been declared documents generally available to the public and appropriate for incorporation by reference:
(1) ASTM Test Method E119-08, “Standard Test Methods for Fire Tests of Building Construction and Materials”.

- (2) ASTM Test Method D523-89(1999), “Standard Test Method for Specular Gloss”.
- (3) South Coast Air Quality Management District (SCAQMD) Method 318-95, “Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction”, (Approved July 1996) SCAQMD “Laboratory Methods of Analysis for Enforcement Samples”.
- (4) ASTM Test Method D1613-06, “Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products”.
- (5) ASTM D3960-05 “Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings”.
- (6) Bay Area Air Quality Management District (BAAQMD) Method 43, “Determination of Volatile Methylsiloxanes in Solvent Based Coatings, Inks and Related Materials,” BAAQMD Manual of Procedures, Volume III, adopted November 6, 1996.
- (7) BAAQMD Method 41 “Determination of Volatile Organic Compounds in Solvent Based Coatings and Related Materials Containing Parachlorobenzotrifluoride,” BAAQMD Manual of Procedures, Volume III, adopted December 20, 1995.
- (8) South Coast Air Quality Management District (SCAQMD) Method 303-91 “Determination of Exempt Compounds (Revised 1993)”, SCAQMD Laboratory Methods of Analysis for Enforcement Samples.
- (9) SCAQMD Method 304-91 “Determination of Volatile Organic Compounds (VOC) in Various Materials (Revised 1996)”, SCAQMD “Laboratory Methods of Analysis for Enforcement Samples”.
- (10) ASTM D4082-02 “Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants”.
- (11) ASTM D3912-95(2001) “Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants”.
- (12) ASTM D7088-04, “Standard Practice for Resistance to Hydrostatic Pressure for Coatings Used in Below Grade Applications Applied to Masonry”.
- (13) ASTM D4585-99, “Standard Practice for Testing Water Resistance of Coatings Using Controlled Condensation”.
- (14) ASTM D3359-02, “Standard Test Methods for Measuring Adhesion by Tape Test”.
- (15) ASTM D3363-05, “Standard Test Method for Film Hardness by Pencil Test”.
- (16) ASTM D4060-07, “Standard Test Methods for Abrasion Resistance of Organic Coatings by the Taber Abraser”.
- (17) ASTM D714-02e1, “Standard Test Method for Evaluating Degree of Blistering of Paints”.
- (18) ASTM C836-06, “Standard Specification for High Solids Content, Cold Liquid-Applied Elastomeric Waterproofing Membrane for Use with Separate Wearing Course”.
- (19) ASTM D3273-00, “Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber”.
- (20) ASTM D3274-95, “Standard Test Method for Evaluating Degree of Surface Disfigurement of Paint Films by Microbial (Fungal or Algal) Growth or Soil and Dirt Accumulation”.
- (21) ASTM C67-07, “Standard Test Methods for Sampling and Testing Brick and Structural Clay Tile”.
- (22) ASTM C97-02, “Standard Test Methods for Absorption and Bulk Specific Gravity of Dimension Stone”.
- (23) ASTM C140-06, “Standard Test Methods for Sampling and Testing Concrete Masonry Units and Related Units”.
- (24) ASTM E96/E96M-05, “Standard Test Method for Water Vapor Transmission of Materials”.
- (25) National Cooperative Highway Research Report 244 (1981), “Concrete Sealers for the Protection of Bridge Structures”.
- (26) ASTM E2167-01, “Standard Guide for Selection and Use of Stone Consolidants”.

For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 43:1 Md. R. 10 (January 8, 2016), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Applicability and Exemptions.

A. Except as provided in §B of this regulation, this chapter applies to a person who:

- (1) Supplies, sells, offers for sale, or manufactures an architectural coating for use within the State; or
- (2) Uses or applies an architectural coating within the State.

B. This chapter does not apply to the following products:

(1) Any architectural coating that is supplied, sold, offered for sale or manufactured for:

- (a) Use outside of the State; or
- (b) Shipment to other manufacturers for reformulation or repackaging.

(2) Any aerosol coating product; or

(3) An architectural coating that is sold in a container with a volume of 1 liter (1.057 quart) or less, including kits of containers of different colors, types, or categories of coatings and two component products.

C. The exemption in §B(3) of this regulation does not include:

(1) Bundling of containers 1 liter or less, which are sold together as a unit; or

(2) Coatings with packaging or marketing which implies that multiple containers 1 liter or less be combined into one container.

D. The exemption in §B(3) of this regulation includes multiple containers of 1 liter or less that are packaged and shipped together, but are sold individually.

E. Except as provided in Regulation .04H of this chapter, this chapter is effective on January 1, 2017.

.02 Test Methods—Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) Fire-Resistance Rating. The fire-resistance rating of a fire-resistive coating shall be determined by ASTM Test Method E119-08, "Standard Test Methods for Fire Tests of Building Construction and Materials".

(2) Gloss Determination. The gloss of a coating shall be determined by ASTM Test Method D523-89(1999), "Standard Test Method for Specular Gloss".

(3) Metal Content of Coatings. The metallic content of a coating shall be determined by South Coast Air Quality Management District (SCAQMD) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction", (Approved July 1996) SCAQMD "Laboratory Methods of Analysis for Enforcement Samples".

(4) Acid Content of Coatings. The acid content of a coating shall be determined by ASTM Test Method D1613-06, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products".

(5) Exempt Compounds—Siloxanes. Exempt compounds that are cyclic, branched, or linear, completely methylated siloxanes, shall be analyzed as exempt compounds by methods referenced in ASTM D3960-05 "Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings" or Bay Area Air Quality Management District (BAAQMD) Method 43, "Determination of Volatile Methylsiloxanes in Solvent Based

Coatings, Inks and Related Materials," BAAQMD Manual of Procedures, Volume III, adopted November 6, 1996.

(6) Exempt Compounds—Parachlorobenzotrifluoride (PCBTf). The exempt compound parachlorobenzotrifluoride, shall be analyzed by methods referenced in ASTM D3960-05 "Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings" or BAAQMD Method 41 "Determination of Volatile Organic Compounds in Solvent Based Coatings and Related Materials Containing Parachlorobenzotrifluoride," BAAQMD Manual of Procedures, Volume III, adopted December 20, 1995.

(7) Exempt Compounds. The content of compounds exempt under U.S. EPA Method 24 shall be analyzed by methods referenced in ASTM D3960-05 "Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings" or South Coast Air Quality Management District (SCAQMD) Method 303-91 "Determination of Exempt Compounds (Revised 1993)", SCAQMD Laboratory Methods of Analysis for Enforcement Samples.

(8) VOC Content of Coatings. The VOC content of a coating shall be determined by U.S. EPA Method 24 as it exists in Appendix A-7 of 40 CFR Part 60, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings".

(9) Alternative VOC Content of Coatings. The VOC content of coatings may be analyzed by either U.S. EPA Method 24 as it exists in Appendix A-7 of 40 CFR Part 60, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings" or SCAQMD Method 304-91 "Determination of Volatile Organic Compounds (VOC) in Various Materials (Revised 1996)", SCAQMD "Laboratory Methods of Analysis for Enforcement Samples".

(10) Methacrylate Traffic Marking Coatings. The VOC content of methacrylate multicomponent coatings used as traffic marking coatings shall be analyzed by the procedures in 40 CFR Part 59, Subpart D, Appendix A, "Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings".

(11) Radiation Resistance—Nuclear Coatings. The radiation resistance of a nuclear coating shall be determined by ASTM D4082-02 "Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants".

(12) Chemical Resistance—Nuclear Coatings. The chemical resistance of nuclear coatings shall be determined by ASTM D3912-95(2001) "Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants".

(13) Hydrostatic Pressure for Basement Specialty Coatings. The hydrostatic pressure resistance for basement specialty coatings shall be analyzed using ASTM D7088-04, "Standard Practice for Resistance to Hydrostatic Pressure for Coatings Used in Below Grade Applications Applied to Masonry".

(14) Tub and Tile refinishing Coating Adhesion. The adhesion of tub and tile coating shall be determined by ASTM D4585-99, "Standard Practice for Testing Water Resistance of Coatings Using Controlled Condensation" and ASTM D3359-02, "Standard Test Methods for Measuring Adhesion by Tape Test".

(15) Tub and Tile Refinish Coating Hardness. The hardness of tub and tile refinishing coating shall be determined by ASTM D3363-05, "Standard Test Method for Film Hardness by Pencil Test".

(16) Tub and Tile Refinish Coating Abrasion Resistance. Abrasion resistance of tub and tile refinishing coating shall be analyzed by ASTM D4060-07, "Standard Test Methods for Abrasion Resistance of Organic Coatings by the Taber Abraser".

(17) Tub and Tile Refinish Coating Water Resistance. Water resistance of tub and tile refinishing coatings shall be determined by ASTM D4585-99, "Standard Practice for Testing Water Resistance

of Coatings Using Controlled Condensation” and ASTM D714-02e1, “Standard Test Method for Evaluating Degree of Blistering of Paints”.

(18) *Waterproofing Membrane.* Waterproofing membrane shall be tested by ASTM C836-06, “Standard Specification for High Solids Content, Cold Liquid-Applied Elastomeric Waterproofing Membrane for Use with Separate Wearing Course”.

(19) *Mold and Mildew Growth for Basement Specialty Coatings.* Mold and mildew growth resistance for basement specialty coatings shall be determined by ASTM D3273-00, “Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber” and ASTM D3274-95, “Standard Test Method for Evaluating Degree of Surface Disfigurement of Paint Films by Microbial (Fungal or Algal) Growth or Soil and Dirt Accumulation”.

(20) *Reactive Penetrating Sealer Water Repellency.* Reactive penetrating sealer water repellency shall be analyzed by ASTM C67-07, “Standard Test Methods for Sampling and Testing Brick and Structural Clay Tile”; or ASTM C97-02, “Standard Test Methods for Absorption and Bulk Specific Gravity of Dimension Stone”; or ASTM C140-06, “Standard Test Methods for Sampling and Testing Concrete Masonry Units and Related Units”.

(21) *Reactive Penetrating Sealer Water Vapor Transmission.* Reactive penetrating sealer water vapor transmission shall be analyzed ASTM E96/E96M-05, “Standard Test Method for Water Vapor Transmission of Materials”.

(22) *Reactive Penetrating Sealer - Chloride Screening Applications.* Reactive penetrating sealers shall be analyzed by National Cooperative Highway Research Report 244 (1981), “Concrete Sealers for the Protection of Bridge Structures”.

(23) *Stone Consolidants.* Stone consolidants shall be tested using ASTM E2167-01, “Standard Guide for Selection and Use of Stone Consolidants”.

.03 Definitions.

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

B. Terms Defined.

(1) “Adhesive” means a chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

(2) “Aerosol coating product” means a pressurized coating product containing pigments or resins that:

(a) Dispenses product ingredients by means of a propellant; and

(b) Is packaged in a disposable can for handheld application, or for use in specialized equipment for ground traffic/markings applications.

(3) “Aluminum roof coating” means a coating labeled and formulated exclusively for application to roofs and containing at least 84 grams of elemental aluminum pigment per liter of coating (at least 0.7 pounds per gallon).

(4) Appurtenance.

(a) “Appurtenance” means an accessory to a stationary structure that is coated at the site of installation, whether installed or detached.

(b) “Appurtenance” includes:

- (i) Bathroom and kitchen fixtures;
- (ii) Cabinets;
- (iii) Concrete forms;
- (iv) Doors;
- (v) Elevators;
- (vi) Fences;
- (vii) Hand railings;

(viii) Heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools;

(ix) Lampposts;

(x) Partitions;

(xi) Pipes and piping systems;

(xii) Rain gutters and downspouts;

(xiii) Stairways;

(xiv) Fixed ladders;

(xv) Catwalks and fire escapes; and

(xvi) Window screens.

(5) Architectural Coating.

(a) “Architectural coating” means a coating to be applied to:

(i) Stationary structures or their appurtenances at the site of installation;

(ii) Portable buildings at the site of installation;

(iii) Pavements; or

(iv) Curbs.

(b) “Architectural coating” does not include:

(i) Coatings applied in shop applications or to non-stationary structures such as airplanes, ships, boats, railcars, or automobiles; or

(ii) Adhesives.

(6) “Basement specialty coating” means a clear or opaque coating that:

(a) Is labeled and formulated for application to concrete and masonry surfaces to provide a hydrostatic seal for basements and other below-grade surfaces;

(b) Is capable of withstanding at least 10 psi of hydrostatic pressure;

(c) Is resistant to mold and mildew growth; and

(d) Achieves a microbial growth rating of 8 or more.

