



Maryland Register

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Special Documents
General Notices

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before September 10, 2018, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of September 10, 2018.

Gail S. Klakring
Administrator, Division of State Documents
Office of the Secretary of State



Information About the Maryland Register and COMAR

MARYLAND REGISTER

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

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

The following information is also published regularly in the Register:

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

CITATION TO THE MARYLAND REGISTER

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

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

CODE OF MARYLAND REGULATIONS (COMAR)

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

CITATION TO COMAR REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

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

HOW TO RESEARCH REGULATIONS

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

SUBSCRIPTION INFORMATION

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

CITIZEN PARTICIPATION IN THE REGULATION-MAKING PROCESS

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

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

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

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Illustrations by Carolyn Anderson, Dept. of General Services

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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.

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 2019

Issue Date	Emergency and Proposed Regulations 5 p.m.*	Final Regulations 10:30 a.m.	Notices, etc. 10:30 a.m.
2018			
October 12	September 24	October 3	October 1
October 26	October 5**	October 17	October 15
November 9	October 22	October 31	October 29
November 26***	November 5	November 14	November 9**
December 7	November 19	November 28	November 26
December 21	December 3	December 12	December 10
2019			
January 4	December 17	December 26	December 24
January 18	December 31	January 9	January 7
February 1	January 14	January 23	January 18**
February 15	January 28	February 6	February 4
March 1	February 11	February 20	February 15**
March 15	February 25	March 6	March 4
March 29	March 11	March 20	March 18
April 12	March 25	April 3	April 1
April 26	April 8	April 17	April 15
May 10	April 22	May 1	April 29
May 24	May 6	May 15	May 13
June 7	May 20	May 29	May 24**
June 21	June 3	June 12	June 10
July 5	June 17	June 26	June 24
July 19	July 1	July 10	July 22

* 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 changes

The regular closing date for Proposals and Emergencies is Monday.

REGULATIONS CODIFICATION SYSTEM

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

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

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

Cumulative Table of COMAR Regulations Adopted, Amended, or Repealed

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

Table of Pending Proposals

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

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03.03.05.04 • 45:18 Md. R. 835 (8-31-18)

03.06.01.33 • 45:19 Md. R. 867 (9-14-18)

04 DEPARTMENT OF GENERAL SERVICES

04.05.01.08 • 45:2 Md. R. 71 (1-19-18)

04.05.02.02 • 45:2 Md. R. 71 (1-19-18)

08 DEPARTMENT OF NATURAL RESOURCES

08.02.21.03 • 45:20 Md. R. 922 (9-28-18)

09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

09.08.07.01,.02 • 45:20 Md. R. 923 (9-28-18)

09.10.01.17,.28,.88 • 45:17 Md. R. 806 (8-17-18)

09.10.02.43,.53,.53-1 • 45:17 Md. R. 807 (8-17-18)

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09.23.03.11 • 45:20 Md. R. 924 (9-28-18)

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10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

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10.09.06.04,.06,.09 • 45:20 Md. R. 926 (9-28-18)

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45:10 Md. R. 503 (5-11-18) (err)

10.09.37.02—.04,.08,.09,.11 • 45:19 Md. R. 872 (9-14-18)

10.09.48.08 • 45:19 Md. R. 876 (9-14-18)

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10.09.63.06 • 45:20 Md. R. 927 (9-28-18)

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10.21.04.01—.12 • 45:7 Md. R. 357 (3-30-18)

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 15.14.09.03—.05 • 45:20 Md. R. 941 (9-28-18)
 15.14.13.03,.05,.12 • 45:20 Md. R. 942 (9-28-18)
 15.15.13.03,.05 • 45:7 Md. R. 380 (3-30-18)

18 DEPARTMENT OF ASSESSMENTS AND TAXATION

18.02.02.05 • 45:18 Md. R. 842 (8-31-18)
 18.04.03.01 • 45:18 Md. R. 843 (8-31-18)
 18.04.04.01 • 45:18 Md. R. 843 (8-31-18)
 18.04.05.01 • 45:18 Md. R. 844 (8-31-18)
 18.04.07.02,.03 • 45:18 Md. R. 844 (8-31-18)
 18.04.08.05,.06 • 45:18 Md. R. 844 (8-31-18)
 18.04.10.01,.03—.05 • 45:18 Md. R. 845 (8-31-18)
 18.10.01.01 • 45:19 Md. R. 897 (9-14-18)
 18.10.03.01,.03 • 45:19 Md. R. 898 (9-14-18)
 18.11.01.01 • 45:19 Md. R. 898 (9-14-18)
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 18.15.01.01—.03 • 45:19 Md. R. 899 (9-14-18)
 18.15.02.01,.05 • 45:19 Md. R. 899 (9-14-18)

19A STATE ETHICS COMMISSION

19A.01.01.04 • 45:16 Md. R. 785 (8-3-18)

21 STATE PROCUREMENT REGULATIONS

21.01.02.01 • 45:20 Md. R. 942 (9-28-18)
 21.01.03.01 • 45:20 Md. R. 942 (9-28-18)
 21.02.01.05 • 45:20 Md. R. 942 (9-28-18)
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 21.05.08 • 45:20 Md. R. 942 (9-28-18)
 21.05.09.04,.05,.08 • 45:20 Md. R. 942 (9-28-18)
 21.05.13.01—.07 • 45:20 Md. R. 942 (9-28-18)
 21.07.01.19,.25 • 45:20 Md. R. 942 (9-28-18)
 21.07.02.10 • 45:20 Md. R. 942 (9-28-18)
 21.07.03.07,.08 • 45:20 Md. R. 942 (9-28-18)
 21.10.04.04 • 45:20 Md. R. 942 (9-28-18)
 21.11.01.01,.04—.06 • 45:20 Md. R. 942 (9-28-18)
 21.11.03.10,.12,.12-1 • 45:20 Md. R. 942 (9-28-18)
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 21.11.13.01 • 45:20 Md. R. 942 (9-28-18)
 21.13.01.17 • 45:20 Md. R. 942 (9-28-18)

26 DEPARTMENT OF THE ENVIRONMENT

Subtitles 08—12 (Part 2)

26.04.02.01,.05 • 45:3 Md. R. 167 (2-2-18)

26.11.01.01 • 45:17 Md. R. 809 (8-17-18)

26.11.08.01,.02,.04,.05,.07,.08-1,.08-2 • 45:17 Md. R. 809 (8-17-18)

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

30.01.02.01 • 45:16 Md. R. 787 (8-3-18) (ibr)

31 MARYLAND INSURANCE ADMINISTRATION

31.03.13.02 • 45:14 Md. R. 708 (7-6-18)

31.05.11.02,.08,.13—.18 • 45:14 Md. R. 708 (7-6-18)

31.08.15.04,.05 • 45:10 Md. R. 518 (5-11-18)

31.09.16.01—.12 • 45:7 Md. R. 389 (3-30-18)

45:15 Md. R. 752 (7-20-18)

31.10.16.05 • 45:15 Md. R. 752 (7-20-18)

31.14.02.03,.08,.09 • 45:11 Md. R. 595 (5-25-18)

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

36.01.03.02 • 45:17 Md. R. 815 (8-17-18)

36.02.06.04 • 45:17 Md. R. 815 (8-17-18)

36.03.01.02 • 45:17 Md. R. 815 (8-17-18)

36.03.03.07 • 45:17 Md. R. 815 (8-17-18)

36.03.07.03—.07 • 45:17 Md. R. 815 (8-17-18)

36.03.10.16,.19,.20,.26—.29,.31,.38,.41,.43,

.45 • 45:17 Md. R. 815 (8-17-18)

36.04.01.18,.21,.30,.31 • 45:17 Md. R. 815 (8-17-18)

36.05.02.16 • 45:17 Md. R. 815 (8-17-18)

36.05.03.11,.23 • 45:17 Md. R. 815 (8-17-18)

36.07.04.06 • 45:17 Md. R. 815 (8-17-18)



The Judiciary

COURT OF APPEALS OF MARYLAND

DISCIPLINARY PROCEEDINGS

This is to certify that by an Opinion and Order of the Court of Appeals dated August 29, 2018, **JENEBA JALLOH (GHATT)**, 4423 Lehigh Road, #476, College Park, Maryland 20740, has been disbarred, effective immediately, from the further practice of law in this State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 19-761).

* * * * *

This is to certify that by an Order of the Court of Appeals dated September 6, 2018, **STEVEN DOUGLAS SHEMENSKI**, 802 Ingleside Avenue, Catonsville, Maryland 21228, has been disbarred by consent, effective immediately, from the further practice of law in this State, and his name as an attorney at law has been stricken from the register of attorneys in this Court (Maryland Rule 19-761).

[18-20-21]



Emergency Action on Regulations

Symbol Key

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

Emergency Regulations

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

Title 03

COMPTROLLER OF THE TREASURY

Subtitle 06 SALES AND USE TAX

03.06.01 Sales and Use Tax

Authority: Tax General Article, §2-103, Annotated Code of Maryland

Notice of Emergency Action

[18-228-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .33 under **COMAR 03.06.01 Sales and Use Tax**.

Emergency status began: October 1, 2018.

Emergency status expires: March 30, 2019.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 45:19 Md. R. 867—869 (September 14, 2018), referenced as [18-228-P].

PETER FRANCHOT
Comptroller

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 02

OFFICE OF THE ATTORNEY GENERAL

Subtitle 08 SEXUAL ASSAULT EVIDENCE KITS

02.08.01 Sexual Assault Victims' Rights — Disposal of Rape Kit Evidence and Notification

Authority: Criminal Procedure Article, §11-926(e), Annotated Code of Maryland

Notice of Final Action

[18-165-F]

On September 5, 2018, the Office of the Attorney General adopted new Regulations **.01 — .05** under a new chapter, **COMAR 02.08.01 Sexual Assault Victims' Rights — Disposal of Rape Kit Evidence and Notification**, under a new subtitle, **Subtitle 08 Sexual Assault Evidence Kits**. This action, which was proposed for adoption in 45:14 Md. R. 703 — 704 (July 6, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

BRIAN E. FROSH
Attorney General

Title 05

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 05 RENTAL HOUSING PROGRAMS

[18-170-F]

On September 10, 2018, the Secretary of Housing and Community Development adopted amendments to:

- (1) Regulation **.13** under **COMAR 05.05.01 Rental Housing Program**; and
- (2) Regulation **.07** under **COMAR 05.05.02 Multifamily Bond Program**.

This action, which was proposed for adoption in 45:14 Md. R. 704—705 (July 6, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

KENNETH C. HOLT
Secretary of Housing and Community Development

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 03 WILDLIFE

08.03.04 Forest Wildlife

Authority: Natural Resources Article, §§10-415 and 10-418, Annotated Code of Maryland

Notice of Final Action

[18-173-F]

On September 18, 2018, the Secretary of Natural Resources adopted amendments to Regulations **.02, .15, and .23** under **COMAR 08.03.04 Forest Wildlife**. This action, which was proposed for adoption in 45:15 Md. R. 729—730 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

MARK J. BELTON
Secretary of Natural Resources

Subtitle 03 WILDLIFE

08.03.04 Forest Wildlife

Authority: Natural Resources Article, §§10-205 and 10-415, Annotated Code of Maryland

Notice of Final Action

[18-195-F]

On September 18, 2018, the Secretary of Natural Resources adopted amendments to Regulation **.03** under **COMAR 08.03.04 Forest Wildlife**. This action, which was proposed for adoption in 45:16 Md. R. 777—778 (August 3, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

MARK J. BELTON
Secretary of Natural Resources

Subtitle 03 WILDLIFE

08.03.10 General Wildlife Hunting Regulations

Authority: Natural Resources Article, §10-418, Annotated Code of Maryland

Notice of Final Action

[18-174-F]

On September 18, 2018, the Secretary of Natural Resources adopted amendments to Regulation .14 under **COMAR 08.03.10 General Wildlife Hunting Regulations**. This action, which was proposed for adoption in 45:15 Md. R. 730 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

MARK J. BELTON
Secretary of Natural Resources

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 16 BOARD OF BARBERS

09.16.01 General Regulations

Authority: Business Occupations and Professions Article, *Titles 4 and 5; Business Regulation Article, §§2-106.13 and 2-106.14; Annotated Code of Maryland; Ch. 256, Acts of 2017*

Notice of Final Action

[18-184-F]

On September 10, 2018, the Board of Barbers adopted the repeal of existing Regulation .08 and adopted new Regulation .08 under **COMAR 09.16.01 General Regulations**. This action, which was proposed for adoption in 45:15 Md. R. 730—731 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

PHILIP MAZZA
Chairman
Board of Barbers

Subtitle 16 BOARD OF BARBERS

09.16.02 Barber Shops

Authority: Business Occupations and Professions Article, Title 4, Annotated Code of Maryland

Notice of Final Action

[18-185-F]

On September 10, 2018, the Board of Barbers adopted amendments to Regulation .04 under **COMAR 09.16.02 Barber Shops**. This action, which was proposed for adoption in 45:15 Md. R. 731 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

PHILIP MAZZA
Chairman
Board of Barbers

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 47 ALCOHOL AND DRUG ABUSE ADMINISTRATION

10.47.07 Prescription Drug Monitoring Program

Authority: Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland

Notice of Final Action

[18-072-F]

On July 25, 2017, the Secretary of Health adopted amendments to Regulations .02, .03, .05, .06, .08, and .09 under **COMAR 10.47.07 Prescription Drug Monitoring Program**. This action, which was proposed for adoption in 45:7 Md. R. 364—366 (March 30, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ROBERT R. NEALL
Secretary of Health

Title 11

DEPARTMENT OF TRANSPORTATION

Subtitle 12 MOTOR VEHICLE ADMINISTRATION—LICENSING OF BUSINESSES AND OCCUPATIONS

11.12.02 Title Service Agents

Authority: Transportation Article, §§12-104(b), 15-102, 15-103, 15-105, 15-106, 15-108, and 15-604—15-606, Annotated Code of Maryland

Notice of Final Action

[18-190-F]

On September 4, 2018, the Administrator of the Motor Vehicle Administration adopted amendments to Regulation .06 under **COMAR 11.12.02 Title Service Agents**. This action, which was proposed for adoption in 45:15 Md. R. 738—739 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

CHRISTINE NIZER
Administrator
Motor Vehicle Administration

Title 14 INDEPENDENT AGENCIES

Subtitle 27 MARYLAND ENVIRONMENTAL SERVICE

14.27.02 Human Resources System

Authority: Natural Resources, Article, §§3-103.1 and 3-127, Annotated Code of Maryland

Notice of Final Action

[18-204-F]

On September 18, 2018, the Maryland Environmental Service adopted amendments to Regulations **.03**, **.11**, **.12**, and **.14** under **COMAR 14.27.02 Human Resources System**. This action, which was proposed for adoption in 45:16 Md. R. 778—779 (August 3, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ROY McGRATH
Director

Subtitle 27 MARYLAND ENVIRONMENTAL SERVICE

14.27.03 Procurement

Authority: Natural Resources Article, §§3-103 and 3-127, Annotated Code of Maryland

Notice of Final Action

[18-200-F]

On September 18, 2018, the Maryland Environmental Service adopted amendments to Regulations **.06** and **.07** under **COMAR 14.27.03 Procurement**. This action, which was proposed for adoption in 45:16 Md. R. 779—780 (August 3, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ROY McGRATH
Director

Subtitle 27 MARYLAND ENVIRONMENTAL SERVICE

14.27.04 Public Information Act Requests

Authority: *General Provisions Article, §4-201*; Natural Resources Article, §3-127; Annotated Code of Maryland

Notice of Final Action

[18-201-F]

On September 18, 2018, the Maryland Environmental Service adopted amendments to Regulations **.01 — .09** under **COMAR 14.27.04 Public Information Act Requests**. This action, which was proposed for adoption in 45:16 Md. R. 780—781 (August 3, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ROY McGRATH
Director

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 05 PESTICIDE USE CONTROL

15.05.01 Use and Sale of Pesticides, Certification of Pesticide Applicators and Pest Control Consultants, and Licensing of Pesticide Businesses

Authority: Agriculture Article §§5-105, 5-106, and 5-204, Annotated Code of Maryland; *Ch. 598, §11, Acts of 2018*

Notice of Final Action

[18-171-F]

On September 20, 2018, the Secretary of Agriculture adopted amendments to Regulation **.02** under **COMAR 15.05.01, Use and Sale of Pesticides, Certification of Pesticide Applicators and Pest Control Consultants, and Licensing of Pesticide Businesses**. This action, which was proposed for adoption in 45:15 Md. R. 741—742 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

JOSEPH BARTENFELDER
Secretary of Agriculture

Subtitle 15 MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION

15.15.05 Easement Termination Requests

Authority: Agriculture Article, §§2-504 and 2-514, Annotated Code of Maryland

Notice of Final Action

[18-197-F]

On September 18, 2018, the Secretary of Agriculture adopted the repeal of existing Regulations **.01— .09** and adopted new Regulations **.01— .09** under **COMAR 15.15.05 Easement Termination Requests**. This action, which was proposed for adoption in 45:16 Md. R. 782—784 (August 3, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

JOSEPH BARTENFELDER
Secretary of Agriculture

Title 20 PUBLIC SERVICE COMMISSION

Subtitle 50 SERVICE SUPPLIED BY ELECTRIC COMPANIES

Notice of Final Action

[18-183-F-I]

On September 5, 2018, the Maryland Public Service Commission adopted amendments to:

- (1) Regulation **.02** under **COMAR 20.50.02 Engineering**; and
- (2) Regulations **.01—.04, .06, and .08—.14** under **COMAR 20.50.09 Small Generator Facility Interconnection Standards**.

At this time the Commission is withdrawing the proposed amendments to Regulation **.05** under **COMAR 20.50.09 Small Generator Facility Interconnection Standards**.

This action, which was proposed for adoption in 45:15 Md. R. 743—750 (July 20, 2018), has otherwise been adopted as proposed.

Effective Date: October 8, 2018.

TERRY J. ROMINE
Executive Secretary

Subtitle 50 SERVICE SUPPLIED BY ELECTRIC COMPANIES

20.50.12 Service Quality and Reliability Standards

Authority: Public Utilities Article, §§7-213, 13-201, and 13-202, Annotated Code of Maryland

Notice of Final Action

[18-202-F]

On September 18, 2018, the Maryland Public Service Commission adopted amendments to Regulation **.03** under **COMAR 20.50.12 Service Quality and Reliability Standards**. This action, which was proposed for adoption in 45:16 Md. R. 785—786 (August 3, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

TERRY J. ROMINE
Executive Secretary

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 03 INSURANCE PRODUCERS AND OTHER INSURANCE PROFESSIONALS

31.03.06 Surplus Lines

Authority: Authority: Insurance Article, §§2-109, 3-304, 3-306, 3-307, 3-311—3-313, 3-316, 3-325(c), 9-301(f), 9-303(5), 9-401(j)(2), and 9-405(b), Annotated Code of Maryland

Notice of Final Action

[18-125-F]

On September 17, 2018, the Insurance Commissioner adopted amendments to Regulation **.02** under **COMAR 31.03.06 Surplus Lines**. This action, which was proposed for adoption in 45:10 Md. R. 514—515 (May 11, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 03 INSURANCE PRODUCERS AND OTHER INSURANCE PROFESSIONALS

31.03.12 Procedures — Written Consent — Federal Law

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

Notice of Final Action

[18-172-F]

On September 10, 2018, the Insurance Commissioner adopted amendments to Regulation **.04** under **COMAR 31.12.03 Procedures — Written Consent — Federal Law**. This action, which was proposed for adoption in 45:15 Md. R. 751 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 09 LIFE INSURANCE AND ANNUITIES

31.09.05 Replacement of Life Insurance and Annuities

Authority: Insurance Article, §§2-109 and 27-213, Annotated Code of Maryland

Notice of Final Action

[18-188-F]

On September 12, 2018, the Insurance Commissioner adopted amendments to Regulation .06 under **COMAR 31.09.05 Replacement of Life Insurance and Annuities**. This action, which was proposed for adoption in 45:15 Md. R. 751—752 (July 20, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 15 UNFAIR TRADE PRACTICES

31.15.09 Automobile Liability Insurance

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

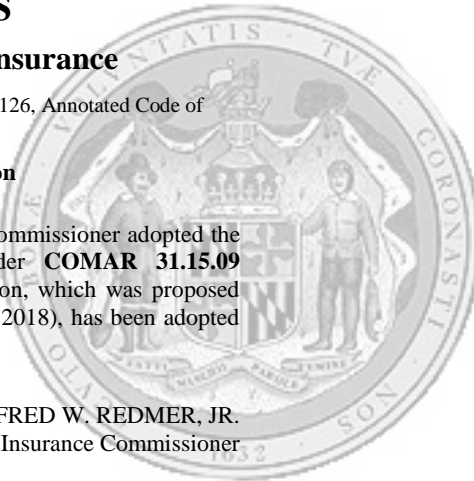
Notice of Final Action

[18-161-F]

On September 10, 2018, the Insurance Commissioner adopted the repeal of Regulations .01 and .02 under **COMAR 31.15.09 Automobile Liability Insurance**. This action, which was proposed for adoption in 45:13 Md. R. 679 (June 22, 2018), has been adopted as proposed.

Effective Date: October 8, 2018.

ALFRED W. REDMER, JR.
Insurance Commissioner



Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

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

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.21 Yellow Perch

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

Notice of Proposed Action

[18-257-P]

The Secretary of Natural Resources proposes to amend Regulation 16.03 under **COMAR 08.02.21 Yellow Perch**.

Statement of Purpose

The purpose of this action is to remove the provision in the current regulations that requires a Department representative to be present during the sale of yellow perch in the live market. The Commercial Yellow Perch Workgroup, consisting of members from both the Sport and Tidal Fisheries Advisory Commissions, asked the Department to consider this modification. Current regulations require the licensee to contact the Department at least 24 hours prior to loading yellow perch into a container in which they will be transported and wait until the Department representative is present before loading. Under this rule change, the Department would still require the fisherman to notify the Department 24 hours prior to the live market transaction. However, the sale of the live market yellow perch could take place without a Department representative witnessing the transaction. The 24-hour notification allows a Department representative to be present if the representative can be there, but it would not be required.

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 positively impact commercial yellow perch harvesters.

II. Types of Economic Impact.

A. On issuing agency: NONE
B. On other State agencies: NONE
C. On local governments: NONE

Revenue (R+/R-)

Expenditure
(E+/E-)

Magnitude

Benefit (+)

Cost (-)

Magnitude

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

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

D. The harvesters will still have to notify the Department in advance of the transaction, but will have the flexibility to move forward if a Department representative is not available. The actual impact is indeterminable since it is unknown if this requirement has impacted previous sales. This action will give the harvesters more flexibility since they will not have to plan their sales based on Department availability, which could mean the difference in a sale or loss of a sale.

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 positively impact commercial harvesters. Please see the assumptions in the types of economic impact section.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Yellow Perch Regulations, Regulatory Staff, Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, B-2, 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 October 29, 2018. A public hearing has not been scheduled.

.03 Commercial.

A.—H. (text unchanged)

I. Yellow Perch Live Market.

(1) A commercial tidal fish licensee who sells or offers for sale yellow perch in the live market which were harvested from the tidal waters of the State shall:

(a) Contact the Department at the number stated on the yellow perch harvest permit at least 24 hours prior to loading yellow perch into a container in which it will be transported; and

[(b) Wait until the Department representative is present before loading the live untagged yellow perch into a container in which it will be transported; and]

[(c)] (b) (text unchanged)

(2) (text unchanged)

J.—K. (text unchanged)

MARK J. BELTON
Secretary of Natural Resources

Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 08 HOME IMPROVEMENT COMMISSION

09.08.07 Fees

Authority: Business Regulation Article, §§2-106.11, 2-106.12, 8-207, 8-209, 8-210, 8-213, 8-302, 8-303, 8-308, and 8-308.1, Annotated Code of Maryland

Notice of Proposed Action

[18-208-P]

The Maryland Home Improvement Commission proposes to adopt new Regulations .01 and .02 under a new chapter, **COMAR 09.08.07 Fees**. This action was considered at a public meeting of the Commission held on June 7, 2018, notice of which was provided by posting on the Commission's website pursuant to General Provisions Article, §3-302(c)(3)(ii), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to carry out the provisions of Business Regulation Article, §§2-106.11, 2-106.12, 8-207, 8-209, 8-210, 8-213, 8-302, 8-303, 8-308, and 8-308.1, Annotated Code of

Maryland. In particular, it is intended to set various fees in order to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Home Improvement Commission.

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 Finneran, Executive Director, Maryland Home Improvement Commission, Department of Labor, Licensing, and Regulation, 500 North Calvert Street, Room 306, Baltimore, MD 21202, or call 410-230-6169, or email to david.finneran@maryland.gov, or fax to 410-962-8482. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Home Improvement Commission during a public meeting to be held on December 6, 2018, at the Department of Labor, Licensing, and Regulation, 500 North Calvert Street, 2nd Floor Conference Room, Baltimore, MD 21202.

.01 Purpose.

This chapter is intended to carry out the provisions of Business Regulation Article, §§2-106.11, 2-106.12, 8-207, 8-209, 8-210, 8-213, 8-302, 8-303, 8-308, and 8-308.1, Annotated Code of Maryland. In particular, it is intended to set various fees in order to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Home Improvement Commission.

.02 Schedule of Fees.

A. Pursuant to Business Regulation Article, §8-213, Annotated Code of Maryland, the Commission shall set fees to produce funds to approximate the cost of maintaining the Commission. Fees charged by the Commission are as follows:

(1) License application fees:

(a) Contractor — \$250 for each place of business of the contractor;

(b) Salesperson — \$100; and

(c) Application processing fee — \$20;

(2) License renewal fees:

(a) Contractor — \$250 for each place of business of the contractor; and

(b) Salesperson — \$100;

(3) Inactive status fees:

(a) Inactive status application fee — \$50;

(b) Renewal fees while license is in inactive status:

(i) Contractor — \$112.50; and

(ii) Salesperson — \$37.50; and

(c) Reactivation of inactive license reissuance fee — \$10;

(4) Certification of license status fee — \$1; and

(5) Document copy fee — \$1 per page.

B. Examination Fee. An applicant for an examination or reexamination shall pay an examination or reexamination fee directly to the testing service chosen by the Commission to develop or

administer the examination, as such fees are established by the testing service selected by the Commission.

DAVID FINNERAN
Executive Director
Home Improvement Commission

Subtitle 13 BOARD FOR PROFESSIONAL LAND SURVEYORS

09.13.01 Code of Ethics for the Practice of Professional Land Surveying and Property Line Surveying

Authority: Business Occupations and Professions Article, §§15-205 and 15-208, Annotated Code of Maryland

Notice of Proposed Action

[18-244-P]

The State Board for Professional Land Surveyors proposes to amend Regulation .09 under **COMAR 09.13.01 Code of Ethics for the Practice of Professional Land Surveying and Property Line Surveying**. This action was considered by the Board at a public meeting held on August 1, 2018, notice of which was published on the Board's website pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to change the requirements for a response time to the Board from 20 days of receipt by a licensee of a written communication from the Board to 30 days from the date of mailing. In addition, this action will impose the requirement for an applicant for a license to respond to a written communication from the Board within 30 days of the mailing of such communication. In addition, the regulations specify the manner in which the Board must send a written communication to the applicant or licensee and require an applicant or licensee to update the Board of any change of address.

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 Steve Long, Executive Director, Design Boards, Department of Labor, Licensing, and Regulation, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6262, or email to steve.long@maryland.gov, or fax to 410-962-8483. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board for Professional Land Surveyors during a public meeting to be held on November 7, 2018, at 500 North Calvert Street, Third Floor, Baltimore, MD 21202.