(7) “Bituminous roof coating” means a coating that:

(a) Incorporates bitumens;

(b) Is labeled and formulated exclusively for roofing; and

(c) Is intended for the primary purpose of preventing water penetration.

(8) “Bituminous roof primer” means a primer that:

(a) Incorporates bitumens;

(b) Is labeled and formulated exclusively for roofing; and

(c) Is intended for one of the following purposes:

(i) Preparing a weathered or aged surface; or

(ii) Improving the adhesion of subsequent surfacing components.

(9) “Bond breaker” means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

(10) “Calcimine recoater” means a flat solvent borne coating formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.

(11) Coating.

(a) “Coating” means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes.

(b) “Coating” includes paints, varnishes, sealers, and stains.

(12) “Colorant” means a concentrated pigment dispersion in water, solvent, or binder that is added to an architectural coating to produce a desired color.

(13) “Concrete curing compound” means a coating labeled and formulated for application to freshly poured concrete to perform one or more of the following functions:

(a) Retard the evaporation of water; or

(b) Harden or dustproof the surface of freshly poured concrete.

(14) "Concrete/masonry sealer" means a clear or opaque coating that is labeled and formulated primarily for application to concrete and masonry surfaces to perform one or more of the following functions:

(a) Prevent penetration of water;

(b) Provide resistance against abrasion, alkalis, acids, mildew, staining, or ultraviolet light; or

(c) Harden or dustproof the surface of aged or cured concrete.

(15) "Concrete surface retarder" means a mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

(16) Conjugated oil varnish.

(a) "Conjugated oil varnish" means a clear or semi-transparent wood coating that:

(i) Is labeled as such;

(ii) Is based on a natural occurring conjugated vegetable oil (tung oil) and modified with other natural or synthetic resins, with a minimum of 50 percent of the resins solids consisting of conjugated oil;

(iii) Is supplied as a single component that penetrates and seals the wood;

(iv) Results in film formation due to polymerization of the oil; and

(v) Contains small amounts of pigment to control the final gloss or sheen.

(b) "Conjugated oil varnish" does not include lacquers or shellacs.

(17) "Conversion varnish" means a clear acid curing coating with an alkyd, or other resin blended with amino resins that:

(a) Is supplied as a single component or two-component product designed for professional application to wood flooring to produce a hard, durable, clear finish; and

(b) Results in a film formation from an acid-catalyzed condensation reaction, affecting a transesterification of the reactive ethers of the amino resins.

(18) "Driveway sealer" means a coating labeled and formulated for application to worn asphalt driveway surfaces to perform one or more of the following functions:

(a) Fill cracks;

(b) Seal the surface to provide protection; or

(c) Restore or preserve the appearance.

(19) "Dry fog coating" means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

(20) "Exempt compound" means a compound identified as exempt under the definition of volatile organic compound (VOC) under COMAR 26.11.01B(53).

(21) "Faux finishing coating" means a coating labeled and formulated to meet one or more of the following criteria:

(a) A glaze or textured coating used to create artistic effects, including:

(i) Dirt;

(ii) Suede;

(iii) Old age;

(iv) Smoke damage;

(v) Simulated marble; and

(vi) Wood grain;

(b) A decorative coating used to create a metallic, iridescent, or pearlescent appearance that contains at least 48 grams of pearlescent mica pigment or other iridescent pigment per liter of coating as applied (at least 0.4 pounds per gallon);

(c) A decorative coating used to create a metallic appearance that contains less than 48 grams of elemental metallic pigment per liter of coating as applied (less than 0.4 pounds per gallon);

(d) A decorative coating used to create a metallic appearance that:

(i) Contains greater than 48 grams of elemental metallic pigment per liter of coating as applied (greater than 0.4 pounds per gallon); or

(ii) Requires a clear topcoat to prevent the degradation of the finish under normal use conditions.

(e) A clear topcoat sold and used solely as part of a faux finishing coating system to seal and protect a faux finishing coating that meets one or more of the requirements in §B(21)(a)—(d) of this regulation.

(22) Fire-Resistive Coating.

(a) "Fire-resistive coating" means a coating that has been labeled and formulated to protect structural integrity by increasing the fire endurance of interior or exterior structural materials.

(b) "Fire-resistive coating" includes sprayed fire resistive materials and intumescent fire coatings that are used to bring structural materials into compliance with federal, state, and local building code requirements.

(23) "Flat coating" means a coating that is not defined under any other definition in this regulation and that registers a gloss of less than 15 on an 85-degree meter or less than 5 on a 60-degree meter.

(24) "Floor coating" means an opaque coating that is labeled and formulated for application to flooring such as decks, porches, steps, garage floors and other horizontal surfaces that may be subjected to foot traffic.

(25) "Form-release coating" means a coating labeled and formulated for application to a form to prevent freshly poured concrete from bonding to the form.

(26) Graphic Arts Coating (Sign Paint).

(a) "Graphic arts coating (sign paint)" means a coating labeled and formulated for hand-application, using brush, airbrush, or roller techniques to one or more of the following:

(i) Indoor and outdoor signs; and

(ii) Murals.

(b) "Graphic arts coating (sign paint)" includes letter enamels, poster colors, copy blockers, and bulletin enamels.

(c) "Graphic arts coating (sign paint)" does not include coatings applied to structural components.

(27) "High-temperature coating" means a high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

(28) "Impacted immersion coating" means a high performance maintenance coating that is:

(a) Formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water; and

(b) Specifically resistant to high-energy impact damage caused by floating ice or debris.

(29) Industrial Maintenance Coating.

(a) "Industrial maintenance coating" means a high performance architectural coating formulated for application to substrates exposed to one or more of the following extreme environmental conditions:

(i) Immersion in water, wastewater, chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation;

(ii) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

(iii) Frequent exposure to temperatures above 121°C (250°F)

(iv) Frequent and heavy abrasion, including mechanical wear and scrubbing with industrial solvents, cleansers, or scouring agents; or

(v) Exterior exposure of metal structures and structural components.

(b) "Industrial maintenance coating includes primers, sealers, undercoaters, intermediate coats, and topcoats.

(30) "Low-solids coating" means a coating containing 0.12 kilogram or less of solids per liter (1 pound or less of solids per gallon) of coating material as recommended for application by the manufacturer.

(31) "Magnesite cement coating" means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

(32) "Mastic texture coating" means a coating:

(a) Labeled and formulated to cover holes and minor cracks and to conceal surface irregularities; and

(b) Applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

(33) "Metallic pigmented coating" means a coating labeled and formulated to provide a metallic appearance that contains at least 48 grams of elemental metallic pigment (excluding zinc) per liter of coating as applied (0.4 pounds per gallon).

(34) "Multi-color coating" means a coating that is:

(a) Packaged in a single container; and

(b) Labeled and formulated to exhibit more than one color when applied in a single coat.

(35) "Non-flat coating" means a coating that:

(a) Is not defined under any other definition in this regulation; and

(b) Registers a gloss of 15 or greater on an 85-degree meter and 5 or greater on a 60-degree meter.

(36) "Non-flat—high gloss coating" means a non-flat coating that registers a gloss of 70 or greater on a 60-degree meter.

(37) "Nuclear coating" means a protective coating that:

(a) Is formulated and recommended to seal porous surfaces that otherwise would be subject to intrusion by radioactive materials;

(b) Is resistant to long-term (service life) cumulative radiation exposure;

(c) Is relatively easy to decontaminate; and

(d) Is resistant to various chemicals to which the coatings are likely to be exposed.

(38) "Post-consumer coating" means finished coatings generated by a business or consumer that have served their intended end uses, and are recovered from or otherwise diverted from the waste stream for the purpose of recycling.

(39) "Pre-treatment wash primer" means a primer that:

(a) Contains a minimum of 0.5 percent acid, by weight; and

(b) Is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and promote adhesion of subsequent topcoats.

(40) "Primer, sealer, and undercoater" means a coating labeled and formulated for one or more of the following purposes:

(a) To provide a firm bond between the substrate and subsequent coatings;

(b) To prevent subsequent coatings from being absorbed by the substrate;

(c) To prevent harm to subsequent coatings by materials in the substrate;

(d) To provide a smooth surface for the subsequent application of coatings;

(e) To provide a clear finish coat to seal the substrate; or

(f) To block materials from penetrating into or leaching out of a substrate.

(41) Reactive penetrating sealer.

(a) "Reactive penetrating sealer" means a clear or pigmented coating that is labeled and formulated for application to above-grade concrete and masonry substrates to provide protection from water and waterborne contaminants, including:

(i) Alkalis;

(ii) Acids; and

(iii) Salts.

(b) "Reactive penetrating sealers" meet the following criteria:

(i) Penetrate into concrete and masonry substrates and chemically react to form covalent bonds with naturally occurring minerals in the substrate;

(ii) Line the pores of concrete and masonry substrates with a hydrophobic coating, but do not form a surface film;

(iii) Improve water repellency at least 80 percent after application on a concrete or masonry substrate as verified on standardized test specimens; and

(iv) Do not reduce the water vapor transmission rate by more than 2 percent after application on a concrete or masonry substrate.

(c) "Reactive penetrating sealers" labeled and formulated for vehicular traffic surface chloride screening applications shall meet the performance criteria listed in the National Cooperative Highway Research Report 244 (1981).

(42) Reactive Penetrating Carbonate Stone Sealer.

(a) "Reactive penetrating carbonate stone sealer" means a clear or pigmented coating that is labeled and formulated for application to above-grade carbonate stone substrates to provide protection from water and waterborne contaminants, including:

(i) Alkalis;

(ii) Acids; and

(iii) Salts.

(b) "Reactive penetrating sealers" meet the following criteria:

(i) Penetrate into carbonate stone substrates and chemically reacts to form covalent bonds with naturally occurring minerals in the substrate;

(ii) Line the pores of carbonate stone substrates with a hydrophobic coating, but do not form a surface film;

(iii) Improve water repellency at least 80 percent after application on a carbonate stone substrate; and

(iv) Do not reduce the water vapor transmission rate by more than 10 percent after application on a carbonate stone substrate.

(43) "Recycled coating" means an architectural coating formulated so that it contains a minimum of 50 percent by volume post-consumer coating, with a maximum of 50 percent secondary industrial materials or virgin materials.

(44) "Roof coating" means a non-bituminous coating labeled and formulated for application to roofs for the primary purpose of preventing water penetration, reflecting ultraviolet light, or reflecting solar radiation.

(45) Rust Preventive Coating.

(a) "Rust preventive coating" means a coating formulated to prevent the corrosion of metal surfaces for one or more of the following applications:

(i) Direct-to-metal coating; or

(ii) Coating intended for application over rusty, previously coated surfaces.

(b) "Rust preventive coating" does not include:

(i) Coatings that are required to be applied as a topcoat over a primer; or

(ii) Coatings that are intended for use on wood or any other nonmetallic surface.

(46) "Secondary industrial materials" means products or by-products of the paint manufacturing process that are of known composition and have economic value but can no longer be used for their intended purpose.

(47) "Shellac" means a clear or opaque coating formulated solely with the resinous secretions of the Lac beetle (*Lacifer lacca*), and formulated to dry by evaporation without a chemical reaction.

(48) "Shop application" means application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g. original equipment manufacturing coatings).

(49) "Specialty primer, sealer, and undercoater" means a coating that is formulated for application to a substrate to block water-soluble stains resulting from:

- (a) Fire damage;
- (b) Smoke damage; or
- (c) Water damage.

(50) "Stain" means a semi-transparent, or opaque coating labeled and formulated to change the color of a surface, but not conceal the grain pattern or texture.

(51) "Stone consolidant" means a coating that:

(a) Is labeled and formulated for application to stone substrates to repair structures that have been damaged by weathering or other decay mechanisms; and

(b) Penetrates into stone substrates to create bonds between particles and consolidate deteriorated material.

(52) Swimming Pool Coating.

(a) "Swimming pool coating" means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

(b) "Swimming pool coating" includes coatings used for swimming pool repair and maintenance.

(53) "Thermoplastic rubber coating and mastic" means a coating or mastic that:

(a) Is formulated and recommended for application to roofing or other structural surfaces; and

(b) Incorporates no less than 40 percent by weight of thermoplastic rubbers in the total resin solids.

(54) "Tint base" means colorant which is added to an architectural coating.

(55) "Traffic marking coating" means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces such as curbs, berms, driveways, parking lots, sidewalks, and airport runways.

(56) "Tub and tile refinish coating" means a clear or opaque coating that:

(a) Is labeled and formulated exclusively for refinishing the surface of a bathtub, shower, sink, or countertop;

(b) Has a scratch hardness of 3H or harder and a gouge hardness of 4H or harder that is determined on bonderite 1000;

(c) Has a weight loss of 20 milligrams or less after 1000 cycles determined with CD-17 wheels on bonderite 1000;

(d) Withstands 1000 hours or more of exposure with few or no #8 blisters that is determined on unscribed bonderite; and

(e) Has an adhesion rating of 4B or better after 24 hours of recovery that is determined on inscribed bonderite.

(57) "VOC actual" means the weight of VOC per volume of coating, including water and exempt compounds.

(58) VOC Content.

(a) "VOC content" means the weight of VOC per volume of coating and is VOC regulatory for all coatings except those in the low solids category.

(b) "VOC content" includes the following:

(i) The VOCs emitted during curing if the coating contains silanes, siloxanes, or other ingredients that generate ethanol or other VOCs during the curing process; and

(ii) The maximum amount of thinning solvent recommended by the manufacturer.

(59) "VOC regulatory" means the weight of VOC per volume of coating, less the volume of water and exempt compounds.

(60) Waterproofing Membrane.

(a) "Waterproofing membrane" means a clear or opaque coating that is labeled and formulated for application to concrete and masonry surfaces to provide a seamless waterproofing membrane that prevents any penetration of liquid water into the substrate.

(b) "Waterproofing membrane" is intended for one or more of the following waterproofing applications:

- (i) Below-grade surfaces;
- (ii) Between concrete slabs;
- (iii) Inside tunnels;
- (iv) Inside concrete planners; or
- (v) Under flooring materials.

(c) "Waterproofing membrane" is applied in a single coat of at least 25 mils (at least 0.025 inch) dry film thickness.

(d) "Waterproofing membrane" does not include topcoats that are included in the concrete masonry sealer category.

(61) Wood Coatings.

(a) "Wood coatings" means coatings labeled and formulated for application to wood substrates only.

(b) "Wood coatings" includes the following clear and semitransparent coatings:

- (i) Lacquers;
- (ii) Varnishes;
- (iii) Sanding sealers;
- (iv) Penetrating oils;
- (v) Clear stains;
- (vi) Wood conditioners used as undercoats; and
- (vii) Wood sealers used as topcoats.

(c) "Wood coatings" also includes the following opaque wood coatings:

- (i) Opaque lacquers;
- (ii) Opaque sanding sealers; and
- (iii) Opaque lacquer undercoaters.

(d) "Wood coatings" does not include the following:

(i) Clear sealers that are labeled and formulated for use on concrete/masonry surfaces; or

(ii) Coatings intended for substrates other than wood.

(62) "Wood preservative" means a coating that:

(a) Is labeled and formulated to protect exposed wood from decay or insect attack; and

(b) Registered with both the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 et seq.) and with the State.

(63) Wood Substrate.

(a) "Wood substrate" means a substrate made of wood, particleboard, plywood, medium density fiberboard, rattan, wicker, bamboo, or composite products with exposed wood grain.

(b) "Wood substrate" does not include items comprised of simulated wood.

(64) "Zinc-rich primer" means a coating that:

(a) Contains at least 65 percent metallic zinc powder or zinc dust by weight of total solids; and

(b) Is formulated for application to metal substrates to provide a firm bond between the substrate and subsequent applications of coatings.

.04 General Requirements and Standards.

A. VOC Content Limits.

(1) Except as provided in this regulation, a person may not manufacture, blend, repackage for sale, supply, sell, offer for sale, or apply within the State an architectural coating with a VOC content in excess of the corresponding limit specified in Regulation .05 of this chapter.

(2) Limits are expressed as VOC content, thinned to the manufacturer's maximum thinning recommendation, excluding any colorant added to tint bases.

B. Most Restrictive VOC Limit. If anywhere on the container of an architectural coating, label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on behalf of a manufacturer, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Regulation .05 of this chapter, then the most restrictive VOC content limit applies.

C. The provisions of §B of this regulation do not apply to the following coating categories:

- (1) Aluminum roof coatings;
- (2) Bituminous roof primers;
- (3) High-temperature coatings;
- (4) Industrial maintenance coatings;
- (5) Low-solids coatings;
- (6) Metallic pigmented coatings;
- (7) Pretreatment wash primers;
- (8) Shellacs;
- (9) Specialty primers, sealers, and undercoaters;
- (10) Wood coatings;
- (11) Wood preservatives;
- (12) Zinc-rich primers
- (13) Calcimine recoaters;
- (14) Impacted immersion coatings;
- (15) Nuclear coatings;
- (16) Thermoplastic rubber coatings and mastic; and
- (17) Concrete surface retarders.

D. Sell-Through of Coatings.

(1) A coating manufactured before the effective date of January 1, 2017, that complied with the standards in effect at the time the coating was manufactured may be sold, supplied, or offered for sale until January 1, 2020.

(2) A coating that complies with the standards in effect in this State at the time of manufacture may be applied at any time.

(3) The provisions of this section do not apply to a coating that does not display a date or date code representing the date of manufacture.

(4) Notwithstanding §D(2), a person may not apply any rust preventative coating manufactured before January 1, 2017 for industrial use, unless such a rust preventative coating complies with the industrial maintenance coating limit specified in Regulation .05 of this chapter.

E. Painting Practices.

(1) All architectural coating containers used to apply the contents therein to a surface by pouring, siphoning, brushing, rolling, padding, ragging, or other means, shall be closed when not in use.

(2) Architectural coatings containers include, but are not limited to drums, buckets, cans, pails, trays, or other application containers.

(3) Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

F. Thinning. A person may not apply any architectural coating if the coating is thinned to exceed the applicable VOC limit specified in Table 1 of Regulation .05 of this chapter.

G. Coatings Not Listed in Regulation .05. A coating that does not meet the definitions for the specialty coatings categories listed in Regulation .05 of this chapter is subject to the VOC content limit for either a flat, non-flat, or non-flat high gloss coating based on its gloss as determined in Regulation .02B(2) of this chapter.

H. New Coatings Categories. Beginning May 1, 2016, the following new coatings categories shall be considered in compliance if the coating meets the applicable VOC limit specified in Table 1 of Regulation .05 of this chapter and the other provisions of this chapter:

- (1) Aluminum roof coatings;
- (2) Basement specialty coatings;
- (3) Concrete/masonry sealers;
- (4) Conjugated oil varnish;
- (5) Driveway sealers;
- (6) Reactive penetrating sealer;
- (7) Reactive penetrating carbonate stone sealers;
- (8) Stone consolidant;
- (9) Tub and tile refinishing coating;
- (10) Waterproofing membranes;
- (11) Wood coatings; and
- (12) Zinc-rich primers.

.05 VOC Content Limits.

Table 1. VOC Content Limits for Architectural and Industrial Maintenance Coatings.

Coating Category	VOC Content Limit (grams per liter)
Flat coatings	50
Non-flat coatings	100
Non-flat—high gloss coatings	150
Specialty coatings:	
Aluminum roof coatings	450
Basement specialty coatings	400
Bituminous roof coatings	270
Bituminous roof primers	350
Bond breakers	350
Calcimine recoater	475
Concrete curing compounds	350
Concrete/masonry sealers	100
Concrete surface retarders	780
Conjugated oil varnish	450
Conversion varnish	725
Driveway sealers	50
Dry fog coatings	150
Faux finishing coatings	350
Fire-resistive coatings	350
Floor coatings	100
Form-release coatings	250
Graphic arts coatings (Sign paints)	500
High-temperature coatings	420
Impacted immersion coatings	780
Industrial maintenance coatings	250
Low-solids coatings	120
Magnesite cement coatings	450
Mastic texture coatings	100
Metallic pigmented coatings	500
Multi-color coatings	250
Nuclear coatings	450

Pre-treatment wash primers	420
Primers, sealers, and undercoaters	100
Reactive penetrating sealers	350
Reactive penetrating carbonate stone sealers	500
Recycled coatings	250
Roof coatings	250
Rust preventative coatings	250
Shellacs:	
Clear	730
Opaque	550
Specialty primers, sealers, and undercoaters	100
Stains	250
Stone consolidant	450
Swimming pool coatings	340
Thermoplastic rubber coatings and mastic	550
Traffic marking coatings	100
Tub and tile refinish coatings	420
Waterproofing membranes	250
Wood coatings	275
Wood preservatives	350
Zinc-rich primers	340

.06 Container Labeling Requirements.

A. A person who manufactures an architectural coating subject to this chapter shall display the information listed in this regulation on the coating container or container label in which the coating is sold or distributed.

B. Date Code.

(1) The date the coating was manufactured, or a date code representing the date of manufacture, shall be indicated on the label, lid, or bottom of the container.

(2) If the manufacturer uses a date code for a coating, the manufacturer shall file an explanation of each code with the Department.

C. Thinning Recommendations.

(1) A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container.

(2) This requirement does not apply to the thinning of architectural coatings with water.

(3) If thinning of the coating before use is not necessary, the recommendation shall specify that the coating is to be applied without thinning.

D. VOC Content.

(1) A container of a coating subject to this chapter shall display one of the following values in grams of VOC per liter of coating:

(a) Maximum VOC content as determined from all potential product formulations;

(b) VOC content as determined from actual formulation data; or

(c) VOC content as determined using the procedures specified in Regulation .08 of this chapter.

(2) If the manufacturer does not recommend thinning, the container shall display the VOC content, as supplied.

(3) If the manufacturer recommends thinning, the container shall display the VOC content including the maximum amount of thinning solvent recommended by the manufacturer.

(4) If the coating is a multi-component product, the container shall display the VOC content as mixed or catalyzed.

(5) If the coating contains silanes, siloxanes, or other ingredient that generate ethanol or other VOCs during the curing

process, the VOC content shall include the VOCs emitted during curing.

(6) The VOC content shall be determined using the procedures in Regulation .08 of this chapter.

E. Faux Finishing Coatings. The labels of all clear topcoat faux finishing coatings shall prominently display the statement "This product can only be sold or used as part of a Faux Finishing coating system."

F. Industrial Maintenance Coatings. A manufacturer of an industrial maintenance coating shall prominently display at least one of the following statements:

- (1) "For industrial use only";
- (2) "For professional use only";
- (3) "Not for residential use"; or
- (4) "Not intended for residential use".

G. Rust Preventive Coatings. The labels of a rust preventive coating shall prominently display the statement "For Metal Substrates Only".

H. Specialty Primers, Sealers, and Undercoaters. The label of a specialty primer, sealer, or undercoater shall, as applicable, prominently display one or more of the following descriptions:

- (1) "For blocking stains";
- (2) "For fire-damaged substrates";
- (3) "For smoke-damaged substrates"; or
- (4) "For water-damaged substrates";

I. Non-Flat—High-Gloss Coatings. The label of a non-flat—high-gloss coating shall prominently display the words "High Gloss".

J. Reactive Penetrating Sealers. The labels of all reactive penetrating sealers shall prominently display the statement "Reactive Penetrating Sealer".

K. Reactive Penetrating Carbonate Stone Sealers. The labels of all reactive penetrating carbonate stone sealers shall prominently display the statement "Reactive Penetrating Carbonate Stone Sealers".

L. Stone Consolidants. The labels of all stone consolidants shall prominently display the statement "Stone Consolidants—For Professional Use Only".

M. Wood Coatings. The labels of all wood coatings shall prominently display the statement "For Wood Substrates Only".

N. Zinc Rich Primers. The labels of all zinc rich primers shall prominently display one or more of the following statements:

- (1) "For professional use only";
- (2) "For industrial use only";
- (3) "Not for residential use"; or
- (4) "Not intended for residential use".

.07 Reporting Requirements. A person who manufactures a coating subject to this chapter shall provide within 180 days of written request, data concerning the distribution and sales of architectural coatings, including:

- A. The name and mailing address of the manufacturer;
- B. The name, address, and telephone number of a contact person;
- C. The name of the coating product as it appears on the label;
- D. The application coating category;
- E. A description whether the product is marketed for interior or exterior use or both;
- F. The number of gallons sold in the State in containers greater than 1 liter and equal to or less than 1 liter;
- G. The VOC actual content and VOC regulatory content in grams per liter.

(1) If thinning is recommended, list the VOC actual content and VOC regulatory content after maximum recommended thinning.

(2) If containers less than 1 liter have a different VOC content than containers greater than 1 liter, list separately.

(3) If the coating is a multi-component product, provide the VOC content as mixed or catalyzed.

H. The names and CAS numbers of the VOC constituents in the product;

I. The names and CAS numbers of any compounds in the product specifically exempted from the VOC definition under COMAR 26.11.01.01B(53);

J. A description whether the product is marketed as solventborne, waterborne, or 100 percent solids;

K. A description of resin or binder in the product;

L. A description whether the coating is a single-component or multi-component product;

M. The density of the product in pounds per gallon;

N. The percent by weight of solids, all volatile materials, water, and any compounds in the product specifically exempted from the VOC definition under COMAR 26.11.01.01B(53); and

O. The percent by volume of solids, water, and any compounds in the product specifically exempted from the VOC definition under COMAR 26.11.01.01B(53).