.09 Failure to Respond.

[A licensee shall respond to the Board in writing within 20 days of receipt of a written communication directed to the licensee by the Board. Failure to respond as required by this regulation may be considered by the Board to be a violation of Business Occupations and Professions Article, §15-317(a)(1)(v), Annotated Code of Maryland.]

A. An applicant or licensee shall respond in writing to a written communication from the Board within 30 days of the date of mailing.

B. The Board shall send a written communication by first-class mail to the last known address furnished to the Board by an applicant or licensee.

C. It is a responsibility of an applicant or licensee to notify the Board in writing if there has been a change in applicant's or licensee's address.

D. Failure to respond as required by this regulation may be considered by the Board to be a violation of Business Occupations and Professions Article, §15-317(a)(1)(v), Annotated Code of Maryland.

JOHN METTEE III
Chairman

Subtitle 23 BOARD FOR PROFESSIONAL ENGINEERS

09.23.03 Code of Ethics

Authority: Business Occupations and Professions Article, §§14-205, 14-208, and 14-4A-02, Annotated Code of Maryland

Notice of Proposed Action

[18-245-P]

The State Board for Professional Engineers proposes to amend Regulation .11 under **COMAR 09.23.03 Code of Ethics**. This action was considered by the Board at a public meeting held on July 12, 2018, notice of which was published on the Board's website pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to change the requirements for a response time to the Board from 20 days of receipt by a licensee of a written communication from the Board to 30 days from the date of mailing. In addition, this action will impose the requirement for an applicant for a license to respond to a written communication from the Board within 30 days of the mailing of such communication. In addition, the regulations specify the manner in which the Board must send a written communication to the applicant or licensee and require an applicant or licensee to update the Board of any change of address.

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 Steve Long, Executive Director, Design Boards, Department of Labor, Licensing, and Regulation, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6262, or email to steve.long@maryland.gov, or fax to 410-962-8483. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board for Professional Engineers during a public meeting to be held on November 8, 2018, at 500 North Calvert Street, Baltimore, MD 21208.

.11 Failure to Respond

[A licensee shall respond to the Board in writing within 20 days of receipt of a written communication directed to the licensee by the Board. Failure to respond as required by this regulation may be considered by the Board to a violation of Business Occupations and Professions Article, §14-317(a)(1)(iv), Annotated Code of Maryland.]

A. An applicant or licensee shall respond in writing to a written communication from the Board within 30 days of the date of mailing.

B. The Board shall send a written communication by first-class mail to the last known address furnished to the Board by an applicant or licensee.

C. It is a responsibility of an applicant or licensee to notify the Board in writing if there has been a change in applicant's or licensee's address.

D. Failure to respond as required by this regulation may be considered by the Board to be a violation of Business Occupations and Professions Article, §14-317(a)(1)(vi), Annotated Code of Maryland.

DR. STEVEN ARNDT, P.E.
Chairman

Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.02 Physician Services

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

Notice of Proposed Action

[18-247-P-I]

The Secretary of Health proposes to amend Regulation .07 under COMAR 10.09.02 Physician Services.

Statement of Purpose

The purpose of this action is to update the Maryland Medical Assistance Program's Professional Services Provider Manual and Physicians' Services Fee Schedule, which is incorporated by reference, in order to reflect an increase in the Evaluation and Management procedure codes for physicians from 92 percent to 93 percent of the Medicare rate pursuant to the Governor's FY 2019 budget.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Department has increased the Evaluation and Management (E&M) procedure codes for physicians from 92 percent to 93 percent of the Medicare rate. The total FY 19 increase in fee for service (FFS) payments equals \$800,000. The total FY 19 increase in managed care organization (MCO) payments equals \$3,600,000. Total impact for FFS and MCO payments equals \$4,400,000.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	\$1,900,000
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	
	Magnitude	
D. On regulated industries or trade groups:	(+)	\$4,400,00
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. This amount assumes:
- (1) An estimated \$4,400,000 increase in total funds;
 - (2) The State's (general funds) share of the increased expenditures is 40 percent, or \$1,900,000; and
 - (3) The federal share is 60 percent, or \$2,500,000.
- D. This amount assumes providers who render evaluation and management services will reap a collective benefit of \$4,400,000 in increased reimbursement rates.

Economic Impact on Small Businesses

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

This proposal updates the Professional Services Billing Manual and Fee Schedule to reflect reimbursement rate increases for evaluation and management procedure codes from 92 percent to 93 percent of the Medicare rate. Therefore, it impacts small business providers who render evaluation and management services to fee-for-service Medicaid participants.

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, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through October 29, 2018. 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 Professional Services Provider Manual and Fee Schedule (Effective July 2018) 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 45:1 Md. R. 8 (January 5, 2018), 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.

.07 Payment Procedures.

A.—C. (text unchanged)

D. The Maryland Medical Assistance Program's procedures for payment are contained in the Professional Services Provider Manual and Fee Schedule (Effective [January 2018] *July 2018*). All the provisions of this document, unless specifically excepted, are incorporated by reference.

E.—Q. (text unchanged)

ROBERT R. NEALL
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.06 Adult Residential Substance Use Disorder Services

Authority: Health-General Article, §2-104(b), 7.5-204(c), 7.5-205(d), and 15-105(b), Annotated Code of Maryland

Notice of Proposed Action

[18-252-P]

The Secretary of Health proposes to amend Regulations .04, .06, and .09 under COMAR 10.09.06 Adult Residential Substance Use Disorder Services.

Statement of Purpose

The purpose of this action is to add staffing, service, and billing requirements for substance use disorder (ASAM Level 3.1) providers, in accordance with the Department's 1115 waiver amendment.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Since these services will begin January 1, 2019, the total impact of this proposal on general funds in FY 2019 will be \$4,722,990.61. In FY 2020, the total impact of this proposal on general funds for a full year of services will be \$9,445,981.22. Therefore, the total magnitude reflects the sum of the economic impacts for FYs 2019 and 2020.

Currently, the Maryland Department of Health (MDH) pays for 3.1 services with State-funded grants through the Behavioral Health Administration (BHA). These grants totaled \$6,242,482 in State funds for FY 17. Assuming a 20 percent increase in the number of treatment days reimbursed and that 66 percent of the grant funded reimbursement was specifically for therapeutic treatment (as opposed to room and board), the Department estimates an increase in expenditures for therapeutic treatment to be \$5,230,575.67 (BHA and MA combined). The rate for ASAM level 3.1 therapeutic services was based on the staffing requirements for this level of care. This

economic impact also accounts for the additional cost of room and board associated with increased treatment days; the Department estimates this will cost \$4,215,405.55.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-) Magnitude	
A. On issuing agency:	(E+)	\$14,168,971.80
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	\$14,168,971.80
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

A. and D. This amount assumes:

- (1) The magnitude of economic impact for FY 2019 is equal to half the total economic impact for a full year of services;
- (2) A 20 percent increase in the number of treatment days reimbursed due to expanded access;
- (3) 66 percent of the grant funded reimbursement for FY 17 was specifically for the therapeutic portion of the rate and 33 percent was specifically for the room and board portion; and
- (4) Regarding room and board, that the current breakdown of the patient population and the current rates for each of the three population groups receiving services in ASAM Level 3.3 are: Pregnant Women/Women with Children (10 percent —\$70.72), 8507 (14 percent —\$60.01), and the general population (76 percent —\$45.84)

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

.04 Conditions for Participation

A. (text unchanged)

B. To participate in the Program as a residential substance use disorder provider, the provider shall:

- (1)—(5) (text unchanged)
- (6) Maintain staffing within each ASAM level of care as described in [§§C—F] §§C—G of this regulation;

(7)—(11) (text unchanged)

C. A residential, low-intensity level 3.1 provider shall:

(1) Provide therapeutic activities for a minimum of 5 hours per week;

(2) Coordinate aftercare services through:

(a) Peer support; or

(b) A licensed provider;

(3) At a minimum, maintain the following staff:

(a) A part-time facility director on-site 20 hours per week;

(b) A supervisor who:

(i) Is on-site 40 hours per week;

(ii) May also be the facility director if 20 hours per week are spent as the facility director and 20 hours per week are spent as the supervisor;

(iii) Is responsible for the supervision of the facility's clinical services, counselors, peer support staff, and coordination of all care provided by outside programs; and

(iv) Is identified under COMAR 10.09.59.04 as an individual practitioner provider or certified and approved by the Board of Professional Counselors and Therapists as a supervisor;

(c) Peer support staff; and

(d) At least one staff member who is certified in cardiopulmonary resuscitation, and who has been trained in crisis intervention to be on duty between 11 p.m. and 7 a.m.

[C.] D.—[F.] G. (text unchanged)

.06 Covered Services.

A. A residential, low intensity level 3.1 provider shall provide:

(1) Therapeutic substance use disorder treatment for a minimum of 5 hours per week; and

(2) Services in a structured environment in combination with low-intensity treatment and ancillary services to support and promote recovery.

[A.] B.—[D.] E. (text unchanged)

.09 Payment Procedures.

A.—B. (text unchanged)

C. Effective July 1, 2017, rates for the services outlined in this chapter shall be as follows[.]:

(1) For ASAM Level 3.1, the provider shall receive \$85 per diem;

[(1)] (2)—[(4)] (5) (text unchanged)

D. (text unchanged)

ROBERT R. NEALL
Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

Notice of Proposed Action

[18-253-P]

The Secretary of Health proposes to:

(1) Amend Regulation .01 under COMAR 10.09.62 Maryland Medicaid Managed Care Program: Definitions;

(2) Amend Regulation .06 under COMAR 10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment;

(3) Amend Regulation .05 under COMAR 10.09.64 Maryland Medicaid Managed Care Program: MCO Application;

(4) Amend Regulations .05, .12, and .15, repeal existing Regulation .19-5, and adopt new Regulation .19-5 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations;

(5) Amend Regulations .04, .05, .05-1, .06, .07, and .09 under COMAR 10.09.66 Maryland Medicaid Managed Care Program: Access;

(6) Repeal Regulation .30 under COMAR 10.09.67 Maryland Medicaid Managed Care Program: Benefits;

(7) Amend Regulation .01 under COMAR 10.09.68 Maryland Medicaid Managed Care Program: Program Integrity;

(8) Amend Regulations .01—, .03, .04, and .05 and adopt new Regulations .02-1 and .03-2 under COMAR 10.09.71 Maryland Medicaid Managed Care Program: MCO Dispute Resolution Procedures;

(9) Repeal Regulations .01—.06 under COMAR 10.09.72 Maryland Medicaid Managed Care Program: Departmental Dispute Resolutions Procedures;

(10) Amend Regulation .01, repeal existing Regulation .02, and adopt new Regulation .02 under COMAR 10.09.73 Maryland Medicaid Managed Care Program: Sanctions;

(11) Amend Regulation .05 under COMAR 10.09.75 Maryland Medicaid Managed Care Program: Corrective Managed Care; and

(12) Amend Regulations .08 under COMAR 10.09.86 Maryland Medicaid Managed Care Program: Independent Review Organization (IRO).

Statement of Purpose

The purpose of this action is to implement regulations to comply with newly adopted federal regulations impacting MCO requirements and oversight (42 CFR Part 438). The new requirements include network adequacy standards and oversight, encounter data requirements, updating the medical loss ratio (MLR) calculation methodology and the MCO's handling of complaints grievances and appeals.

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 Michele Phinney, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

10.09.62 Maryland Medicaid Managed Care Program: Definitions

Authority: Health-General Article, §15-101, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(40) (text unchanged)

(40-1) "Credibility adjustment" means an adjustment to the MLR for a partially credible MCO to account for a difference between the actual and target MLRs that may be due to random statistical variation.

(41)—(61) (text unchanged)

(61-1) “Full credibility” means a standard for which the experience of an MCO is determined to be sufficient for the calculation of an MLR with a minimal chance that the difference between the actual and target MLR is not statistically significant.

(62)—(111) (text unchanged)

(111-1) “Medical loss ratio (MLR)” means a formula that measures the ratio of MCO spending on medical and related benefits compared to revenue, to ensure MCOs are spending a sufficient amount of their premium revenue on medical expenses and other high-impact initiatives.

(112)—(119) (text unchanged)

(119-1) “MLR reporting year” means a period of 12 months consistent with the rating period selected by the Department.

(120)—(123-1) (text unchanged)

(123-2) “No credibility” means a standard for which the experience of an MCO is determined to be insufficient for the calculation of an MLR.

(123-3) “Non-claims costs” means expenses for administrative services other than:

(a) Incurred claims;

(b) Expenditures on activities that improve health care quality;

(c) Licensing and regulatory fees; or

(d) Federal and State taxes.

(124)—(126) (text unchanged)

(127) “Ombudsman” or “ombudsman program” has the meaning stated in Health-General Article, §15-101(g), Annotated Code of Maryland[, and is described in COMAR 10.09.72.02].

(128)—(130) (text unchanged)

(130-1) “Partial credibility” means a standard for which the experience of an MCO is determined to be sufficient for the calculation of an MLR but with a non-negligible chance that the difference between the actual and target medical loss ratios is statistically significant.

(131)—(152) (text unchanged)

(153) “Rate adjustment period” has the meaning stated in COMAR [10.09.63.19-4A] 10.09.65.19-4A.

(153-1)—(182) (text unchanged)

10.09.63 Maryland Medicaid Managed Care Program: Eligibility and Enrollment

Authority: Health-General Article, §15-103(b)(3) and (23), Annotated Code of Maryland

.06 Disenrollment.

A.—D. (text unchanged)

[E. At the request of the Department, an MCO shall transmit, with any request for enrollee disenrollment, the MCO's medical and utilization history for the enrollee.]

[F.] E. Effective Date of Disenrollment.