.08 Compliance Procedures.

A. Calculation of VOC Content.

(1) For the purpose of determining compliance with the VOC content limits in Table 1 of Regulation .05 of this chapter, the VOC content of a coating shall be determined using the following procedures, as applicable:

(a) With the exception of low solids coatings, determine the VOC content (regulatory) in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds using the following equation:

$$VOC\ Regulatory = (Ws - Ww - Wec) / (Vm - Vw - Vec)$$

Where:

VOC Regulatory = grams of VOC per liter of coating;

Ws = weight of volatiles, in grams;

Ww = weight of water, in grams;

Wec = weight of exempt compounds, in grams;

Vm = volume of coating, in liters;

Vw = volume of water, in liters; and

Vec = volume of exempt compounds, in liters.

(b) For low solids coatings, determine the VOC content (actual) in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds using the following equation:

$$VOC\ Actual = (Ws - Ww - Wec) / (Vm)$$

Where:

VOC Actual = the VOC content of a low solids coating, in grams per liter of coating;

Ws = weight of volatile, in grams;

Ww = weight of water, in grams;

Wec = weight of exempt compounds, in grams; and

Vm = volume of coating, in liters.

(2) The VOC content of a tint base shall be determined without colorant that is added after the tint base is manufactured.

(3) If the manufacturer does not recommend thinning, the VOC content shall be calculated for the product as supplied.

(4) If the manufacturer recommends thinning, the VOC content shall be calculated including the maximum amount of thinning solvent recommended by manufacturer.

(5) If the coating is a multi-component product, the VOC content shall be calculated as mixed or catalyzed.

(6) If the coating contains silanes, siloxanes, or other ingredients that generate ethanol or other VOCs during the curing process, the VOC content shall include the VOCs emitted during curing.

B. VOC Content of Coatings.

(1) Except as provided in §C of this regulation, a person shall determine the VOC content of a coating using one of the test methods listed in Regulation .02 of this chapter, or an alternative method approved by the Department.

(2) If there are any inconsistencies between the results of EPA Method 24 test and any other means for determining VOC content, the EPA Method 24 test results will govern.

(3) The exempt compounds content shall be determined by one of the test methods listed in Regulation .02 of the chapter, as applicable.

C. Methacrylate Traffic Coating Markings. Analysis of methacrylate multicomponent coatings used as traffic marking coatings shall be conducted according to a modification of U.S. EPA Method 24 (40 CFR 59, subpart D, Appendix A). This method has not been approved for methacrylate multicomponent coatings used for other purposes than as traffic marking coatings or for other classes of multicomponent coatings.

BENJAMIN H. GRUMBLES
Secretary of the Environment

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

Subtitle 02 EMERGENCY MEDICAL
SERVICES PROVIDERS

30.02.02 Licensure and Certification

Authority: Education Article, §13-516, Annotated Code of Maryland

Notice of Proposed Action

[16-048-P]

The State Emergency Medical Services Board proposes to amend Regulation .05 under **COMAR 30.02.02 Licensure and Certification**. This action was considered and approved by the State Emergency Medical Services Board at its regular meeting on December 8, 2015.

Statement of Purpose

The purpose of this action is to clarify examination and reexamination procedures and time frames for individuals seeking licensure or certification as EMS providers in Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Rae Oliveira, Director of Licensure and Certification, Maryland Institute for Emergency Medical Services Systems, 653 West Pratt Street, Baltimore, Maryland 21201, or call 410-706-3666, or email to roliveira@miemss.org, or fax to 410-706-2367. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.05 Examination and Reexamination.

A. (text unchanged)

B. If an applicant [, other than an applicant under §A of this regulation,] *for paramedic or CRT* fails the written *Maryland Protocol Review* licensure [or certification] examination, the applicant may retest once within 90 days of the initial written examination.

C. If an applicant *for paramedic or CRT* fails a second written certification or licensure examination, the applicant may retake the written examination one additional time within 12 months of the second written examination [subject to §D of this regulation], *with documentation of a protocol review under the most recent protocols.*

[D. Before taking a third written certification or licensure examination, the applicant shall complete remedial training for each of the modules which the applicant failed.

E. If an applicant for EMD or emergency medical responder fails a third written certification or licensure examination, the applicant shall successfully complete another approved EMS training course, in its entirety, before taking another examination.]

[F.] *D.* [An] *If an* applicant for paramedic or CRT [who] fails a fourth written licensure examination, *the applicant* shall successfully complete a Maryland protocol review session approved by MIEMSS.

[G.] *E.* If an applicant for emergency medical technician has passed the practical examination but fails the third written examination, the applicant may take the emergency medical responder examination within 1 year of successful completion of the emergency medical technician practical certification examination.

[H.] *F.* If an applicant for emergency medical technician fails a first or second practical certification examination, the applicant may retake the practical examination:

(1) — (2) (text unchanged).

[I.] *G.* If an applicant for emergency medical technician certification fails the third [written or] practical certification examination, the applicant shall successfully complete another approved emergency medical technician training course in its entirety and pass an emergency medical technician written certification examination approved by MIEMSS before taking another emergency medical technician practical certification examination.

KEVIN SEAMAN, M.D.
Executive Director

Title 31
MARYLAND INSURANCE
ADMINISTRATION

Subtitle 04 INSURERS

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

Authority: Insurance Article, §§2-109 and 2-209.1 and Title 7, Annotated Code of Maryland

Notice of Proposed Action

[16-054-P]

The Insurance Commissioner proposes to repeal existing Regulation .02 and adopt new Regulations .02—,14 under **COMAR 31.04.18 Form Filings Under Maryland Insurance Acquisitions Disclosure and Control Act.**

Statement of Purpose

The purpose of this action is to implement the statutory changes to Insurance Article, §§7-101 et seq. and 2-209.1, Annotated Code of Maryland, designed to conform to the National Association of Insurance Commissioners’ (NAIC) Insurance Company Holding Company System Regulatory Act (Model 440). These statutory changes became effective in Maryland on January 1, 2014. These proposed regulations seek to conform COMAR to the NAIC’s Insurance Holding Company System Model Regulation (Model 450). Both the Model Act and Regulation are NAIC accreditation standards for the Maryland Insurance Administration’s Examination and Audit Unit.

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 22, 2016. A public hearing has not been scheduled.

.02 Definitions.

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

B. *Terms Defined.*

(1) “Affiliate” means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(2) “Control”, “controlling”, “controlled by”, or “under common control with” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, through ownership of voting securities or of

securities convertible into voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, whether or not the power is exercised or sought to be exercised unless the power is the result of an official position with or corporate office held by the person.

(3) *Enterprise Risk.*

(a) “Enterprise risk” means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole.

(b) “Enterprise risk” includes anything that would:

(i) Cause the insurer’s risk-based capital to fall to or below a company action level under Insurance Article, Title 4, Subtitle 3, Annotated Code of Maryland; or

(ii) Cause the insurer to be in a hazardous financial condition under Insurance Article, §9–102, Annotated Code of Maryland.

(4) “Executive officer” means the chief executive officer, president, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under any other title.

(5) “Extraordinary dividend” or “extraordinary distribution” has the meaning stated in the Insurance Article, §7-706(b), Annotated Code Maryland.

(6) “Form A” means the “Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer” form filed pursuant to Insurance Article, §7–304, Annotated Code of Maryland, and Regulation .08 of this chapter.

(7) “Form B” means the “Insurance Holding Company System Annual Registration Statement” form filed pursuant to Insurance Article, §7–601, Annotated Code of Maryland, and Regulation .09 of this chapter.

(8) “Form C” means the “Summary of Changes to Registration Statement” form filed pursuant to Insurance Article, §7–601, Annotated Code of Maryland, and Regulations .10 and .11 of this chapter.

(9) “Form D” means the “Prior Notice of a Transaction” form filed pursuant to Insurance Article, §7–703, Annotated Code of Maryland, and Regulation .12 of this chapter.

(10) “Form E” means the “Pre-Acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-Domiciliary Insurer Doing Business in this State or by a Domestic Insurer” form filed pursuant to Insurance Article, §7–303(a), Annotated Code of Maryland, and Regulation .07 of this chapter.

(11) “Form F” means the “Enterprise Risk Report” form filed pursuant to Insurance Article, §7–603(h)(1), Annotated Code of Maryland, and Regulation .13 of this chapter.

(12) “Insurance holding company” means a person that directly or indirectly controls an insurer or controls a person that controls an insurer.

(13) “Insurance holding company system” means two or more affiliates, at least one of which is an insurer.

(14) “NAIC” means the National Association of Insurance Commissioners.

(15) “Ordinary dividend” means any dividend or distribution of cash or other property with a fair market value that when combined with the fair market value of any other dividends or distributions made in the preceding 12 months is not an extraordinary dividend as defined in Insurance Article, §7-706(b), Annotated Code Maryland.

(16) “Subsidiary” means an affiliate of a person that, directly or indirectly, through one or more intermediaries, is controlled by that person.

(17) “Ultimate controlling person” means the person within an insurance holding company system that is not controlled by any other person.

.03 Adequacy of Surplus.

The factors set forth in Insurance Article, §7–105(a), Annotated Code of Maryland, are not intended to be an exhaustive list for use in determining whether an insurer’s assets and surplus are reasonable in relation to the insurer’s outstanding liabilities and adequate to meet its financial needs. In applying the factors set forth in Insurance Article, §7–105(a), Annotated Code of Maryland, the Commissioner shall adhere to the following principles:

A. The Commissioner may not deem any single factor as necessarily controlling;

B. The Commissioner shall consider the net effect of the factors, plus other factors deemed by the Commissioner to impact the financial condition of the insurer;

C. In comparing the surplus maintained by other insurers, the Commissioner shall consider the extent to which each of the factors varies from company to company; and

D. In determining the quality and liquidity of investments in subsidiaries, the Commissioner shall consider the individual subsidiary and may discount or disallow its valuation to the extent the individual investments so warrant.

.04 Forms — General Requirements.

A. A person required to file a statement, form, or notification pursuant to Insurance Article, Title 7, Annotated Code of Maryland, shall file the statement, form, or notification as specified in the instructions provided in this chapter, and in accordance with the forms, guidelines, and instructions approved by the Commissioner. The forms are not intended to be blank forms which are to be filled in; rather, the forms are intended to be guides in the preparation of the statements. A filed statement shall contain the number and captions of all items outlined in the form, with text addressing each applicable item or a response in the negative where not applicable.

B. A person filing a statement, form, or notification pursuant to Insurance Article, Title 7, Annotated Code of Maryland, and this chapter shall provide the filing, including exhibits, documents, information, and all other papers filed as part of the submission:

(1) Electronically to the Commissioner; or

(2) Via personal delivery or mail addressed to The Insurance Commissioner, Maryland Insurance Administration, Attention: Chief Financial Analyst, Examination & Auditing Unit, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202.

C. The statement, form, or notification pursuant to §A of this regulation shall:

(1) Be prepared in the English language; and

(2) State monetary values in U.S. currency.

D. Exhibits, documents, information, and all other papers filed as part of the submission pursuant to §A of this regulation shall:

(1) Be easily readable;

(2) Be suitable for review and reproduction;

(3) Designate debits in credit categories and credits in debit categories so as to be clearly distinguishable on reproductions;

(4) Provide a translation into the English language if the exhibit, document, or information is in a foreign language; and

(5) Provide conversion into U.S. currency if the monetary values are in a foreign denomination.

E. The person submitting a filing under §B(2) of this regulation:

(1) Shall prepare the statements on 8-1/2 x 11 inch paper;

(2) May bind at the top or the top left-hand corner of the paper; and

(3) May provide the exhibits, documents, information, and all other papers filed as part of the submission, unless specifically prepared for the filing, in their original size paper.

F. A statement, form, or notification filed pursuant to Insurance Article, Title 7, Annotated Code of Maryland, shall be:

(1) Signed in the manner prescribed on the form; and

(2) Accompanied by a copy of the power of attorney or other authority if the signature of any person is affixed pursuant to a power of attorney or other similar authority.

.05 Forms — Incorporation by Reference, Summaries, and Omissions.