(1) Except as specified in [§F(2)—(6)] §E(2)—(6) of this regulation, an enrollee's disenrollment is effective on the 10th calendar day after the enrollee selects a new MCO.

(2)—(6) (text unchanged)

[G.] F. An MCO shall:

(1) [An MCO shall make] Make a good faith effort to give written notice to the Department when enrollees have the right to change MCOs under §A(1)(e) of this regulation 90 days before the effective date of the termination[.];

[(1)] (2) [In addition to the notification required in §G of this regulation, the MCO shall provide] Provide the Department with a list of the affected enrollees in a format specified by the Department; and

[(2)] (3) If applicable, provide the termination survey required under COMAR 10.09.65.17B(4).

[H.] G. (text unchanged)

[I.] H. At the Department's discretion, an MCO may be required to reimburse the Department for the costs associated with the mailing of the notifications in [§H] §G of this regulation.

10.09.64 Maryland Medicaid Managed Care Program: MCO Application

Authority: Health-General Article, §§15-102 and 15-103, Annotated Code of Maryland

.05 Access and Capacity.

A. An MCO applicant shall include in its application the following information or descriptions:

(1)—(7) (text unchanged)

(8) Documentation that [enrollees will have access to primary care services, including pharmacy, obstetrics/gynecology and diagnostic laboratory services, within a reasonable distance of their places of residence, demonstrated by showing the availability of these services in:

(a) Urban areas, within a 10-mile radius;

(b) Rural areas, within a 30-mile radius; and

(c) Suburban areas, within a 20-mile radius.] the MCO applicant is able to meet the access standards set forth in COMAR 10.09.66 in each service area the MCO applicant plans to enter;

(9) Documentation of any reasons for which they are unable to meet the access requirements of [§A(8) of this regulation] COMAR 10.09.66 in any service area;

(10) For each primary care practice location, a specification of:

(a) (text unchanged)

(b) The staffing at each location, expressed in full-time equivalencies and grouped by medical specialty[, including, but not limited to:

(i) General practice;

(ii) Family practice;

(iii) Internal medicine;

(iv) Pediatrics;

(v) Obstetrics and gynecology; and

(vi) Advanced practice nursing]; and

(11) (text unchanged)

B.—D. (text unchanged)

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Health-General Article, §§2-104, 15-102.3, and 15-103; Insurance Article, §§15-112, 15-605, and 15-1008; Annotated Code of Maryland

.05 Special Needs Populations — Children with Special Health Care Needs.

A.—J. (text unchanged)

K. When a child, who is an MCO enrollee, is diagnosed with a special health care need requiring a plan of care which includes specialty services, and that health care need was undiagnosed at the time of enrollment, the parent or guardian of that child may request approval from the MCO for a specific out-of-network specialty provider to provide those services when the MCO does not have a local in-network specialty provider with the same professional training and expertise who is reasonably available and provides the same service and modality, subject to the following provisions:

(1) If the MCO denies the request for an out-of-network provider referral, the child's parent or guardian may initiate the complaint and appeal process set forth at COMAR [10.09.72] 10.09.71.05;

(2) If at any time the MCO decides to terminate or reduce services provided by the approved out-of-network provider, the child's parent or guardian may initiate the complaint and appeal process set forth at COMAR [10.09.72] 10.09.71.05;

(3) (text unchanged)

.12 Consumer Advisory Board.

A.—C. (text unchanged)

[D. Pursuant to Regulation .15E(2) of this chapter, the consumer advisory board shall annually report its activities and recommendations to the Secretary.]

.15 Data Collection and Reporting.

A. (text unchanged)

B. Encounter Data.

(1)—(2) (text unchanged)

(3) An MCO shall submit encounter data that identifies the provider who delivers any items or services to enrollees at a frequency and level of detail to be specified by CMS and the Department[.], including, at a minimum:

(a) Enrollee and provider identifying information;

(b) Service, procedure, and diagnoses codes;

(c) Allowed, paid, enrollee responsibility, and third-party liability amounts; and

(d) Service, claims submission, adjudication, and payment dates.

(4)—(5) (text unchanged)

C. (text unchanged)

D. Quarterly Reports. An MCO shall submit to the Department:

(1)—(5) (text unchanged)

(6) Within 10 calendar days after the close of each calendar quarter, in the format specified by the Department, a list of all State fair hearing outcomes during the preceding quarter.

E. (text unchanged)

[F. HEDIS Reporting. By July 1 of each year, an MCO shall submit to the Department a record of its health care delivery and organizational performance during the preceding year measured utilizing the most recent version of the Healthcare Effectiveness Data and Information Set (HEDIS) applicable to the reporting period].

[G.] F. (text unchanged)

[H.] G. If the MCO exits the HealthChoice Program for any reason, including those listed in COMAR 10.09.63.06A(1)(e) and (f):

(1) (text unchanged)

(2) On receiving the list provided by the MCO, the Department shall provide the list to:

(a) The [enrollment broker] health benefits exchange to assist and provide outreach to [recipients] participants in selecting an MCO; and

(b) If permitted by State and federal law, the remaining MCOs for [the purpose of] linking [recipients] participants with a PCP.

[I.] H.—[K.] J. (text unchanged)

K. Upon request, an MCO whose member has disenrolled shall transfer historical utilization data to the member's new MCO in the time frame and format specified by the Department.

.19-5 MCO Medical Loss Ratio.

A. By September 15 of the second calendar year following the MLR reporting year, each MCO shall provide to the Department a completed MLR Reporting Template, including the MCO attestation and any additional documentation supporting the MLR reporting template.

B. The MLR experienced for each MCO in an MLR reporting year is the ratio of the numerator, as defined in §D of this regulation, to the denominator, as defined in §E of this regulation.

C. An MLR may be increased by a credibility adjustment, in accordance with §G of this regulation.

D. Components of MLR — Numerator.

(1) The numerator of an MCO's MLR for an MLR reporting year is the sum of the MCO's incurred claims, the MCO's expenditures for activities that improve health care quality, and fraud prevention activities.

(2) Incurred Claims. Incurred claims include the following:

(a) Direct claims that the MCO paid to providers, including under capitated contracts with network providers, for services or supplies covered under the contract and services meeting the requirements of 42 CFR §438.3(e) provided to enrollees;

(b) Unpaid claims liabilities for the MLR reporting year, including claims reported that are in the process of being adjusted or claims incurred but not reported;

(c) Withholds from payments made to network providers;

(d) Claims that are recoverable for anticipated coordination of benefits;

(e) Claims payments recoveries received because of subrogation;

(f) Incurred but not reported claims based on past experience, and modified to reflect current conditions, such as changes in exposure or claim frequency or severity;

(g) Changes in other claims-related reserves; and

(h) Reserves for contingent benefits and the medical claim portion of lawsuits.

(3) An MCO shall deduct the following amounts from incurred claims:

(a) Overpayment recoveries received from network providers; and

(b) Prescription drug rebates received and accrued.

(4) An MCO shall include the following expenditures in incurred claims:

(a) The amount of incentive and bonus payments made, or expected to be made, to network providers; and

(b) The amount of claims payments recovered through fraud reduction efforts, not to exceed the amount of fraud reduction expenses, and excluding activities specified in §D(3) of this regulation;

(5) An MCO may include or deduct the following amounts from incurred claims:

(a) Net payments; or

(b) Receipts related to State-mandated solvency funds;

(6) An MCO shall exclude the following amounts from incurred claims:

(a) Non-claims costs;

(b) Amounts paid to the State as remittance under §I of this regulation; and

(c) Amounts paid to network providers under to 42 CFR §438.6(d).

(7) Non-claims costs as described in §D(6)(a) of this regulation include the following:

(a) Amounts paid to third-party vendors for secondary network savings;

(b) Amounts paid to third-party vendors for network development, administrative fees, claims processing, and utilization management;

(c) Amounts paid, including amounts paid to a provider, for professional or administrative services that do not represent compensation or reimbursement for State plan services or services meeting the definition in 42 CFR §438.3(e) and provided to an enrollee; and

(d) Fines and penalties assessed by regulatory authorities.

(8) Incurred claims paid by one MCO that are later assumed by another MCO shall be reported by the assuming MCO for the entire

MLR reporting year, and no incurred claims for that MLR reporting year may be reported by the ceding MCO.

(9) An MCO shall include activities that improve health care quality in one of the following categories:

(a) An MCO activity that meets the requirements of 45 CFR 158.150(b) and is not excluded under 45 CFR 158.150(c);

(b) An MCO activity related to any EQR-related activity as described in 42 CFR §438.358(b) and (c); and

(c) Any MCO expenditure that is related to Health Information Technology and meaningful use, meets the requirements placed on issuers found in 45 CFR 158.151, and is not considered incurred claims.

(10) Excluding expenses for fraud reduction efforts in §D(4)(b) of this regulation, an MCO shall include expenditures on activities related to fraud prevention as adopted for the private market at 45 CFR part 158.

E. Components of MLR — Denominator.

(1) The denominator of an MCO's MLR for an MLR reporting year shall equal the adjusted premium revenue. The adjusted premium revenue is the MCO's premium revenue minus the MCO's federal, State, and local taxes and licensing and regulatory fees and is aggregated in accordance with §F of this regulation.

(2) Premium revenue includes the following for the MLR reporting year:

(a) State capitation payments, developed in accordance with 42 CFR §438.4, to the MCO for all enrollees under a risk contract approved under 42 CFR §438.3(a), excluding payments made under 42 CFR §438.6(d);

(b) State-developed, one-time payments, for specific life events of enrollees;

(c) Other payments to the MCO approved under 42 CFR §438.6(b)(3);

(d) Unpaid cost-sharing amounts that the MCO could have collected from enrollees under the contract, except those amounts the MCO can show it made a reasonable, but unsuccessful, effort to collect;

(e) All changes to unearned premium reserves; and

(f) Net payments or receipts related to risk sharing mechanisms developed in accordance with 42 CFR §438.5 or 42 CFR §438.6.

(3) Federal, State, and Local Taxes and Licensing and Regulatory Fees. Taxes and licensing and regulatory fees for the MLR reporting year include:

(a) Statutory assessments to defray the operating expenses of any State or federal department;

(b) Examination fees in lieu of premium taxes as specified by State law;

(c) Federal taxes and assessments allocated to MCOs excluding federal income taxes on investment income and capital gains and federal employment taxes;

(d) State and local taxes and assessments including:

(i) Any industrywide (or subset) assessments, other than surcharges on specific claims, paid to the State or locality directly;

(ii) Guaranty fund assessments;

(iii) Assessments of State or locality industrial boards or other boards for operating expenses or for benefits to sick employed persons in connection with disability benefit laws or similar taxes levied by states;

(iv) State or locality income, excise, and business taxes other than premium taxes and State employment and similar taxes and assessments; and

(v) State or locality premium taxes plus State or locality taxes based on reserves, if in lieu of premium taxes; and

(e) Payments made by an MCO that are otherwise exempt from federal income taxes, for community benefit expenditures as defined in 45 CFR 158.162(c), limited to the highest of either:

(i) 3 percent of earned premium; or

(ii) The highest premium tax rate in the State for which the report is being submitted, multiplied by an MCO's earned premium in the State.

(4) The total amount of the denominator for an MCO, which is later assumed by another MCO, shall be reported by the assuming MCO for the entire MLR reporting year and no amount under this section for that year may be reported by the ceding MCO.

F. Allocation of Expense.

(1) Each expense shall be included under only one type of expense, unless a portion of the expense fits under the definition of, or criteria for, one type of expense and the remainder fits into a different type of expense, in which case the MCO shall prorate the expense between types of expenses.

(2) An MCO shall report on a pro-rata basis any expenditures that benefit multiple contracts or populations, or contracts other than those being reported.

(3) Methods Used to Allocate Expenses.

(a) An MCO shall base allocation to each category on a generally accepted accounting method that is expected to yield the most accurate results.

(b) An MCO shall apportion shared expenses, including expenses under the terms of a management contract, pro rata to the contract incurring the expense.

(c) The reporting entity shall bear any expenses that relate solely to its operation and may not apportion its operating expenses to other entities.

G. Credibility Adjustment.

(1) An MCO may add a credibility adjustment to a calculated MLR if the MLR reporting year experience has partial credibility.

(2) An MCO shall add the credibility adjustment to the reported MLR calculation before calculating any remittances if required by the State as described in §I of this regulation.

(3) An MCO may not add a credibility adjustment to a calculated MLR if the MLR reporting year experience has full credibility.

(4) If an MCO's experience has no credibility, it is presumed to meet or exceed the MLR calculation standards in this regulation.

(5) MCOs shall use the base credibility factors CMS publishes on an annual basis that are developed according to the methodology in 42 CFR 438.8(h)(4).

H. Eligibility Groups.

(1) MCOs shall aggregate data for all Medicaid eligibility groups covered under the contract with the Department.

(2) MCOs shall report, and the Department shall calculate, an annual MLR as described in this regulation separately for the childless adult population.

(3) The Department may require separate reporting and a separate MLR calculation for additional populations.

I. An MCO shall provide a remittance for an MLR reporting year if the MLR for that MLR reporting year does not meet the minimum MLR standard of 85 percent.

J. Newly Contracted MCOs.

(1) The Department may exclude an MCO that is newly contracted with the State from the requirements in this section for the first year of the MCO's operation.

(2) Newly contracted MCOs shall comply with the requirements in this section during the next MLR reporting year in which the MCO is in business with the State, even if the first year was not a full 12 months.

K. If the Department makes a retroactive change to the capitation payments for an MLR reporting year where the report has already been submitted to the Department, the MCO shall recalculate the MLR for all MLR reporting years affected by the change and submit a new report.

L. MCOs shall attest to the accuracy of the calculation of the MLR in accordance with requirements of this section when submitting its report to the Department.

M. Notice and Appeal.

(1) Within 30 days of its receipt of the notice of a remittance being due to the Department, an MCO may appeal the remittance as a sanction pursuant to COMAR 10.09.73.02.

(2) An MCO's appeal does not stay the obligation of the MCO to remit the amount owed to the Department.

10.09.66 Maryland Medicaid Managed Care Program: Access

Authority: Health-General Article, §§15-102.1(b)(10) and 15-103(b)
Annotated Code of Maryland

.04 Access Standards: Information for Providers.

A. An MCO shall develop and make available either electronically or by hard copy to all of its PCP and specialty care providers a Medicaid requirements manual, including periodic updates as appropriate, and shall:

(1) (text unchanged)

(2) Include in its manual the information necessary to facilitate the providers' full compliance with federal and State Medicaid requirements, including information on:

(a) (text unchanged)

(b) The [MCO's] benefits package, including optional benefits;

(c) [The MCO's access] Access requirements, which, at a minimum, comply with the requirements of this chapter;

(d) [The MCO's quality] Quality requirements, which shall, at a minimum, comply with the requirements of COMAR 10.09.65.03; [and]

(e) Continuity of care requirements; and

[(e)] (f) [The MCO's requirements] Requirements for referral to specialist, ancillary, and other providers as necessary to provide the full range of medically necessary services that are covered by the Maryland Medicaid Managed Care Program; [and]

(3)—(4) (text unchanged)

B. (text unchanged)

C. An MCO shall provide to each PCP an updated list of the PCP's assigned enrollees [on a monthly basis] monthly.

.05 Access Standards: PCPs and MCO's Provider Network.

A. (text unchanged)

B. Adequacy of Provider Network.

(1)—(5) (text unchanged)

[(6) An MCO's health care delivery system shall accommodate the cultural and ethnic diversity of the population to be served.]

(6) An MCO shall ensure services are delivered in a culturally competent manner to all enrollees, including enrollees:

(a) With limited English proficiency;

(b) With diverse cultural and ethnic backgrounds; and

(c) Of all genders, sexual orientations, and gender identities.

(7) For enrollees with physical or mental disabilities, an MCO shall ensure its network providers provide:

(a) Physical access;

(b) Reasonable accommodation; and

(c) Accessible equipment.

[(7)] (8)—[(8)] (9) (text unchanged)

.05-1 Access Standards: Specialty Provider Network.

A. Standards and Regions.

(1) The Department shall review an MCO's specialty provider network for MCO's overall network [and for each region] as defined in [§A(4) of] this regulation.

(2) Overall Network [Standard] Standards.

(a) [An MCO shall contract with at least one provider in each of the 14 major specialty areas specified in §A(2)(b) of this regulation.] An MCO shall meet either the time or distance standard set forth in Regulation .06A of this chapter for core, major, and pediatric specialties.

[(b) The 14 major specialties are:

- (i) Allergy;
- (ii) Cardiology;
- (iii) Dermatology;
- (iv) Endocrinology;
- (v) Otolaryngology (ENT);
- (vi) Gastroenterology;
- (vii) Infectious disease;
- (viii) Nephrology;
- (ix) Neurology;
- (x) Ophthalmology;
- (xi) Orthopedics;
- (xii) Pulmonology;
- (xiii) Surgery; and
- (xiv) Urology.]

(b) The 8 core specialties are:

- (i) Cardiology;
- (ii) Otolaryngology (ENT);
- (iii) Gastroenterology;
- (iv) Neurology;
- (v) Ophthalmology;
- (vi) Orthopedics;
- (vii) Surgery; and
- (viii) Urology.

(c) The 6 major specialties are:

- (i) Allergy and immunology;
- (ii) Dermatology;
- (iii) Endocrinology;
- (iv) Infectious disease;
- (v) Nephrology; and
- (vi) Pulmonology.

(d) The 4 pediatric subspecialties are:

- (i) Cardiology;
- (ii) Gastroenterology;
- (iii) Neurology; and
- (iv) Surgery.

[(3) Regional Network Standards.

(a) For each of the specialty care regions listed in §A(4) of this regulation that an MCO serves, an MCO shall contract with at least one provider in each of the eight core specialties specified in §A(3)(b) of this regulation in each region the MCO serves.

(4) Specialty Care Regions. The 40 local areas established by COMAR 10.09.66.06E are grouped into 10 mutually exclusive specialty care regions as follows:

Region	Local Access Area
1	Allegany, Garrett, Washington
2	Anne Arundel North, Anne Arundel South, Howard
3	Carroll, Harford East, Harford West, Baltimore County North
4	Baltimore City—SE/Dundalk, Baltimore City—East, Baltimore City—North Central, Baltimore City Northeast, Baltimore County East

5	Baltimore City—Northwest, Baltimore County Northwest, Baltimore City—South, Baltimore City—West, Baltimore County Southwest
6	Montgomery—Silver Spring, Montgomery—Midcounty, Montgomery—North, Frederick
7	Prince George's Northeast, Prince George's Northwest, Prince George's Southeast, Prince George's Southwest
8	Calvert, Charles, St. Mary's
9	Caroline, Kent, Queen Anne's, Talbot, Cecil
10	Dorchester, Somerset, Wicomico, Worcester]

B. If the Department determines that an MCO does not meet the requirements specified in [§A(2)(a) or (3)(a)] §A(2)(b)—(d) of this regulation, the MCO may provide additional information to support the adequacy of the MCO's specialty network before any action is taken by the Department.

C. If an MCO fails to meet the requirements established by this regulation, the Department may suspend the automatic assignment to the MCO of recipients who live in the affected [specialty care region] local access area. A suspension of automatic assignments may affect the MCO's ability to qualify for the Statewide supplemental payments specified under COMAR 10.09.65.19-3.

.06 Geographical Access.

A. [An] *Except as provided in §C of this regulation, an MCO shall develop and maintain a provider network that [ensures that enrollees have access to the sites at which they receive the following services] meets the following time and distance standards:*

- (1) [Primary care:] *For adult and pediatric primary care, pharmacy, diagnostic laboratory and x-ray, and gynecology:*
 - (a) *In urban areas, within 15 minutes or 10 miles;*
 - (b) *In suburban areas, within 30 minutes or 20 miles; and*
 - (c) *In rural areas, within 40 minutes or 30 miles;*
- (2) [Pharmacy:] *For prenatal care, as defined in §B of this regulation:*
 - (a) *In urban areas, within 15 minutes or 10 miles;*
 - (b) *In suburban areas, within 30 minutes or 20 miles; and*
 - (c) *In rural areas, within 90 minutes or 75 miles;*
- (3) [OB/GYN; and] *For acute inpatient hospitals:*
 - (a) *In urban areas, within 20 minutes or 10 miles;*
 - (b) *In suburban areas, within 45 minutes or 30 miles; and*
 - (c) *In rural areas, within 75 minutes or 60 miles;*
- (4) [Diagnostic laboratory and X-ray.] *For core specialty types, as defined in Regulation .05-1A(2)(b) of this chapter:*
 - (a) *In urban areas, within 30 minutes or 15 miles;*
 - (b) *In suburban areas, within 60 minutes or 45 miles; and*
 - (c) *In rural areas, within 90 minutes or 75 miles;*
- (5) *For major specialty types, as defined in Regulation .05-1A(2)(c) of this chapter:*
 - (a) *In urban areas, within 30 minutes or 15 miles;*
 - (b) *In suburban areas, within 80 minutes or 60 miles; and*
 - (c) *In rural areas, within 110 minutes or 90 miles; and*
- (6) *For pediatric subspecialty types, as defined in Regulation .05-1A(2)(d) of this chapter:*
 - (a) *In urban areas, within 30 minutes or 15 miles;*
 - (b) *In suburban areas, within 60 minutes or 45 miles; and*
 - (c) *In rural areas, within 250 minutes or 200 miles.*

[B. Except as provided in §C of this regulation, to meet the geographical access standard established by this regulation, an MCO shall provide the services listed in §A(1)—(4) of this regulation:

- (1) In urban areas, within 10 miles of each enrollee's residence;
- (2) In rural areas, within 30 miles of each enrollee's residence; and
- (3) In suburban areas, within 20 miles of each enrollee's residence.]

B. Prenatal Care Providers. For the purposes of provider network adequacy, prenatal care providers may include, but are not limited to:

- (1) *Obstetricians;*
- (2) *Certified nurse midwives; and*
- (3) *Family practitioners who provide prenatal care and perform deliveries.*

C. If an MCO can otherwise demonstrate to the Department's satisfaction the adequacy of its provider network notwithstanding its inability to meet the requirements of [§B] §A of this regulation, the Department may, in its discretion, approve the network if special circumstances exist which, considered along with the overall strength of the MCO's network, establish that the Department's approval of the network will enhance recipients' overall access to quality health care services in the area to be served.

D.—E. (text unchanged)

.07 Access Standards: Clinical and Pharmacy Access.

A. Appointments.

- (1) (text unchanged)
- (2) Required Notice to Enrollees of Wellness Services.
 - (a)—(b) (text unchanged)

[(c) An MCO's failure to meet the requirements of this subsection shall result in the imposition of sanctions specified in COMAR 10.09.73.]

(3) Appointment Guidelines.

- (a) (text unchanged)
- (b) An MCO shall [effect] *have* procedures that result in an interval between the enrollee's request for an appointment and the actual appointment time being consistent with the following standards:

- (i)—(viii) (text unchanged)

B.—C. (text unchanged)

D. Clinical Access Outside the MCO's Service Area.

- (1)—(2) (text unchanged)
 - (3) *If the MCO's provider network is unable to provide necessary services, covered under the contract, to an enrollee, the MCO shall adequately and timely cover these services out of network for as long as the MCO's provider network is unable to provide them.*
- E. (text unchanged)

.09 Access: Hospitals.

A. *An MCO shall comply with the access standards specified in Regulation .06A of this chapter.*

B. If an MCO's service area includes a county that is designated as a medically underserved area and there is only one hospital in the county, the MCO shall include the hospital in its network.

10.09.68 Maryland Medicaid Managed Care Program: Program Integrity

Authority: Health-General Article, Title 15, Subtitle 1, Annotated Code of Maryland

.01 Requirements to Detect and Prevent Fraud, Waste and Abuse.

A.—K. (text unchanged)

L. Overpayments to Providers and Subcontractors.

- (1)—(3) (text unchanged)

(4) The MCO shall have the right to appeal, pursuant to COMAR [10.09.72] 10.09.73.02, the Department's recovery of an overpayment.

M. (text unchanged)

N. An MCO shall ensure that all of its network providers are screened, enrolled, and revalidated by the State as Medicaid providers, in accordance with 42 CFR part 455, subparts B and E.

10.09.71 Maryland Medicaid Managed Care Program: MCO Dispute Resolution Procedures

Authority: Health-General Article, §15-103(b)(9)(i)(4) Annotated Code of Maryland

.01 MCO Enrollee Services [Hotline].

An MCO shall:

A. Maintain a member services unit that operates an enrollee [hotline] *services line* at least during normal business hours;

B. Operate its enrollee services [hotline] *line* as a triage device to handle or properly refer enrollees' questions or complaints; and

C. Provide [an enrollee with] information in the member handbook about how to use the MCO [member services unit and] enrollee services [hotline] *line* to obtain information and assistance.

.02 [Internal] MCO Enrollee Complaint Process [for Enrollees].

A.—B. (text unchanged)

C. An MCO shall [include in the] *submit for Department approval* an internal complaint process *detailed* the procedures for registering and responding to appeals and grievances in a timely fashion, which:

(1) [Include] *Includes* a specific standard for *grievance decisions*, monitored by the MCO for compliance, directing that:

(a)—(c) (text unchanged)

(2) [Include] *Includes* participation by the provider, if appropriate;

(3) [Allow] *Allows* participation by the ombudsman, if appropriate;

(4) [Ensure] *Ensures* the participation of individuals within the MCO who have the authority to require corrective action;

(5) [Require] *Requires* documentation of the substance of the grievances and steps taken;

(6) [Include] *Includes* a [protocol] *procedure* for the aggregation and analysis of appeals and grievance data and use of the data for quality improvement;

[(7) Include a procedure for immediate response to the Department's request of all disputed actions in emergency medical situations;

(8) Include a procedure for notice of all disputed non-emergency medical care actions to the Department within 3 business days of request of the determination to deny;]

[(9)] (7) [Include] *Includes* a documented procedure for reporting:

(a)—(b) (text unchanged)

[(10)] (8) [Include] *Includes* a documented procedure for written notification of the MCO's determination:

(a) To the enrollee who filed the grievance; and

(b) To those individuals and entities required to be notified of the grievance pursuant to [§C(9)] §C(7) of this regulation; and

(c) To the Department's complaint unit for complaints referred to the MCO by the Department's complaint unit or ombudsman program; and]

[(11)] (9) [Ensure] *Ensures* that decision makers on appeals and grievances:

(a)—(b) (text unchanged)

(c) Are healthcare professionals with clinical expertise in treating the enrollee's condition or disease, if any of the following apply:

(i) The [grievance] *appeal* is a *denial* based on lack of medical necessity;

(ii) (text unchanged)

(iii) The *appeal* or grievance involves clinical issues; and

(d) (text unchanged)

.02-1 Member Complaints — Time Frames for MCOs to Respond to the Department.

An MCO shall:

A. Acknowledge an enrollee appeal or grievance reported to it by the Department's complaint resolution unit within 1 business day;

B. Respond to the Department's request for information regarding disputed nonemergency medical care actions within 3 business days;

C. Provide updates in a time frame specified by the Department;

D. Provide medical records within 5 days of the request; and

E. Provide a corrective action plan upon request and within the time frame specified, but not later than 10 days from the date of the request.

.03 MCO Provider Complaint Process.