A. A person filing a statement, form, or notification pursuant to Insurance Article, Title 7, Annotated Code of Maryland, and this chapter may:

(1) Incorporate by reference in an answer or partial answer to:

(a) Information required in previously submitted or current submissions of other filings of statements, forms, or notifications pursuant to Insurance Article, Title 7, Annotated Code of Maryland; and

(b) Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document provided in previously submitted or current submissions of other filings of statements, forms, or notifications pursuant to Insurance Article, Title 7, Annotated Code of Maryland, provided the document is filed as an exhibit to the submission; and

(2) Provide excerpts of documents to be filed as exhibits if the documents are extensive.

B. Exhibits, documents, information, and all other papers filed as part of the submission of a statement, form, or notification filed within 3 years of the current filing pursuant to Insurance Article, Title 7, Annotated Code of Maryland, and this chapter may be omitted as exhibits for the current filing.

C. References to exhibits, documents, information, and all other papers filed as part of the submission of prior filings shall:

(1) Clearly and concisely identify the material; and

(2) Specifically indicate that such material is to be incorporated by reference for the current filing.

D. Incorporation by reference pursuant to §§A and C of this regulation may not be used if the incorporation would render the submission of a statement, form, or notification pursuant to Insurance Article, Title 7, Annotated Code of Maryland, and this chapter incomplete, vague, or confusing.

.06 Extension of Time to Provide Notification.

A. If it is impractical for a person filing a statement, form, or notification pursuant to Insurance Article, Title 7, Annotated Code of Maryland, to furnish any required information, document, or report at the time it is required to be filed, the person shall file with the Commissioner a separate document:

(1) Identifying the information, document, or report in question;

(2) Stating why the filing thereof at the time required is impractical; and

(3) Requesting an extension of time for filing the information, document, or report to a specified date.

B. The request for extension shall be deemed granted unless the Commissioner denies the request in writing and within 30 business days of the receipt of the request.

.07 Pre-Acquisition Notification.

A. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to

Insurance Article, §7-303(a), Annotated Code of Maryland, that person shall file with the Commissioner, at least 30 days before a transaction is proposed to become effective, a Form E, in accordance with the format, guidelines, and instructions approved by the Commissioner.

B. The acquiring person in an acquisition subject to Insurance Article, §7-403 shall file with the Commissioner, at least 30 days before the acquisition is proposed to become effective, a Form E, in accordance with the format, guidelines, and instructions approved by the Commissioner.

C. Upon request and in addition to the information provided in §A or B of this regulation, the Commissioner may require the opinion of an economist about the competitive impact of the acquisition or merger in the State, together with a summary of the education and experience of the economist indicating the economist's ability to make an informed opinion pursuant to Insurance Article, §7-403(c)(2)(ii), Annotated Code of Maryland.

.08 Statement of Filing for Acquisition of Control of a Domestic Insurer.

A. A person seeking to acquire control of a domestic insurer pursuant to Insurance Article, §7-304, Annotated Code of Maryland, shall file with the Commissioner a Form A at least 60 days before a transaction is proposed to become effective, in accordance with the format, guidelines, and instructions approved by the Commissioner.

B. If any material change occurs in the facts set forth in the statement filed with the Commissioner and provided to the insurer in the Form A, an amendment, together with copies of any documents or other materials necessary to describe the amendment, shall be filed with the Commissioner prior to the Commissioner's disposition on the application, and provided to the insurer within the earlier of 2 business days after:

(1) The change occurs; or

(2) The person that filed the statement learns of the change.

.09 Annual Registration Statement.

A. A person required to file an annual registration statement pursuant to Insurance Article, §7-601, Annotated Code of Maryland, shall file with the Commissioner a Form B, in accordance with the format, guidelines, and instructions approved by the Commissioner.

B. The Form B shall be filed within 15 days after the insurer becomes subject to registration and, for each subsequent year, annually on or before May 1.

C. If a material change occurs in the facts set forth in the Form B filed with the Commissioner pursuant to this regulation:

(1) An amendment to the Form B shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement;

(2) Only those items which are being amended shall be reported; and

(3) Each amendment shall include at the top of the cover page:

(i) Amendment No. [insert number] to Form B for [insert year]; and

(ii) The date of the change.

D. No information need be disclosed pursuant to §C(1) of this regulation if the information is not material. Sales, purchases, exchanges, loans, or extensions of credit, investments, or guarantees involving 1/2 of 1 percent (.5 percent) or less of an insurer's admitted assets as of the 31st day of the December next preceding may not be deemed material for the purposes of this section.

.10 Summary of Changes to Registration Statement and Pre-Divestiture Notification.

A person required to file an annual registration statement pursuant to Insurance Article, §7-601, Annotated Code of Maryland, and Regulation .09 of this chapter shall file with the Commissioner a

Form C, in accordance with the format, guidelines, and instructions approved by the Commissioner, annually on or before May 1.

.11 Disclaimers and Termination of Registration.

A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(1) The number of authorized, issued, and outstanding voting securities of the subject;

(2) With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly;

(3) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and

(4) A statement explaining why the person should not be considered to control the subject.

B. A request for termination of registration shall be deemed to have been granted unless the Commissioner, within 30 days after receipt of the request, notifies the registrant otherwise.

.12 Transactions Subject to Prior Notice — Notice Filing and Standards.

A. A person filing notice with the Commissioner of a proposed transaction pursuant to Insurance Article, Title 7, Subtitle 7, Annotated Code of Maryland, shall file a Form D, in accordance with the format, guidelines, and instructions approved by the Commissioner.

B. Pursuant to Insurance Article, §7-702(6), Annotated Code of Maryland, agreements, including but not limited to management agreements, service contracts, tax allocation agreements, or cost-sharing agreements shall include as applicable, the following provisions:

(1) Identification of the person providing services and the nature of such services, managerial responsibilities, or services to be performed;

(2) The methods to allocate costs;

(3) Timely settlement, not less frequently than on a quarterly basis and compliance with the requirements in the NAIC Accounting Practices and Procedure Manual regarding expense allocation;

(4) The prohibition of the advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(5) The statement that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

(6) The definition of books and records of the insurer to include all books and records developed or maintained under or related to the agreement;

(7) The statement that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;

(8) The statement that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer, and are subject to the control of the insurer;

(9) The standards for termination of the agreement with and without cause;

(10) The indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;

(11) The statement that, if the insurer is placed in receivership or seized by the Commissioner pursuant to Insurance Article, §9-212, Annotated Code of Maryland:

(a) All of the rights of the insurer under the agreement extend to the receiver or the Commissioner; and

(b) All books and records will immediately be made available to the receiver or the Commissioner, and shall be turned over to the receiver or the Commissioner immediately upon the receiver's or the Commissioner's request;

(12) The statement that if the insurer is placed in receivership pursuant to Insurance Article, §9-212, Annotated Code of Maryland the affiliate has no automatic right to terminate the agreement; and

(13) The statement that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the Commissioner pursuant to Insurance Article, §9-212, Annotated Code of Maryland, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

C. In determining whether a transaction is fair and reasonable pursuant to Insurance Article, §7-702, Annotated Code of Maryland, the Commissioner may consider:

(1) Services received or provided;

(2) Whether the services provided by the affiliated entity are:

(a) Only being provided to other affiliated entities; or

(b) Being provided to both affiliated and nonaffiliated entities;

(3) The cost of services received or provided, including:

(a) Actual cost;

(b) Market cost;

(c) Overhead charges;

(d) Profit margin; and

(e) The allocation method used to share:

(i) Costs of services received or provided; and

(ii) Federal income tax expenses and credits among parties to consolidated federal income tax filing agreements; and

(4) Other factors deemed necessary by the Commissioner to determine if the terms of the transaction are fair and reasonable.

.13 Enterprise Risk Report.

The ultimate controlling person of an insurer required to file an enterprise risk report under Insurance Article, §7-603(h)(1), Annotated Code of Maryland, shall:

A. By July 1 of each year, file with the Commissioner a properly executed Form F in accordance with the format, guidelines, and instructions approved by the Commissioner; and

B. File any other document or information that the Commissioner considers necessary to identify the significant risks within the insurance holding company system that could pose enterprise risk to the insurer.

.14 Extraordinary Dividends and Other Distributions.

A. Pursuant to Insurance Article, §7-706, Annotated Code of Maryland, a domestic insurer may not pay an extraordinary dividend or make any other extraordinary distribution to its shareholders unless:

(1) The insurer provides notice of the declaration to the Commissioner at least 30 days before the declaration is made; and

(2) The Commissioner has approved or not disapproved the declaration within 30 days following the notice.

B. The insurer shall file a written request for approval of extraordinary dividends or any other extraordinary distribution to shareholders and shall include the following in the request:

(1) The amount of the proposed dividend or distribution;

(2) The date proposed for the payment of the dividend or the distribution;

(3) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(4) The copy of the calculations determining that the proposed dividend is extraordinary pursuant to the definition in Insurance Article, §7-706(b), Annotated Code of Maryland, which shall include the following information:

(a) The amounts, dates, and form of payment of all dividends or distributions of cash or other property stated at fair market value paid within the preceding 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought;

(b) Surplus as regards policyholders (total capital and surplus) as of the 31st day of December of the preceding year;

(c) One of the following:

(i) If the insurer is a life insurer, the net gain from operations of the insurer not including realized capital gains or pro rata distributions of any class of the insurer's own securities for the 12 month period ending December 31 of the preceding year; or

(ii) If the insurer is not a life insurer, the net investment income not including realized capital gains or pro rata distributions of any class of the insurer's own securities for the 12-month period ending December 31 of the preceding year; and

(d) If the insurer is not a life insurer, the net investment income from the 3 calendar years prior to the preceding calendar year, not including realized capital gains, minus dividends paid to stockholders in the preceding 3 calendar years;

(5) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

ALFRED W. REDMER, JR.
Insurance Commissioner

compared to the large group market. The cost to administer a small group plan contract, at lower plan asset values, costs more than the 1.5 percent in the current regulation and more than what it costs to administer large group plan contracts, thereby limiting competition among small group policies in the state and limiting product options for small group employers in the state. Additionally, the group annuity purchase is typically a commercial (as opposed to an individual) transaction between businesses. As with other forms of insurance contracts, the regulatory restrictions for the group (commercial) contracts should be more flexible than the individual contracts. Based on market experience to date, these amendments will increase consumer choices in the group variable contract marketplace.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This proposed action may have an impact on the issuing agency, the insurance industry and the public. This amendment clarifies that the current requirement in COMAR 31.09.04.08L that establishes a maximum asset deduction charge for investment expenses and annuity mortality guarantees applies only to contract accounts for individual variable contracts and not to contract accounts for group variable contracts.

II. Types of Economic Impact.

A. On issuing agency:

Contract Review

Revenue (R+/R-)

Expenditure (E+/E-) Magnitude

(R-) Minimal

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:

Asset Deduction Charges

(+)

Unknown

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

A. The Maryland Insurance Administration anticipates receiving filings of amendments to variable material in certain group variable contracts as well as new group variable contract filings as a result of these regulations. No additional revenue would accompany amendments to existing filings, since variable material filings do not require a filing fee. A filing fee would be assessed on carriers who file new contracts with the state.

F. Based on market activity to date, purchasers of group variable contracts will find new choices in the marketplace for this product as a result of these regulations.

Subtitle 09 LIFE INSURANCE AND ANNUITIES

31.09.04 Contracts on a Variable Basis

Authority: Insurance Article, §§2-109 and 16-601—16-603, Annotated Code of Maryland

Notice of Proposed Action

[16-027-P]

The Insurance Commissioner proposes to adopt amendments to Regulations .02 and .08 under **COMAR 31.09.04 Contracts on a Variable Basis**.

Statement of Purpose

The purpose of this action is to update an inaccurate reference to the Insurance Article in Regulation .02, and to clarify that the maximum asset deduction charge for investment expenses and annuity mortality guarantees under variable contract accounts applies only to contract accounts for individual variable contracts, and not to group variable contracts in Regulation .04. The distribution, administration and servicing of a group annuity contract can be different and can be more costly in the small group market as

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through February 22, 2016. A public hearing has not been scheduled.

.02 Definitions.

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

(1) “Contracts on a variable basis” means annuity contracts, as defined in Insurance Article, [§1-101(f)] §1-101(e), Annotated Code of Maryland, which provide for payments varying directly with the investment experience of a segregated asset account, hereinafter referred to as “variable contract account”, as distinguished from “fixed annuity contracts”. This definition does not include any of the forms of insurance prohibited by Insurance Article, §§16-112 and 27-207, Annotated Code of Maryland.

(2) “Fixed annuity contracts” or “guaranteed annuity contracts” means annuity contracts, as defined in Insurance Article, [§1-101(f)] §1-101(e), Annotated Code of Maryland, which provide for payment of fixed dollar amounts guaranteed in the contract.

- C. (text unchanged)

.08 Administration and Accounting Procedures.