A. (text unchanged)

B. An MCO shall include in its provider complaint process at least the following elements:

(1)—(4) (text unchanged)

(5) Procedures for the termination or withdrawal of a provider from the MCO's provider panel, including:

(a) At least 90 days prior notice to the primary care providers in the MCO's provider panel of the MCO's termination of a specialty services provider when the reason for the termination is unrelated to fraud, patient abuse, incompetency, or loss of licensure status; [and]

(b) If possible, at least 90 days prior notice to the primary care providers in the MCO's provider panel of a specialty services provider's withdrawal from the MCO's provider panel; and

(c) *Notices to primary care providers informing them of the enrollee's right to change MCOs as described in COMAR 10.09.63.06A(1)(e).*

(6)—(8) (text unchanged)

C. (text unchanged)

.03-2 Provider Complaints — Time Frames for MCOs to Respond to the Department.

An MCO shall:

A. Acknowledge provider grievances within 3 business days;

B. Provide findings to the Department within 5 days; and

C. Provide a corrective action plan to the Department within 10 days from the date of the request.

.04 MCO Actions and Decisions.

A. (text unchanged)

B. Any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested:

(1) (text unchanged)

(2) May not be [arbitrarily] based solely on diagnosis, type of illness, or condition.

C.—G. (text unchanged)

.05 MCO Appeal Process for Enrollees.

A. An MCO's appeal process shall:

(1)—(5) (text unchanged)

(6) Provide the *case file upon request* to the enrollee and the enrollee's representative [with the enrollee's case file], free of charge and sufficiently in advance of the resolution time frame for appeals, which includes:

(a)—(c) (text unchanged)

(7)—(10) (text unchanged)

B. Resolution.

(1) Except for expedited appeals *as described in §C*, an MCO shall resolve each appeal and provide notice of resolution, as expeditiously as the enrollee's health condition requires, and unless

extended pursuant to §B(2) of this regulation, within 30 days from the day the MCO receives the appeal.

(2)—(6) (text unchanged)

C.—E. (text unchanged)

F. *State Fair Hearing.*

(1) *An enrollee may exercise State fair hearing rights pursuant to the Department's regulations and State Government Article, §10-201 et seq., Annotated Code of Maryland, subject to the requirements of this regulation.*

(2) *An enrollee may request a State fair hearing for an MCO appeal resolution after first exhausting the MCO's appeal process by appealing to the Office of Administrative Hearings using the process specified in COMAR 10.01.04.*

(3) *An enrollee shall file for a State fair hearing within 120 days from the date the MCO provides on the written notice of appeal resolution.*

(4) *The parties to an appeal to the Office of Administrative Hearings under this section are the:*

(a) *MCO;*

(b) *Enrollee; and*

(c) *Enrollee's representative or the personal representative of a deceased enrollee's estate.*

(5) *The MCO shall provide documentation regarding medical determinations to enrollees and the Office of Administrative Hearings as required by COMAR 10.01.04 and other applicable law.*

(6) *The MCO shall continue the enrollee's benefits pending the outcome of the State fair hearing if all of the following occur:*

(a) *The enrollee files for continuation of benefits within 10 days of the MCO upholding its action;*

(b) *The State fair hearing request is filed timely, meaning on or before the later of the following:*

(i) *10 days from the date on the MCO's notice of appeal resolution; or*

(ii) *The intended effective date of the MCO's proposed action;*

(c) *The State fair hearing involves the termination, suspension, or reduction of a previously authorized service;*

(d) *The services were ordered by an authorized provider; and*

(e) *The authorization period has not expired.*

(7) *If the MCO continues or reinstates the enrollee's benefits while the State fair hearing is pending, the benefits shall continue until one of the following occurs:*

(a) *The enrollee withdraws the State fair hearing; or*

(b) *A State fair hearing decision adverse to the enrollee is issued by the Office of Administrative Hearings.*

(8) *The final decision of the Office of Administrative Hearings is appealable to the circuit court, and is governed by State Government Article, §10-201 et seq., Annotated Code of Maryland, and the Maryland Rules.*

G. *The Department may order an MCO to provide a benefit or service based on its evaluation of the MCO's action.*

10.09.73 Maryland Medicaid Managed Care Program: Sanctions

Authority: Health-General Article, §15-103(b)(9), Annotated Code of Maryland

.01 Sanction by the Department.

A. If the Department determines, after a sufficient investigation, that an MCO or any agent or employee of the MCO, or any person with an ownership interest in an MCO, or related party of the MCO, has failed to comply with any applicable law, regulation, or contract

term, or for other good cause shown, the Department may impose sanctions on the MCO, including but not limited to:

(1)—(3) (text unchanged)

(4) *Termination of the [provider agreement] current HealthChoice Managed Care Organization Agreement;*

(5) *Disqualification from future participation in the Maryland Medicaid Managed Care Program; [and]*

(6) *Orders to provide a benefit or service to enrollees; and*

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

B. (text unchanged)

[C. Penalties for MCO's Failure to Provide Timely Notice of Wellness Services.

(1) Pursuant to COMAR 10.09.66.07A(2), an MCO is required to provide written notice to its new enrollees, within 90 days of their enrollment, of the due dates of wellness services, including immunizations and examinations.

(2) For failure to achieve at least 90 percent compliance with the notice requirement of COMAR 10.09.66.07A(2), the Department shall reduce the MCO's capitation payment in accordance with the schedule specified in §C(3)(a)—(c) of this regulation.

(3) If an MCO fails to provide the timely notice required by COMAR 10.09.66.07A(2) to at least 90 percent of its new enrollees:

(a) Within 90 days of enrollment, the Department shall effect a 20 percent reduction in the MCO's capitation payment;

(b) Within 180 days of enrollment, the Department shall effect a 30 percent reduction in the MCO's capitation payment; and

(c) Within 270 days of enrollment, the Department shall effect a 50 percent reduction in the MCO's capitation payment.]

.02 Appeal.

A. *From the decisions set forth in §B(1)—(8) of this regulation, an MCO may exercise the appeal rights set forth in §C of this regulation.*

B. *The following Department decisions are appealable by the MCO or MCO applicant:*

(1) *Denial of an entity's completed application to become an MCO;*

(2) *Decision to terminate the MCO's participation in the Maryland Medicaid Managed Care Program;*

(3) *Decision to impose a fine or other sanction on the MCO as described in Regulation .01 of this chapter;*

(4) *Order to provide benefits or services to enrollees as described in COMAR 10.09.71.05;*

(5) *Order that the MCO is impaired or in "hazardous financial condition";*

(6) *An adverse decision by the IRO as described in COMAR 10.09.86.08;*

(7) *The amount of a penalty or incentive as described in COMAR 10.09.65.03;*

(8) *The denial of a hepatitis C payment as described in COMAR 10.09.65.19;*

(9) *Overpayments recovered by the Department as described in COMAR 10.09.68.01; and*

(10) *Remittances to the Department as described in COMAR 10.09.65.19-5.*

C. *An MCO may appeal a decision listed in §B of this regulation to the Office of Administrative Hearings as specified in COMAR 10.01.03 and COMAR 10.09.36.09.*

D. *The parties to an appeal to the Office of Administrative Hearings under §C of this regulation are the Department and the MCO. The enrollee is not a party at this hearing.*

E. *The following sanctions shall take effect immediately and are not subject to stay during the pendency of an appeal:*

(1) *Any fines imposed;*

(2) *Orders to provide a benefit or service to enrollees;*

- (3) Any full or partial withhold of the capitation payment;
 (4) Any remittances to the Department as described in COMAR 10.09.65.19-5; or
 (5) Any overpayments recovered by the Department as described in COMAR 10.09.68.01.

10.09.75 Maryland Medicaid Managed Care Program: Corrective Managed Care

Authority: Health-General Article, §§15-102.1(b)(9) and 15-103, Annotated Code of Maryland

.05 Enrollee Appeal.

- A. (text unchanged)
 B. Except for the time frame specified in §A of this regulation, an appeal shall be handled as specified in:
 (1) COMAR 10.09.71.05; and
 (2) COMAR 10.09.72.05].
 C. (text unchanged)

10.09.86 Maryland Medicaid Managed Care Program: Independent Review Organization (IRO)

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

.08 Appeal.

- A. (text unchanged)
 B. An MCO that receives an adverse decision from an independent review organization may file an appeal in accordance with COMAR [10.09.72.06] 10.09.73.02.

ROBERT R. NEALL
 Secretary of Health

Subtitle 09 MEDICAL CARE PROGRAMS

10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations

Authority: Health-General Article, §§2-104, 15-102.3, and 15-103; Insurance Article, §§15-112, 15-605, and 15-1008; Annotated Code of Maryland

Notice of Proposed Action

[18-254-P]

The Secretary of Health proposes to amend Regulation .03 under COMAR 10.09.65 Maryland Medicaid Managed Care Program: Managed Care Organizations.

Statement of Purpose

The purpose of this action is to update the value-based purchasing (VBP) incentive methodology to remove postpartum care from the core performance measures. The proposed action also adds a requirement for an MCO to validate and evaluate its provider networks to ensure compliance with network adequacy and access standards.

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

I. Summary of Economic Impact. The economic impact on MDH is indeterminable at this time. Because the Department cannot

predict the future performance of MCOs in CY 2019, the projected cost is indeterminable. There is a cap on how much VBP will cost, but there is flexibility to fund it at various levels within that cap.

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

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

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

A. and D. The economic impact on MDH is indeterminable at this time. Previously, the Department paid incentives to high-performing MCOs via disincentives imposed on lower performing MCOs. Since the new VBP methodology eliminates disincentives, it will require new (general and federal) funding streams to pay incentives to MCOs with net positive scores. However, since the Department cannot predict the future performance of MCOs in CY 2019, the projected cost is indeterminable.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

.03 Quality Assessment and Improvement.

- A. (text unchanged)
 B. An MCO shall participate in all quality assessment activities required by the Department [in order] to determine if the MCO is providing medically necessary enrollee health care. These activities include, but are not limited to:
 (1)—(2) (text unchanged)
 (3) The annual collection and evaluation of a set of performance measures with targets as determined by the Department as follows:
 (a)—(e) (text unchanged)

(f) Effective January 1, 2019, the core performance measures are:

(i)—(vii) (text unchanged)

[(viii) Postpartum care;]

[(ix)] (viii)—[(x)] (ix) (text unchanged)

(g)—(j) (text unchanged)

(4) (text unchanged)

(5) An annual Maryland Healthy Kids audit in order to determine the quality of the clinical care provided to all children younger than 21 years old enrolled in the HealthChoice Program as follows:

(a) — (b) (text unchanged)

(c) The Department shall issue a final report of the audit results; [and]

(6) Performance improvement projects to be conducted by the MCOs that focus on clinical or nonclinical areas as determined by the Department or CMS and include the following:

(a) — (d) (text unchanged)

(e) Reporting of results to the Department or CMS; and

(7) *Validation and evaluation of MCO provider networks to ensure compliance with the network adequacy and access standards set forth in COMAR 10.09.66.*

C.—D. (text unchanged)

ROBERT R. NEALL
Secretary of Health

Title 12

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 04 POLICE TRAINING AND STANDARDS COMMISSION

12.04.01 General Regulations

Authority: Correctional Services Article, §2-109; Public Safety Article, §§3-208 and 3-209; Annotated Code of Maryland

Notice of Proposed Action

[18-248-P]

The Secretary of Public Safety and Correctional Services, in cooperation with the Police Training and Standards Commission, proposes to amend Regulations .01 and .04 under **COMAR 12.04.01 General Regulations**.

Statement of Purpose

The purpose of this action is to comply with the requirements set forth in Ch. 671, Acts of 2018, by developing standards for the pre-employment psychological evaluation of police officers. Changes to COMAR 12.04.01 include the creation of a definition for the term “mental health professional” for use by the Maryland Police Training and Standards Commission; establishment of criteria for psychological evaluation tools used by a mental health professional conducting a pre-employment evaluation; and clarification of language regarding the essential functions of a police officer and recommendations made by medical doctors and mental health professionals regarding applicants. By adopting the proposed regulations the Commission seeks to create a uniform employment screening process for all police officers within Maryland law enforcement agencies.

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 Albert L. Liebno, Jr., Acting Executive Director, Maryland Police Training and Standards Commission, 6852 4th Street, Sykesville, MD 21784, or call 410-875-3602, or email to albert.liebno@maryland.gov, or fax to 410-875-3584. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Maryland Police Training and Standards Commission during a public meeting to be held on October 3, 2018, at 10 a.m., at Public Safety Education and Training Center, 6852 4th Street, Sykesville, MD 21784.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (12) (text unchanged)

(13) “*Mental health professional*” means an individual licensed and legally authorized to practice independently under Health-General Article, Titles 14, 18, and 19, Annotated Code of Maryland, by the appropriate Maryland board as a:

(a) *Psychiatrist*;

(b) *Psychologist*; or

(c) *Licensed certified social worker—clinical*.

[(13)] (14) — [(21)] (22) (text unchanged)

.04 Selection Standards for Provisional Certification.

A. — E. (text unchanged)

F. Physical and Mental Health Examinations.

(1) Before an applicant may be selected for a position as a police officer, the applicant shall be examined by *and receive a recommendation from* a licensed, trained, and qualified medical doctor [and receive a positive recommendation from the medical doctor] indicating that the applicant is physically able to:

(a) Perform the [duties] *essential functions* of a police officer as determined by the employing law enforcement agency; and

(b) (text unchanged)

(2) Before an applicant may be selected for a position as a police officer, the applicant shall be [examined] *evaluated as set forth in §F(3) of this regulation and receive a recommendation from* a licensed, trained, and qualified mental health [care] professional [and receive a positive recommendation from the mental health care professional] indicating that the applicant is:

(a) [Emotionally and mentally fit] *Psychologically suitable*; and

(b) Able to perform the [duties] *essential functions* of a police officer as these [duties] *functions* are determined by the law enforcement agency.

(3) *The pre-employment psychological evaluation:*

(a) *Shall include a nationally recognized mental health screening instrument that has documented reliability, validity, and other empirical evidence that supports the instrument’s use in the pre-employment evaluation of police officer applicants; and*

(b) May include additional psychological assessments, tests, surveys, interviews, and observational data at the discretion of the mental health professional.

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

G. — K. (text unchanged)

STEPHEN T. MOYER

Secretary of Public Safety and Correctional Services

Title 13A STATE BOARD OF EDUCATION

Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS

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

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

Notice of Proposed Action

[18-256-P]

The Maryland State Board of Education proposes to amend Regulation .08 under **COMAR 13A.03.02 Graduation Requirements for Public High Schools in Maryland**. This action was considered at the July 24, 2018, meeting of the State Board of Education.

Statement of Purpose

The purpose of this action is to strengthen the grading and reporting policies in local school systems and to impose a grade change audit requirement on local school systems.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. There will be some economic impact on local school systems, which must perform a yearly audit of grade changes and their validity.

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

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

C. There will be some economic impact on local school systems, which must conduct yearly audits of grade changes and their validity. The cost will vary across local school systems.

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 Mary Gable, Asst. State Superintendent, Division of Student Support, Academic Enrichment and Educational Policy, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0472 (TTY 410-333-6442), or email to mary.gable@maryland.gov, or fax to 410-333-0880. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on December 4, 2018, 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.08 Grading and Reporting.

[A. Each local school system shall develop a written policy on grading and reporting that complies with the student record requirements as set forth in COMAR 13A.08.02.

B. On October 1 of each school year, each local school system shall file its policies on grading and reporting with State Superintendent of Schools.]

A. Each school system in Maryland shall recognize and accept any and all credits a student earned toward graduation in any other school system in Maryland.

B. Each local school system shall develop a written policy on grading and reporting that complies with the student record requirements as set forth in COMAR 13A.08.02 and that includes:

(1) An explanation of the grading scale at the elementary and secondary levels;

(2) An explanation of the calculation of the final grade for a course;

(3) An explanation of weights of honors, Advanced Placement, International Baccalaureate, and/or dual enrollment courses;

(4) An explanation of how attendance factors into the student's grade;

(5) An explanation of grade changing procedures, including:

(a) A timeline for final grade changes that cannot exceed 30 school days following the last day of the grading period;

(b) The names of personnel at the school and central office level authorized to make final grade changes;

(c) Documentation that authorized personnel are required to maintain to support the final grade changes, including, at a minimum the:

(i) Name of teacher requesting grade change;

(ii) Reason for the grade change;

(iii) Signature of person approving the grade change;

(iv) Reason for the approval;

(v) Date of the approval; and

(vi) Signature of the principal;

(d) How and when the school system will audit the validity of the grade changes each year; and

(e) Appeal procedures.

C. On October 1 of each school year, each local school system shall:

(1) File its policy on grading and reporting with State Superintendent of Schools; and

(2) Submit a copy of the grade change validity audit in accordance with §B(5)(d) of this regulation to the State Superintendent of Schools.

D. Upon submission of the items contained in §C of this regulation, the Maryland State Department of Education will:

(1) Verify that the local school system has met the requirements of this regulation; or

(2) Direct the local school system to develop a corrective action plan to bring it into compliance with this regulation and monitor the school system's progress in completing its corrective action.

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Subtitle 06 SUPPORTING PROGRAMS

13A.06.09 Maryland Early Literacy Initiative

Authority: Education Article, §§2-205 and 5-216, Annotated Code of Maryland; Ch. 361, Acts of 2018

Notice of Proposed Action

[18-255-P]

The Maryland State Board of Education proposes to adopt new Regulations .01—.05 under a new chapter, **COMAR 13A.06.09 Maryland Early Literacy Initiative**. This action was considered at the July 24, 2018, meeting of the State Board of Education.

Statement of Purpose

The purpose of this action is to provide early literacy intervention services to students in selected schools or school systems through a State-funded competitive grant program.

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

I. Summary of Economic Impact. New State funding for FY19 will provide \$2.5 million in grants for early literacy programs in at least 3 local school systems.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)	\$2.5 million
B. On other State agencies:	NONE	
C. On local governments:	(R+)	Unknown
	Benefit (+) Cost (-)	
	Magnitude	
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	

F. Direct and indirect effects on public: NONE

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

A. The Maryland State Department of Education received \$2.5 million to implement the Early Literacy Program.

C. The Maryland State Department of Education will award grants to qualifying schools.

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:

Eligible students with disabilities in schools that receive grants under this regulation will receive additional services.

Opportunity for Public Comment

Comments may be sent to Mary Gable, Asst. State Superintendent, Division of Student Support, Academic Enrichment and Educational Policy, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0472 (TTY 410-333-6442), or email to mary.gable@maryland.gov, or fax to 410-333-0880. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on December 4, 2018, 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.01 Purpose.

The Maryland Early Literacy Initiative is a grant program that will assist up to 50 qualifying schools in at least three school systems to implement an evidence-based literacy program in the school to work with participating students to meet literacy proficiency targets by the end of eighth grade.

.02 Definitions.

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

B. Terms Defined.

(1) *Evidence-based early literacy program* means a program that satisfies §8101(21)(A)(i)(I) or §8101(21)(A)(i)(II) under Title 8, General Provisions of the Every Student Succeeds Act, and includes systematic, direct instruction in phonemic awareness, phonics, vocabulary development, fluency, and comprehension.

(2) *Initiative* means the Maryland Early Literacy Initiative.

(3) *Interventionist* means a trained professional whose primary responsibility is to deliver evidence-based early literacy intervention.

(4) *Nonprofit organization* means a nonprofit organization that:

(a) Is based in the State;

(b) Is incorporated or registered under the laws of the State;

(c) Is exempt from federal income tax under §501(c)(3), (4), or (6) of the Internal Revenue Code;

(d) Is current in the payment of all tax obligations to the State or any unit or subdivision of the State; and

(e) Has been in active business for 3 years or more at the time the application is submitted or has a fiscal sponsor who can meet the requirements of this section.

(5) *Participating student* means a student:

(a) In prekindergarten through eighth grade; or

(b) A student who performs below a certain score, as determined by the Department, on the assessment the Department uses to assess reading level.

(6) "Qualifying school" means a public school categorized by the local school system as a Title I school.

.03 Program Requirements.

A. For the 2018-19 school year through the 2021-22 school year, a qualifying school may apply to the Department to receive a grant to develop an evidence-based early literacy program.

B. A qualifying school may apply for a grant only if the local superintendent endorses the school's grant application.

C. A qualifying school may coordinate and partner with other qualifying schools in the county to apply jointly for a grant to develop a literacy program among the partnering qualifying schools.

D. A qualifying school may apply for and accept donations, grants, or other financial assistance from a governmental entity, a nonprofit organization, or any other private organization to benefit the literacy program.

E. A local school board may apply on behalf of one or more qualifying schools in the local school system.

.04 Grant Application.

A. An application shall:

(1) Identify whether the qualifying school will work in collaboration with a nonprofit organization or the local board of education to implement the literacy program;

(2) Provide the name and qualifications of the nonprofit organization, if the qualifying school will work in collaboration with a nonprofit organization; and

(3) Include a description of:

(a) The literacy program to be implemented at the qualifying school;

(b) The training that will be provided to the interventionist to provide the services in this section;

(c) How the literacy program will meet the grant requirements in this section; and

(d) Any other information required by the Department.

B. A literacy program developed under the Initiative shall:

(1) Provide early literacy intervention services for participating students;

(2) Require participating students to receive direct services at least twice a week;

(3) Have clear literacy targets at each grade level for participating students;

(4) Have benchmark assessments multiple times a year to identify students who need one-on-one interventions;

(5) Collect data on student progress at least monthly;

(6) Be implemented by staff hired and supervised by the collaborating nonprofit organization or the local board of education; and

(7) Use literacy programs that utilize various evidence-based approaches and methodologies for:

(a) Comparison purposes; and

(b) The collection of multiple data points for long-term review.

.05 Grant Award.

A. To the extent that funds are available, the Department shall distribute up to 50 grants in at least three school systems for a 2-year period.

B. In awarding grants under the Initiative, the Department will fund only those qualifying schools that use literacy programs that utilize various evidence-based approaches and methodologies for:

(1) Comparison purposes; and

(2) The collection of multiple data points for long-term review.

C. If the number of applications exceeds the number of available grants, the Department shall give priority to a qualifying school serving a high concentration of students in prekindergarten through third grade who are living in poverty.

D. A grant made to each qualifying school may not exceed \$75,000 each year.

E. A grant made under this section shall be renewed by the Department after a 2-year period if the qualifying school presents evidence that the qualifying school is:

(1) In compliance with all grant requirements; and

(2) Meeting identified targets and benchmarks.

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 01 OFFICE OF THE SECRETARY

15.01.16 Industrial Hemp Pilot Program

Authority: Agriculture Article, §14-102(c), Annotated Code of Maryland

Notice of Proposed Action

[18-251-P]

The Secretary of Agriculture proposes to adopt new Regulations **.01—.07** under a new chapter, **COMAR 15.01.16 Industrial Hemp Pilot Program**.

Statement of Purpose

The purpose of this action is to establish the Department of Agriculture's Industrial Hemp Pilot Program.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Kevin Conroy, Assistant Secretary, Maryland Department of Agriculture, 50 Harry S Truman Parkway, Annapolis, Maryland 21401, or call (410) 841-5870, or email to kevin.conroy@maryland.gov, or fax to (410) 841-5835. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

.01 Purpose.

This chapter establishes the Department of Agriculture's Industrial Hemp Pilot Program, including the requirement for the registration and the certification of a site that will be used to grow or cultivate industrial hemp to further agricultural or academic research purposes.

.02 Definitions.

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

B. Terms Defined.

(1) "Authorized holder" or "holder" means an institution of higher education or a person who has contracted with an institution to grow or cultivate industrial hemp for agricultural research and academic research purposes as authorized by this chapter.

(2) "Certified site" means any property site certified by and registered with the Department as a site where industrial hemp may be grown or cultivated for agricultural or academic research purposes.

(3) "Department" means the Maryland Department of Agriculture.

(4) "Independent testing laboratory" has the meaning stated in Health-General Article, §13-3301, Annotated Code of Maryland.

(5) Industrial Hemp.

(a) "Industrial hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(b) "Industrial hemp" does not include any plant or part of a plant intended for a use that is regulated under Health-General Article, Title 13, Subtitle 33, Annotated Code of Maryland.

(6) "Institution of higher education" or "institution" has the meaning stated in the federal Higher Education Act of 1965.

(7) "Person" means an individual, partnership, corporation, limited liability company, association, or any business entity, by whatever name designated and whether or not incorporated, unless the context clearly indicates otherwise.

.03 Authorization to Grow and Cultivate Industrial Hemp.

A. Only an institution of higher education within Maryland may submit an application to the Department for authorization to grow, cultivate, harvest, process, manufacture, transport, market or sell industrial hemp for agricultural, industrial, or commercial purposes to further agricultural or academic research purposes.

B. Only a person contracting with the Department or an approved institution of higher education as provided in this regulation may possess, grow, cultivate, harvest, process, manufacture, transport, market, or sell industrial hemp as part of the Pilot Program to further agricultural or academic research purposes.

C. Industrial hemp may only be grown or cultivated at a registered site or premises owned or controlled by an institution of higher education or by a person who contracts with an institution to grow and cultivate it.

D. A person who contracts with an institution to grow and cultivate industrial hemp shall:

(1) Be at least 18 years old;

(2) Pass a criminal background test with no felony convictions in the past 10 years;

(3) Own or lease, with the approval of the owner, the property used to grow and cultivate hemp;

(4) Have the site registered and approved with the Department before contracting to grow or cultivate hemp;

(5) Grant the Department permission to enter and inspect the property to ensure compliance with the requirements of this chapter.

(6) Only grow hemp on land that is at least 1,000 feet from a school or public recreation area when the hemp is being grown in an outdoor field or an outdoor site;

(7) Post a sign on the certified site that notifies the public that the site is used to grow hemp as part of the Pilot Program; and

(8) Attend an orientation session by the Department, in cooperation with the institution, that explains the requirements of this chapter before contracting to grow or cultivate hemp.

E. It is the sole responsibility of any institution or person qualifying under this chapter to hold any required federal permit to possess, grow, or cultivate industrial hemp.

.04 Application Review and Approval.

An application to grow, cultivate, harvest, process, manufacture, transport, market, or sell industrial hemp to further agricultural research or academic research purposes shall be made on a Departmental form. Each application shall provide the following information, including, but not limited to:

A. A description of each site where industrial hemp will be grown or cultivated, either by the institution of higher education or by an authorized person who contracts with the institution by physical address with a map clearly showing the location of the site with GPS coordinates;

B. A diagram for each site that visually depicts the buildings, structures, and improvements on the premises, and identifies their use, and that sets forth the relevant activities conducted at the site;

C. A detailed summary of the issues and matters that the applicant intends to study in conjunction with growing, cultivating, processing, manufacturing, transporting, marketing, or selling industrial hemp; and

D. Payment of a \$250 fee to certify and register each site used to grow or cultivate industrial hemp either by the institution or the person who contracts with the institution.

.05 Rejection of Application or Revocation of Authority.

The Department may reject any application to grow or cultivate industrial hemp, and may revoke an authorization to grow and cultivate industrial hemp, if the Department determines that:

A. The application is incomplete or does not provide the information required pursuant to Regulation .04 of this chapter; or

B. The authorized holder has failed to comply with the requirements of this chapter or the terms of the holder's application.

.06 Hemp Seeds.

A person or institution that grows or cultivates industrial hemp as authorized by this chapter may purchase or otherwise obtain seeds that produce plants that meet the definition of industrial hemp as provided in this chapter.

.07 Hemp Verification and Reports.

A. In accordance with this regulation, a person who grows or cultivates industrial hemp as authorized by this chapter shall:

(1) Verify that the plants grown or cultivated by the person meet the definition of industrial hemp under this chapter;

(2) Maintain all records of verification at the site that is used to grow or cultivate industrial hemp; and

(3) Make all records available for inspection by:

(a) The Department; or

(b) The institution of higher education that contracted with the person under this chapter to grow or cultivate industrial hemp.