- A.—K. (text unchanged)

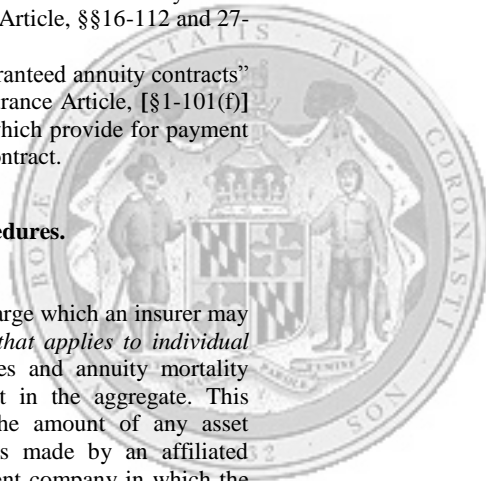
- L. Maximum Asset Deduction Charge.

(1) The maximum asset deduction charge which an insurer may make against a variable contract account *that applies to individual variable contracts* for investment expenses and annuity mortality guarantees may not exceed 1-1/2 percent in the aggregate. This maximum charge shall be reduced by the amount of any asset deduction charge for investment expenses made by an affiliated open-end diversified management investment company in which the assets of the variable contract account are invested in accordance with the provisions of §I of this regulation.

- (2)—(3) (text unchanged)

- M.—N. (text unchanged)

ALFRED W. REDMER, Jr.
Insurance Commissioner



Errata

COMAR 31.15

At 43:1 Md. R. 76 (January 8, 2016), column 2, line 19 from the bottom:

For: **COMAR 31.15.16 Annuity Disclosure.**

Read: **COMAR 31.15.15 Annuity Disclosure.**

[16-02-46]



Special Documents

DEPARTMENT OF THE ENVIRONMENT SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on February 4, 2016, in Grantville, 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 10, 2016, 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 15, 2016.

DATES: The public hearing will convene on February 4, 2016, at 7:00 p.m. The public hearing will end at 9:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is February 15, 2016.

ADDRESSES: The public hearing will be conducted at the East Hanover Township Municipal Building, Main Hall, 8848 Jonestown Road, Grantville, PA 17028 (parking lot entry off of Manada Gap Road; see <http://easthanovertwpdcpa.org/index.php/about-contact>).

FOR FURTHER INFORMATION CONTACT: Jason Oyler, General 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.srbc.net/wrp. Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at www.srbc.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: Anadarko E&P Onshore LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 1.340 mgd (peak day) (Docket No. 20120301).

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.115 mgd (30-day average) from Dug Road Well.

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.038 mgd (30-day average) from Hilltop Well.

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.216 mgd (30-day average) from Midway Well 1.

Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Midway Manor System, Kingston Township, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.110 mgd (30-day average) from Midway Well 2.

Project Sponsor and Facility: Black Bear Waters, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.900 mgd (peak day) (Docket No. 20120303).

Project Sponsor and Facility: East Berlin Area Joint Authority, Reading Township, Adams County, Pa. Application for groundwater withdrawal of up to 0.072 mgd (30-day average) from Well 1.

Project Sponsor and Facility: East Berlin Area Joint Authority, Reading Township, Adams County, Pa. Application for groundwater withdrawal of up to 0.108 mgd (30-day average) from Well 2.

Project Sponsor and Facility: East Berlin Area Joint Authority, East Berlin Borough, Adams County, Pa. Application for groundwater withdrawal of up to 0.058 mgd (30-day average) from Well 4.

Project Sponsor and Facility: East Berlin Area Joint Authority, East Berlin Borough, Adams County, Pa. Application for renewal with modification to increase groundwater withdrawal limit by an additional 0.048 mgd (30-day average), for a total of up to 0.072 mgd (30-day average) from Well 5 (Docket No. 19860601).

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.059 mgd (30-day average) from Well 3A.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.028 mgd (30-day average) from Well 4.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.056 mgd (30-day average) from Well 5.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.022 mgd (30-day average) from Well 6.

Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.046 mgd (30-day average) from Well 7.

Project Sponsor and Facility: EQT Production Company (Wilson Creek), Duncan Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.740 mgd (peak day) (Docket No. 20120307).

Project Sponsor and Facility: Furman Foods, Inc., Point Township, Northumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.320 mgd (30-day average) from Well 1 (Docket No. 19850901).

Project Sponsor and Facility: Furman Foods, Inc., Point Township, Northumberland County, Pa. Application for renewal of groundwater withdrawal of up to 0.190 mgd (30-day average) from Well 4 (Docket No. 19850901).

Project Sponsor and Facility: Furman Foods, Inc., Point Township, Northumberland County, Pa. Application for renewal of

groundwater withdrawal of up to 0.090 mgd (30-day average) from Well 7 (Docket No. 19850901).

Project Sponsor and Facility: Mount Joy Borough Authority, Mount Joy Borough, Lancaster County, Pa. Modification to increase withdrawal limit from Well 2 by 0.105 mgd (30-day average), for a total Well 2 withdrawal limit of 1.270 mgd (30-day average), and to increase the combined withdrawal limit by an additional 0.199 mgd (30-day average), for a total combined withdrawal limit of 1.799 mgd (30-day average) from Wells 1 and 2 (Docket No. 20110617).

Project Sponsor and Facility: Muncy Borough Municipal Authority, Muncy Creek Township, Lycoming County, Pa. Application for groundwater withdrawal of up to 0.324 mgd (30-day average) from Well 5.

Project Sponsor and Facility: Muncy Borough Municipal Authority, Muncy Creek Township, Lycoming County, Pa. Application for groundwater withdrawal of up to 0.324 mgd (30-day average) from Well 6.

Project Sponsor and Facility: Muncy Borough Municipal Authority, Muncy Creek Township, Lycoming County, Pa. Application for groundwater withdrawal of up to 0.126 mgd (30-day average) from Well 7.

Project Sponsor and Facility: Muncy Borough Municipal Authority, Muncy Creek Township, Lycoming County, Pa. Application for groundwater withdrawal of up to 0.276 mgd (30-day average) from Well 8.

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Cresson Borough, Cambria County, Pa. Application for groundwater withdrawal from the Argyle Stone Bridge Well as part of a four-well system drawing up to 6.300 mgd (30-day average) from the Gallitzin Shaft and Cresson Mine Pools.

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Cresson Township, Cambria County, Pa. Application for groundwater withdrawal from the Cresson No. 9 Well as part of a four-well system drawing up to 6.300 mgd (30-day average) from the Gallitzin Shaft and Cresson Mine Pools.

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Gallitzin Township, Cambria County, Pa. Application for groundwater withdrawal from the Gallitzin Shaft Well 2A (Gallitzin Shaft #2) as part of a four-well system drawing up to 6.300 mgd (30-day average) from the Gallitzin Shaft and Cresson Mine Pools.

Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Conservation and Restoration. Project Facility: Cresson Mine Drainage Treatment Plant, Gallitzin Township, Cambria County, Pa. Application for groundwater withdrawal from the Gallitzin Shaft Well 2B (Gallitzin Shaft #1) as part of a four-well system drawing up to 6.300 mgd (30-day average) from the Gallitzin Shaft and Cresson Mine Pools.

Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Mehoopany Township, Wyoming County, Pa. Application for surface water withdrawal of up to 2.000 mgd (peak day).

Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Oakland Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20120311).

Project Sponsor and Facility: SWN Production Company, LLC (Tunkhannock Creek), Lenox Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 1.218 mgd (peak day) (Docket No. 20120312).

Project Scheduled for Action Involving a Diversion:

Project Sponsor: Gas Field Specialists, Inc. Project Facility: Wayne Gravel Products Quarry, Ceres Township, McKean County, Pa. Application for into-basin diversion from the Ohio River Basin of up to 1.170 mgd (peak day).

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. Rules of conduct will be posted on the Commission's website, www.srbc.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, General Counsel, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through www.srbc.net/pubinfo/publicparticipation.htm. Comments mailed or electronically submitted must be received by the Commission on or before February 15, 2016, to be considered.

AUTHORITY: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: December 30, 2015.

STEPHANIE L. RICHARDSON
Secretary to the Commission

[16-02-41]

MARYLAND HEALTH CARE COMMISSION

SCHEDULES FOR CERTIFICATE OF NEED REVIEW

The Maryland Health Care Commission provides the following schedules to interested members of the public and sponsors of health care facility and service projects subject to Certificate of Need (“CON”) review and approval.

The general criteria for Certificate of Need review are set forth at COMAR 10.24.01.08G(3). An applicant must demonstrate that the proposed project is consistent with these review criteria. It will be noted that the first criterion is evaluation of the project according to all relevant State Health Plan standards, policies and criteria.

This Certificate of Need review schedule updates and extends the schedule published in 42:22 *Md. Register*, pages 1414--1417 (October 30, 2015), by repealing each previously published scheduled review for which the due date for receipt of Letters of Intent has not yet occurred. This review schedule is not a solicitation by the Commission for Certificate of Need applications, and does not indicate, in of itself, that additional capacity is needed in services subject to Certificate of Need review, or that Certificate of Need applications submitted for the services described will be approved by the Commission.

Applicants are encouraged to discuss their development plans and projects with the Commission Staff prior to filing letters of intent or applications.

Letters of Intent and applications for scheduled reviews may only be received and reviewed according to these published schedules. All Letters of Intent and Certificate of Need applications, including all of the required number of copies of CON applications, must be received at the offices of the **Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215, no later than 4:30 p.m.** on the scheduled date of submission. Letters of intent for projects not covered by this review schedule may be filed at any time.

For further information about review schedules or procedures, call Kevin McDonald, Chief, Certificate of Need, at (410) 764-5982.

Acute Care Hospital Projects: Capital Construction and Changes to Bed Capacity

The Commission hereby publishes the following schedules for the submission of Certificate of Need applications by acute care general hospitals, for projects that involve: (1) capital expenditures by or on behalf of acute care hospitals that exceed the applicable capital expenditure threshold referenced at COMAR 10.24.01.02A(5); (2) proposed changes in bed capacity or operating room capacity at existing hospitals; (3) the relocation of an acute care hospital; and/or (4) a change in the type or scope of any health care service offered by an acute care hospital, as specified at COMAR 10.24.01.02A, except for neonatal intensive care. Note that the following schedules do not apply to a project to establish a new acute care hospital.

Schedule One: All Acute Care Hospital Projects

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Allegany, Frederick, Garrett, Washington	November 6, 2015	November 18, 2015	January 8, 2016
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	December 4, 2015	December 16, 2015	February 5, 2016
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	January 8, 2016	January 20, 2016	March 11, 2016
Calvert, Charles, Montgomery, Prince George's, St. Mary's	February 5, 2016	February 17, 2016	April 8, 2016

Schedule Two: All Acute Care Hospital Projects

Special Hospitals (Pediatric, Psychiatric, Chronic, and Rehabilitation)

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Allegany, Frederick, Garrett, Washington	May 6, 2016	May 18, 2016	July 8, 2016
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	June 3, 2016	June 15, 2016	August 5, 2016
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	July 8, 2016	July 20, 2016	September 9, 2016
Calvert, Charles, Montgomery, Prince George's, St. Mary's	August 5, 2016	August 17, 2016	October 7, 2016

Special Hospital (Pediatric, Psychiatric, Chronic, and Rehabilitation)

The Commission hereby publishes the following schedules for the submission of applications for any action related to facilities within the “special hospital” license category (psychiatric, chronic, rehabilitation, or pediatric), including a replacement facility for an existing special hospital, capital expenditures for new construction or renovation at an existing special hospital, or changes to service categories or bed capacity in an existing special hospital. Note that the following schedules do not apply to a project to establish a new special hospital.

For this special hospital services schedule, the Commission will use the following regional configuration of counties:

Western Maryland: Allegany, Carroll, Frederick, Garrett, Washington	Central Maryland: Anne Arundel, Baltimore, Harford, Howard, Baltimore City
Montgomery : Montgomery County	Southern Maryland: Calvert, Charles, Prince George's, St. Mary's
Eastern Shore: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	

**Schedule One
Special Hospitals (Pediatric, Psychiatric, Chronic, and Rehabilitation)**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	November 6, 2015	November 18, 2015	January 8, 2016
Montgomery County	December 4, 2015	December 16, 2015	February 5, 2016
Southern Maryland	January 8, 2016	January 20, 2016	March 11, 2016
Central Maryland	February 5, 2016	February 17, 2016	April 8, 2016
Eastern Shore	March 4, 2016	March 16, 2016	May 6, 2016

**Schedule Two
Special Hospitals (Pediatric, Psychiatric, Chronic, and Rehabilitation)**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	May 6, 2016	May 18, 2016	July 8, 2016
Montgomery County	June 3, 2016	June 15, 2016	August 5, 2016
Southern Maryland	July 8, 2016	July 20, 2016	September 9, 2016
Central Maryland	August 5, 2016	August 17, 2016	October 7, 2016
Eastern Shore	September 2, 2016	September 14, 2016	November 4, 2016

Freestanding Ambulatory Surgical Facilities

The Commission hereby establishes the following schedules for the submission of applications to establish freestanding ambulatory surgical facilities, add operating rooms at an existing freestanding ambulatory surgical facility, or make a capital expenditure by or on behalf of a freestanding ambulatory surgical facility that requires Certificate of Need review and approval. The definition of freestanding ambulatory surgical facility can be found at Health-General Article §19-114(b).

**Schedule One
Freestanding Ambulatory Surgical Facilities**

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Calvert, Charles, Montgomery, Prince George's, St. Mary's	November 6, 2015	November 18, 2015	January 8, 2016
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	December 4, 2015	December 16, 2015	February 5, 2016
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot Wicomico, Worcester	January 8, 2016	January 20, 2016	March 11, 2016
Allegany, Frederick, Garrett, Washington	February 5, 2016	February 17, 2016	April 8, 2016

**Schedule Two
Freestanding Ambulatory Surgical Facilities**

Jurisdictions	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Calvert, Charles, Montgomery, Prince George's, St. Mary's	May 6, 2016	May 18, 2016	July 8, 2016
Anne Arundel, Baltimore, Carroll, Harford, Howard, Baltimore City	June 3, 2016	June 15, 2016	August 5, 2016
Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot Wicomico, Worcester	July 8, 2016	July 20, 2016	September 9, 2016
Allegany, Frederick, Garrett, Washington	August 5, 2016	August 17, 2016	October 7, 2016

Comprehensive Care Facility Projects

The Commission hereby publishes the following two schedules for Certificate of Need review of proposed projects affecting comprehensive care facilities (“CCFs”). Schedule One identifies the review cycles for proposals involving the addition of CCF beds in Maryland jurisdictions in which the most recent State Health Plan need projection (COMAR 10.24.08, effective October 3, 2014) identifies a net need for beds in the forecast year of 2016 and for which no letters of intent or applications have been filed.. Persons interested in submitting Certificate of Need applications involving the addition of beds in these jurisdictions should contact the Maryland Health Care Commission to ascertain the current level of net bed need, if any, identified for these jurisdictions prior to the filing of a Certificate of Need application. Schedule Two establishes submission dates for Certificate of Need applications related to all other CCF projects that do not involve an increase in CCF bed capacity in a jurisdiction. These include projects that involve a proposed capital expenditure for new construction or renovation at an existing CCF, the relocation of an existing facility, or the proposed relocation of some or all of the CCF bed capacity from an existing facility to a new site within the same jurisdiction.

In the State Health Plan for this service, the following configuration of jurisdictions by region applies:

Western Maryland: Allegany, Carroll, Frederick, Garrett, Washington	Central Maryland: Anne Arundel, Baltimore, Harford, Howard, Baltimore City
Montgomery : Montgomery County	Southern Maryland: Calvert, Charles, Prince George's, St. Mary's
Eastern Shore: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester	

**Schedule One
Proposed New Comprehensive Care Facility Beds**

Jurisdiction	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Queen Anne’s County	January 8, 2016	January 20, 2016	March 11, 2016
Howard County	February 5, 2016	February 17, 2016	April 8, 2016
Frederick County	March 4, 2016	March 16, 2016	May 6, 2016
St. Mary’s County	April 1, 2016	April 13, 2016	June 3, 2016

**Schedule Two
Part A: Other Comprehensive Care Facility Projects**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Eastern Shore	November 6, 2015	November 18, 2015	January 8, 2016
Western Maryland	December 4, 2015	December 16, 2015	February 5, 2016
Montgomery County	January 8, 2016	January 20, 2016	March 11, 2016
Central Maryland	February 5, 2016	February 17, 2016	April 8, 2016
Southern Maryland	March 4, 2016	March 16, 2016	May 6, 2016

**Schedule Two
Part B: Other Comprehensive Care Facility Projects**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Eastern Shore	May 6, 2016	May 18, 2016	July 8, 2016
Western Maryland	June 3, 2016	June 15, 2016	August 5, 2016
Montgomery County	July 8, 2016	July 20, 2016	September 9, 2016
Central Maryland	August 5, 2016	August 17, 2016	October 7, 2016
Southern Maryland	September 2, 2016	September 14, 2016	November 4, 2016

General Hospice Projects

The Commission hereby publishes the following schedule for Certificate of Need review of proposed projects involving the establishment of a general hospice or the expansion of an existing general hospice into a jurisdiction that the existing general hospice has not been authorized to serve. This schedule will only have force and effect if need projections for general hospice services based on the methodology in COMAR 10.24.13.06 are published in the *Maryland Register* and those published need projections identify either of the following jurisdictions listed in the following table as jurisdictions that, in the target year, have net need for general hospice services greater than the volume threshold, in accordance with proposed COMAR 10.24.13.06H(2)(k).

Jurisdiction	Letter of Intent Date	Pre-Application Conference Date	Application Submission Date
Prince George’s	June 3, 2016	June 15, 2016	August 5, 2016
Baltimore City	October 7, 2016	October 19, 2016	December 9, 2016

Freestanding Medical Facilities

The Commission hereby publishes the following statewide schedule for Certificate of Need review of proposed projects to establish or relocate freestanding medical facilities (FMFs) and proposed capital expenditures by or on behalf of FMFs that require CON review and approval. State Health Plan regulations for the review of FMF projects are currently under development. The following schedule is contingent on the Commission adopting final regulations by June 16, 2016.

Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
July 8, 2016	July 20, 2016	September 9, 2016

[16-02-45]

SCHEDULE FOR CERTIFICATE OF ONGOING PERFORMANCE REVIEWS

The Maryland Health Care Commission provides the following schedule for the review of applications for Certificates of Ongoing Performance by hospitals for their primary percutaneous intervention (PCI) services, non-primary PCI services, and cardiac surgery services programs, if they are subject to on-going performance review in accordance with COMAR 10.24.17.

Applications must be submitted no later than the published due date and will only be received and reviewed in accordance with this published schedule. All applications, including the required number of copies, must be received at the offices of the Maryland Health Care Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215, no later than 4:30 p.m. on the scheduled date of submission. For further information about the review schedules or procedures, contact Eileen Fleck, Chief, Acute Care Policy and Planning, at Eileen.fleck@maryland.gov or 410-764-3287.

Cardiac Surgery Services

Planning Region	Application Submission Date
Washington Metropolitan Region, Lower Eastern Shore, Western	May 20, 2016
Baltimore Upper Shore Region	November 18, 2016

Percutaneous Coronary Intervention Services

Hospitals	Application Submission Date
Anne Arundel Carroll Howard County General Johns Hopkins Bayview	
MedStar Franklin Square St. Agnes UM Baltimore Washington UM Upper Chesapeake	
MedStar Union Memorial Peninsula Regional Sinai of Baltimore The Johns Hopkins	June 9, 2017
Frederick Memorial Holy Cross Hospital MedStar Southern Maryland Meritus	October 6, 2017
Prince George's Shady Grove Adventist Suburban Hospital. Washington Adventist	

Note: Due to the concentration of PCI programs in the Baltimore Upper Shore Health Planning Region, the submission of applications has been distributed over two review cycles, with the first cycle covering Baltimore Upper Shore hospitals that currently provide PCI services only and the second cycle covering Baltimore Upper Shore hospitals with both cardiac surgery and PCI services.

[16-02-44]

General Notices

Notice of ADA Compliance

The State of Maryland is committed to ensuring that individuals with disabilities are able to fully participate in public meetings. Anyone planning to attend a meeting announced below who wishes to receive auxiliary aids, services, or accommodations is invited to contact the agency representative at least 48 hours in advance, at the telephone number listed in the notice or through Maryland Relay.

ATHLETIC COMMISSION

Subject: Public Meeting
Date and Time: January 27, 2016, 11 a.m. — 1 p.m.; Additional Dates: February 24 and March 30, 2016
Place: 500 N. Calvert St., 3rd Fl. Conf. Rm., Baltimore, MD
Contact: Patrick Pannella (410) 230-6223
 [16-02-28]

CHESAPEAKE BAY TRUST

Subject: Public Meeting
Date and Time: February 17, 2016, 3 — 6 p.m.
Place: Loews Hotel, Powerhouse Rm., Annapolis, MD
Contact: Heather Adams (410) 974-2941
 [16-02-39]

COMPTROLLER OF THE TREASURY/ADMINISTRATION AND FINANCE

Subject: Reduction of Bond Authorization Announcement
Add'l. Info: Pursuant to State Finance and Procurement Article, §8-128, Annotated Code of Maryland, which provides that, if within 2 years after the date of an authorization of State debt no part of the project or program for which the enabling act authorized the State debt is under contract and the Board of Public Works has not committed money for any part of the project or program, the authorization terminates unless:
 (1) The enabling act provides otherwise; or
 (2) In an emergency, the Board unanimously grants a temporary exception for a period of 1 year.

Therefore, with Board of Public Works approval of item, BONDS #7, dated January 6, 2016, we submit for publication the following cancellation of bond authorizations in accordance with the above-referenced articles:

Deale Elementary School Technology Enhancement Project: Ch. 444,, Acts of 2012, amended by Ch. 463, Acts of 2014; \$23,000; authorized the funds for the design, construction, repair, renovation, and capital equipping of the Deale Elementary School Technology Enhancement Project, located in Deale.

Family Crisis Center Security System: Ch. 444, Acts of 2012, amended by Ch.

463, Acts of 2014; \$70,000; authorized the funds for the acquisition, design, and capital equipping of the Family Crisis Center Security System, located in Brentwood.

Boys and Girls Club of Cecil County Northeast Renovation Project: Ch. 424, Acts of 2013; \$50,000; authorized the funds for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Boys & Girls Club of Cecil County Northeast facility.

Catonsville Rails to Trails: Ch. 424, Acts of 2013; \$50,000; authorized the funds for the planning, design, site development, construction, and capital equipping of the Short Line Trail.

Chesapeake Math and IT Academy Gymnasium: Ch. 424, Acts of 2013; \$100,000; authorized the funds for the design, construction, renovation, and capital equipping of the Chesapeake Math and IT Academy Gymnasium.

Chesapeake Math and IT Academy Gymnasium: Ch. 424, Acts of 2013; \$150,000; authorized the funds for the design, construction, renovation, and capital equipping of the Chesapeake Math and IT Academy Gymnasium.

Diversified Housing Development: Ch. 424, Acts of 2013; \$120,000; authorized the funds for the acquisition, construction, repair and renovation of the Diversified Housing Development facility.

Havre de Grace Opera House: Ch. 424, Acts of 2013; \$250,000; authorized the funds for the design, construction, repair, renovation, reconstruction, and capital equipping of the Havre de Grace Opera House.

Kids International Discovery Museum: Ch. 424, Acts of 2013; \$50,000; authorized the funds planning and design of the Kids International Discovery Museum's new children's science museum.

Liberty Rec and Tech Center: Ch. 424, Acts of 2013; \$200,000; authorized the funds for the planning, design, construction, repair, renovation, reconstruction and capital equipping of the Liberty Rec and Tech Center.

Melwood Recreation Center: Ch. 424, Acts of 2013; \$105,000; authorized the funds for the construction, repair, renovation, reconstruction, and capital equipping of the Melwood Recreation

Center, including replacing an old bar, renovating storage buildings and replacing the HVAC system.

Mount Pleasant Family Life Center: Ch. 424, Acts of 2013; \$100,000; authorized the funds for the design, construction, renovation and capital equipping of the Mount Pleasant Family Life Center.

National Philippine Multi-Cultural Center: Ch. 424, Acts of 2013; \$100,000; authorized the funds for the acquisition, planning, design, construction and capital equipping of the National Philippine Multi-Cultural Center.

New Revival Center of Renewal: Ch. 424, Acts of 2013; \$150,000; authorized the funds for the design, construction, renovation and capital equipping of the New Revival Center of Renewal.

Re Rentuma
 Fiscal Specialist
 Administration and Finance
Contact: Re Rentuma (410) 260-7909
 [16-02-38]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: March 14, 2016, 1 — 3 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Contact: Jessica Wheeler (410) 821-2844
 [16-02-11]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: March 17, 2016, 1 — 3 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: CJAC Meeting
Contact: Jessica Wheeler (410) 821-2844
 [16-02-13]

GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Subject: Public Meeting
Date and Time: May 9, 2016, 1 — 3 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: Juvenile Council Meeting
Contact: Jessica Wheeler (410) 821-2844
 [16-02-12]

**GOVERNOR'S OFFICE OF CRIME
CONTROL AND PREVENTION**

Subject: Public Meeting
Date and Time: May 19, 2016, 1 — 3 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: CJAC Meeting
Contact: Jessica Wheeler (410) 821-2844
 [16-02-14]

**GOVERNOR'S OFFICE OF CRIME
CONTROL AND PREVENTION**

Subject: Public Meeting
Date and Time: July 28, 2016, 12:30 — 3:30 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: CJAC Meeting — Grant Review Session
Contact: Jessica Wheeler (410) 821-2844
 [16-02-15]

**GOVERNOR'S OFFICE OF CRIME
CONTROL AND PREVENTION**

Subject: Public Meeting
Date and Time: September 15, 2016, 1 — 3 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: CJAC Meeting
Contact: Jessica Wheeler (410) 821-2844
 [16-02-16]

**GOVERNOR'S OFFICE OF CRIME
CONTROL AND PREVENTION**

Subject: Public Meeting
Date and Time: November 17, 2016, 1 — 3 p.m.
Place: GOCCP, 300 E. Joppa Rd., Ste. 1105, Baltimore, MD
Add'l. Info: CJAC Meeting
Contact: Jessica Wheeler (410) 821-2844
 [16-02-17]

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

Subject: Listing of Trauma/Specialty Referral Centers Requesting Reverification of Status and Call for Applications from Those Wishing to Be Considered for Designation
Place: MIEMSS, Office of Hospital Programs, 653 W. Pratt St., Baltimore, MD
Add'l. Info: Pursuant to COMAR 30.08.02.10C, the Maryland Institute for Emergency Medical Services Systems gives notice that the following hospital has requested reverification as an Adult Burn Center: Johns Hopkins Bayview Medical Center. Any person with knowledge of any

reason why the above listed hospital should not be reverified and redesignated is requested to submit a written statement of the reason to MIEMSS by February 11, 2016.

In addition, pursuant to COMAR 30.08.02.03C, hospitals not designated but who wish to be considered for designation as Adult Burn Centers should submit a written letter of intent to the office listed above. Letters of intent are due to MIEMSS by February 11, 2016. For more information contact Carole Mays, Director, Trauma & Injury Specialty Care Program at (410) 706-3932 or email cmays@miemss.org.

Contact: Leandrea Gilliam (410) 706-4449
 [16-02-37]

**BOARD OF ENVIRONMENTAL
HEALTH SPECIALISTS**

Subject: Public Meeting
Date and Time: February 3, 2016, 10 a.m. — 3 p.m.
Place: 8270 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) 764-5911
 [16-02-19]

**DEPARTMENT OF HEALTH AND
MENTAL HYGIENE/MEDICAID
PHARMACY AND THERAPEUTICS
COMMITTEE**

Subject: Call for Physician, Pharmacist, and Consumer Nominations for the Maryland Medicaid Program's Pharmacy and Therapeutics (P&T) Committee
Add'l. Info: The Maryland Department of Health and Mental Hygiene (DHMH) is currently recruiting physicians, pharmacists, and consumers to serve on the Maryland Medicaid Program's Pharmacy and Therapeutics (P&T) Committee.

The Committee shall be composed of no fewer than 12 members, appointed by the Secretary for a 3-year term. At least five members shall be physicians licensed in Maryland (with one being a psychiatrist); five members shall be pharmacists licensed in Maryland (with one having expertise with mental health drugs); and two members shall be consumer representatives residing in the State.

Duties and Powers of Committee

RULES: The Committee shall operate under Standard Operating Procedures and comply with rules adopted by DHMH, including notice of any meeting of the Committee pursuant to the requirements of the Administrative Procedures Act.

REGULAR MEETINGS: The Committee shall meet at least twice a year, and may meet at other times at the discretion of DHMH. To the extent feasible, the Committee shall review all drug classes included in the Preferred Drug List at least every 12 months. Executive sessions shall be closed to the public.

ATTENDANCE: Members of the Committee may be removed if they miss two consecutive Committee meetings.

PREFERRED DRUG LIST DEVELOPMENT: The Committee reviews classes of medications and recommends to DHMH which medications should be included in the Preferred Drug List for prescribing to Medicaid recipients. The Preferred Drug List is composed of cost-effective, medically appropriate drug therapies for Medicaid recipients. The Committee shall develop its Preferred Drug List recommendations by considering the clinical efficacy, safety, and cost effectiveness of drug products. Analyses shall be based upon reviews of relevant clinical information, including but not limited to FDA-approved labeling, supporting studies, published head to head comparisons, and peer-reviewed medical journal articles.

PRIOR AUTHORIZATION: The Committee may also make recommendations to DHMH regarding the prior authorization of any prescribed drug covered by Medicaid.

Magellan Medicaid Administration is currently providing administrative and technical support to the Department of Health and Mental Hygiene with regard to the P&T Committee.

Deadline to submit an application to serve on the Maryland Medicaid Program's Pharmacy and Therapeutics (P&T) Committee is Friday, February 19, 2016. For an application packet or further information, please contact Gina Homer, Medical Care Program Specialist, Maryland Medicaid Pharmacy Program, Dept. of Health and Mental Hygiene, Suite 407-A, 201 W. Preston Street, Baltimore, MD 21201-2399, phone/voice mail (410)767-1749, or email gina.homer@maryland.gov

Contact: Gina Homer (410) 767-1749

[16-02-20]

**DEPARTMENT OF HEALTH AND
MENTAL HYGIENE/OFFICE OF
HEALTH SERVICES**

Subject: Public Notice to Update Health Home Reimbursement Language for Clarification in the State Plan

Add'l. Info: The Department is clarifying the monthly reimbursement rate for health

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homes. Health home payments were identified as a "per member per month," which does not accurately represent the health home reimbursement model. As such, the Department is changing the language to refer to health home payments as a "monthly rate." This update does not change the way health homes are reimbursed or the amount they receive for the monthly rate. Lastly, this update has no fiscal impact.

Written comments may be sent to Elaine Hall, Office of Health Services, DHMH, 201 W. Preston St., Rm. 213a, Baltimore, MD 21201, or call (410) 767-1998, or email to

dhmh.healthhomes@maryland.gov

Contact: Elaine Hall (410) 767-1998
[16-02-40]

FACILITIES ADVISORY BOARD- JUVENILE SERVICES

Subject: Public Meeting
Date and Time: February 8, 2016, 5 — 7 p.m.
Place: Baltimore City Juvenile Justice Center, 300 N. Gay St., Baltimore, MD
Contact: Robin Strozier (443) 263-6355
[16-02-43]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: February 18, 2016, 1 p.m.
Place: 4160 Patterson Ave., Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
[16-02-05]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting
Date and Time: March 17, 2016, 1 p.m.
Place: Maryland Health Care Commission, 4160 Patterson Ave., Rm. 100, Baltimore, MD
Contact: Valerie Wooding (410) 764-3460
[16-02-18]

MARYLAND HEALTH CARE COMMISSION

Subject: Notice of Request for Proposed Project Change to Approved CON
Add'l. Info: On December 22, 2015, the Maryland Health Care Commission (MHCC) received notice and a request for approval of project changes under COMAR 10.24.01.17B from Prince George's Post Acute Care, LLC, holder of a certificate of need (CON), Docket No. 13-16-2347.

The project's sponsor has requested approval for:

(1) Change in the design of the facility; and

(2) Increase in the capital cost of the project of \$7,767,066.

Please refer to the Docket No. listed above in any correspondence on this request, a copy of which is available for review by appointment in MHCC offices during regular business hours. All correspondence should be addressed to Kevin McDonald, Chief, Certificate of Need, MHCC, 4160 Patterson Avenue, Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276
[16-02-31]

MARYLAND PUBLIC TELEVISION

Subject: Public Meeting
Date and Time: February 23, 2016, 8:30 a.m. — 10:30 a.m.
Place: Maryland Public Television, Owings Mills, MD
Contact: Laura Taylor (410) 581-4141
[16-02-23]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: February 3, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr., Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-02-24]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: February 17, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr., Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-02-25]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: March 2, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr., Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-02-26]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: March 16, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr., Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-02-27]

MINORITY BUSINESS ENTERPRISE ADVISORY COMMITTEE

Subject: Public Meeting
Date and Time: March 30, 2016, 8:30 a.m. — 5 p.m.
Place: MDOT Headquarters, 7201 Corporate Center Dr., Trainor Conf. Rm., 1st Fl., Hanover, MD
Contact: Sabrina Bass (410) 865-1240
[16-02-28]

BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Subject: Public Meeting
Date and Time: February 10, 2016, 9:30 a.m. — 1 p.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Andrea Hill (410) 764-4750
[16-02-06]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting
Date and Time: February 19, 2016, 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
[16-02-22]

**BOARD OF EXAMINERS IN
OPTOMETRY**

Subject: Public Meeting on Regulations
Date and Time: January 27, 2016, 12 — 2 p.m.
Place: Metro Executive Bldg., 4201 Patterson Ave., Baltimore, MD
Add'l. Info: The Regulatory Review Committee will discuss and review COMAR 10.28.03, .04, .05 and .06.
Contact: Patricia G. Bennett (410) 764-4710

[16-02-30]

**BOARD OF PODIATRIC MEDICAL
EXAMINERS**

Subject: Public Meeting
Date and Time: February 11, 2016, 1 p.m.
Place: 4201 Patterson Ave., Baltimore, MD
Contact: Sheri Henderson (410) 764-4785

[16-02-01]

**COMMISSION OF REAL ESTATE
APPRAISERS AND HOME
INSPECTORS**

Subject: Public Meeting
Date and Time: February 9, 2016, 10:30 a.m. — 12 p.m.
Place: 500 N. Calvert St., Baltimore, MD
Contact: Patti Schott (410) 230-6165

[16-02-02]

**LISTING OF THE PLANNING
COMMITTEE TO IMPLEMENT
IMPROVED ACCESS TO SEXUAL
ASSAULT MEDICAL FORENSIC
EXAMINATIONS IN MARYLAND
COMMITTEE MEETINGS**

Subject: Public Meeting
Date and Time: February 3, 2016, 8:30 a.m. — 10:30 p.m.
Place: The Women's Caucus, Lowe House Office Bldg., 6 Bladen St., Annapolis, MD
Add'l. Info: Carole Mays (410) 706-3932
Contact: Joyce Dantzler (410) 767-1372

[16-02-03]

**BOARD OF WATERWORKS AND
WASTE SYSTEMS OPERATORS**

Subject: Public Meeting
Date and Time: March 17, 2016, 10 a.m. — 4 p.m.
Place: MES, 259 Najoles Rd., Millersville, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Patricia Kratochvil (410) 537-3167

[16-02-07]

BOARD OF WELL DRILLERS

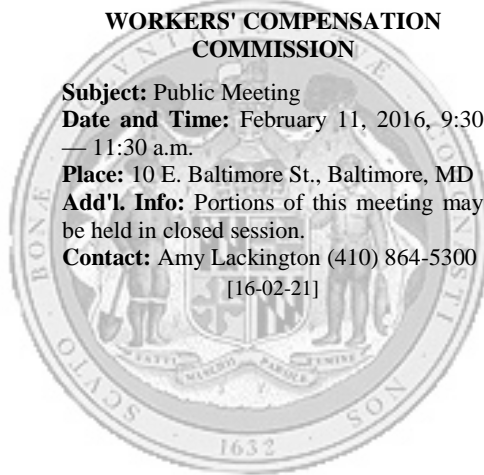
Subject: Public Meeting
Date and Time: February 24, 2016, 9 a.m. — 4 p.m.
Place: MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session
Contact: Chris Nagle (410) 537-4466
 [16-02-09]

BOARD OF WELL DRILLERS

Subject: Public Meeting
Date and Time: March 23, 2016, 9 a.m. — 4 p.m.
Place: MDE, 1800 Washington Blvd., Terra Conf. Rm., Baltimore, MD
Add'l. Info: A portion of this meeting may be held in closed session.
Contact: Chris Nagle (410) 537-4466
 [16-02-10]

**WORKERS' COMPENSATION
COMMISSION**

Subject: Public Meeting
Date and Time: February 11, 2016, 9:30 — 11:30 a.m.
Place: 10 E. Baltimore St., Baltimore, MD
Add'l. Info: Portions of this meeting may be held in closed session.
Contact: Amy Lackington (410) 864-5300
 [16-02-21]



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# CODE OF MARYLAND REGULATIONS

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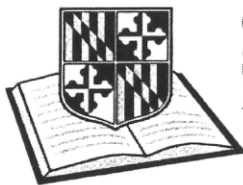
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