B. The verification required under this regulation shall include:

(1) Documentation from an independent testing laboratory registered as defined by this chapter; or

(2) Documentation from the institution of higher education that contracted with the person under this chapter to grow or cultivate industrial hemp.

C. An independent testing laboratory or an institution of higher education that provides verification documentation under this chapter shall conduct on-site inspections to perform the testing necessary for the verification.

D. If it is determined that the industrial hemp exceeds a delta-9-tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis, it shall be destroyed by the authorized holder within 7 days under the supervision of the institution of higher education.

E. The frequency of the verification required under this subsection shall be determined by:

- (1) The Department; or*
- (2) The institution of higher education that contracted with a person under this chapter to grow or cultivate industrial hemp.*

JOSEPH BARTENFELDER
Secretary of Agriculture

Subtitle 14 BOARD OF VETERINARY MEDICAL EXAMINERS

15.14.09 Qualifications for Licensure, by Examination, as a Veterinarian

Authority: Agriculture Article, §§2-304 and 2-307, Annotated Code of Maryland

Notice of Proposed Action

[18-249-P]

The Secretary of Agriculture proposes to amend Regulations .03—.05 under COMAR 15.14.09 Qualifications for Licensure, by Examination, as a Veterinarian.

Statement of Purpose

The purpose of this action is to explain how applicants for a veterinary license in Maryland may submit an application online and verify its authenticity with electronic signatures rather than by notarized copies sent by mail.

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 Vanessa Orlando, Executive Director, Maryland State Board of Veterinary Medical Examiners, Maryland Department of Agriculture, 50 Harry S Truman Pkwy., Annapolis, MD 21401, or call (410) 841-5862, or email to vanessa.orlando@maryland.gov, or fax to (410) 841-5780. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

.03 Maryland State Examination.

A. — C. (text unchanged)

D. The Board Examination. To pass the Board Examination, an applicant shall read and comprehend the laws and regulations governing the practice of veterinary medicine in this State, and shall sign a statement before a notary public attesting to this fact *or shall sign an online statement in conjunction with the Board's online application process attesting to this fact with a signature that may be electronic.*

E. (text unchanged)

.04 Application Process for Taking the Maryland State Examination.

A. (text unchanged)

B. Board Examination. To take the Board Examination, an applicant shall submit the following to the State Board within 1 year from the date the Board has received the application:

(1) A complete and notarized examination application on a form provided by the Board *or an online examination application developed by the Board and submitted online with a signature that may be electronic;*

(2) The application fee, as provided in COMAR 15.14.12.02, in the form of a check or money order, payable to the Maryland Department of Agriculture *or in the form of an online credit card payment or other electronic payment submitted in conjunction with an online application developed by the Board;*

(3) One 2-inch by 3-inch *headshot* photograph of the applicant, taken within 6 months of the application date, with the applicant's complete signature on the photograph *or a headshot photograph of the applicant, taken within 6 months of the application date, that is uploaded with an online application developed by the Board and attested to as true and accurate with a signature that may be electronic; and*

(4) The following information pertaining to the applicant's schooling:

(a) — (b) (text unchanged)

(c) For the FVG:

(i) A school authenticated copy of the applicant's veterinary medical school transcript [or diploma], and, if applicable, an English translation; and

(ii) (text unchanged)

(d) (text unchanged)

C. (text unchanged)

.05 License Issuance.

Except as otherwise provided under COMAR 15.14.08, the Board may not issue a license to practice veterinary medicine in this State to an applicant unless the applicant:

A. Passes the Maryland State Examination, including submission of the notarized statement *or submission of an online electronic signature in conjunction with an online application* attesting to the fact that the applicant has read, and comprehends, the laws and regulations governing the practice of veterinary medicine in this State;

B. Submits the following information pertaining to the applicant's schooling:

(1) (text unchanged)

(2) For the FVG:

(a) A school authenticated copy of the applicant's veterinary medical school transcript [or diploma], and, if applicable, an English translation, and

(b) (text unchanged)

C. (text unchanged)

JOSEPH BARTENFELDER
Secretary of Agriculture

Subtitle 14 BOARD OF VETERINARY MEDICAL EXAMINERS

15.14.13 Qualifications for Examination and Registration of a Veterinary Technician

Authority: Agriculture Article, §2-309, Annotated Code of Maryland

Notice of Proposed Action

[18-250-P]

The Secretary of Agriculture proposes to amend Regulations .03, .05, and .12 under COMAR 15.14.13 Qualifications for Examination and Registration of a Veterinary Technician.

Statement of Purpose

The purpose of this action is to allow applicants for a Registered Veterinary Technician (RVT) license in Maryland to submit an application online and to verify its authenticity with electronic signatures rather than notarized copies sent by mail.

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 Vanessa Orlando, Executive Director, Maryland State Board of Veterinary Medical Examiners, Maryland Department of Agriculture, 50 Harry S Truman Pkwy., Annapolis, MD 21401, or call (410) 841-5862, or email to vanessa.orlando@maryland.gov, or fax to (410) 841-5780. Comments will be accepted through October 15, 2018. A public hearing has not been scheduled.

.03 Qualifications for Examination.

A. — B. (text unchanged)

C. Board Examination. To take the State Board Examination, an applicant shall submit the following to the State Board within 1 year from the date the Board has received the application:

(1) A complete and notarized examination application on a form provided by the Board *or an online examination application developed by the Board and submitted online with a signature that may be electronic*;

(2) The application fee, as provided in COMAR 15.14.12.02, in the form of a check or money order, payable to the State Board of Veterinary Medical Examiners *or in the form of an online credit card payment or other electronic means deemed practical by the Board and submitted in conjunction with an online application developed by the Board*;

(3) A 2-inch by 3-inch *headshot* photograph of the applicant taken within 6 months of the application date, with the applicant's complete signature on the photograph *or an electronic headshot photograph of the applicant taken within 6 months of the application date that is uploaded with an online application developed by the Board and attested to as true and accurate with a signature that may be electronic*; and

(4) (text unchanged)

D. — E. (text unchanged)

.05 Maryland State Examination — Subject Matter.

A. — B. (text unchanged)

C. To pass the State Board Examination, an applicant shall:

(1) (text unchanged)

(2) Sign a statement before a notary public *or provide an electronic signature in conjunction with an online application developed by the Board attesting to this fact*.

.12 Registration Renewal.

A. (text unchanged)

B. The Board shall renew a lapsed registration of less than 5 years, if the applicant:

(1) Submits a renewal application [on the form] *in a manner* the Board requires;

(2) — (4) (text unchanged)

C. The Board shall reinstate a lapsed registration of 5 years or more if the applicant:

(1) Submits a reinstatement application [on the form] *in a manner* the Board requires;

(2) — (4) (text unchanged)

JOSEPH BARTENFELDER
SECRETARY

Title 21 STATE PROCUREMENT REGULATIONS

Notice of Proposed Action

[18-246-P]

The Board of Public Works proposes to:

(1) Amend Regulation .01 under COMAR 21.01.02

Terminology;

(2) Amend Regulation .01 under COMAR 21.01.03

Applicability;

(3) Amend Regulation .05 under COMAR 21.02.01 Board of Public Works;

(4) Amend Regulation .04 under COMAR 21.02.05 Department of General Services;

(5) Amend Regulations .01 and .05 and repeal Regulation .02 under COMAR 21.05.01 General Provisions;

(6) Amend Regulation .04 and repeal Regulation .05 under COMAR 21.05.02 Procurement by Competitive Sealed Bidding;

(7) Amend Regulations .01—.03 under COMAR 21.05.03 Procurement by Competitive Sealed Proposals;

(8) Amend Regulation .01 under COMAR 21.05.06 Emergency and Expedited Procurements;

(9) Amend Regulations .01, .04, and .05 under COMAR 21.05.07 Small Procurement Regulations (\$50,000 or Less);

(10) Amend the authority line under COMAR 21.05.08 Mandatory Written Solicitation Requirements;

(11) Amend Regulations .04, .05, and .08 under COMAR 21.05.09 Intergovernmental Cooperative Purchasing;

(12) Adopt new Regulations .01—.07 under COMAR 21.05.13 Master Contracting;

(13) Amend Regulations .19 and .25 under COMAR 21.07.01 Mandatory Contract Provisions — All Contracts (Except as Provided Under COMAR 21.05.07, 21.07.02, and 21.07.03);

(14) Amend Regulation .10 under COMAR 21.07.02 Mandatory Construction Contract Clauses;

(15) Amend Regulations .07 and .08 under COMAR 21.07.03 **Mandatory Terms and Conditions for Purchase Orders Over \$50,000**;

(16) Amend Regulation .04 under COMAR 21.10.04 **Contract Claims and Disputes**;

(17) Amend Regulations .01 and .04—.06 under COMAR 21.11.01 **Small Business Procurements**;

(18) Amend Regulations .10, .12, and .12-1 under COMAR 21.11.03 **Minority Business Enterprise Policies**;

(19) Amend Regulations .01, .04, and .07 under COMAR 21.11.05 **Procurement from Maryland Correctional Enterprises, Blind Industries and Services of Maryland, and the Employment Works Program**;

(20) Amend Regulation .01 under COMAR 21.11.13 **Veteran-Owned Small Business Enterprises**; and

(21) Amend Regulation .17 under COMAR 21.13.01 **Reporting Requirements**.

This action was considered at a Board of Public Works meeting held on July 19, 2018.

Statement of Purpose

The purpose of this action is to revise COMAR Title 21 to implement recently-enacted legislation and to correct outdated/inconsistent terminology, invalid references, and typographical errors. Proposal highlights include: increasing small procurement threshold from \$25,000 to \$50,000, repealing preference for Competitive Sealed Bidding procurement method, modifying Intergovernmental Cooperative Purchasing procurement method, establishing the Master Contracting procurement method, updating mandatory contract provisions, expanding the Small Business Reserve Program, and adding Regular Dealer provisions to MBE Program.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Gabriel Gnall, Procurement Advisor, Board of Public Works, 80 Calvert Street, Annapolis, MD 21401, or call 410-260-7335, or email to gabriel.gnall@maryland.gov, or fax to 410-974-5240. Comments will be accepted through October 29, 2018. A public hearing has not been scheduled.

Subtitle 01 GENERAL PROVISIONS

21.01.02 Terminology

Authority: State Finance and Procurement Article, §§11-101 and 12-101, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (28) (text unchanged)

(29) “Control *authority or agency*” means a department having the power to supervise, regulate, command, approve or disapprove actions of a procurement agency or using agency.

(30) — (98) (text unchanged)

21.01.03 Applicability

Authority: State Finance and Procurement Article, §§11-201—11-203, 12-101, and 12-104; Natural Resources Article, §3-103; Annotated Code of Maryland; Ch. 198, Acts of 2009; Chs. 428, 495, and 713, Acts of 2010; Chs. 108, 111, and 268, Acts of 2017

.01 Exemptions.

A. The following are exempt from applicability of this title:

(1) — (3) (text unchanged)

(4) Contracts or like business agreements between a State agency and:

(a) Another State agency, except as provided under COMAR [21.14.01.02B] 21.05.12.02B;

(b) An agency or political subdivision of the State or other governments, except as provided under COMAR [21.14.01.02B] 21.05.12.02B;

(c) — (d) (text unchanged)

(5) — (16) (text unchanged)

(17) The Board of Trustees of the State Retirement and Pension System, except as provided by State Finance and Procurement Article, Title 14, Subtitle 3, Annotated Code of Maryland, and COMAR 21.11.03, for:

(a) (text unchanged)

(b) Expenditures to manage, maintain, and enhance the value of the assets of the State Retirement and Pension System in accordance with investments guidelines adopted by the Board of Trustees; [and]

(c) Services related to the administration of the optional retirement program under State Personnel and Pensions Article, Title 30, Annotated Code of Maryland; and

(d) *Expenditures for the safe custody, domestic or global, of investments as provided under State Personnel and Pensions Article, §21-123(f), Annotated Code of Maryland;*

(18) — (34) (text unchanged)

(35) The Department of General Services for [renovation] *the rehabilitation* of a structure that[:

(a) Was built during the 18th or 19th century; and

(b) *I] is listed in or eligible for listing in the National Register of Historic Places, to the extent the procurement is necessary to preserve the historic fabric of the structure impacted by the rehabilitations, as determined by the Department of General Services in consultation with the Maryland Historical Trust;*

(35-1) (text unchanged)

(35-2) The Maryland Clean Energy Center, except as provided by State Finance and Procurement Article, Title 14, Subtitle 3, Annotated Code of Maryland; [and]

(35-3) *The State Archives for preservation, conservation, proper care, restoration, and transportation of fine art or decorative art that is in the custody of the Commission on Artistic Property and owned by or loaned to the State; and*

(36) (text unchanged)

B. — D. (text unchanged)

Subtitle 02 STATE PROCUREMENT ORGANIZATION

21.02.01 Board of Public Works

Authority: Education Article, §§14-204, 14-205, and 14-405; State Finance and Procurement Article, §§12-101, 12-107, 12-202, 12-203, 12-204, 13-108 and 15-112; Annotated Code of Maryland; Ch. 471, Acts of 1991; Ch. 608, Acts of 1999; Ch. 581, Acts of 2016

.05 Review and Approval of the Award of Procurement Contracts.

A. Action Agendas.

(1) — (2) (text unchanged)

(3) The procurement agencies shall:

(a) Pursuant to COMAR 21.05.06.02, submit, as an appendix to the Board Secretary's Action Agenda for the Board's subsequent review, a separate item for each award of an emergency procurement contract or emergency contract modification that, with prior modifications, aggregates in excess of [\$25,000] *\$50,000*. Each procurement agency shall be responsible for defending its own emergency procurements to the Board.

(b) (text unchanged)

(4) — (7) (text unchanged)

B. Procurement Agency Activity Reports (PAAR).

(1) The departments, the Department of Public Safety and Correctional Services, and the Maryland Environmental Service (for those specific projects as may be authorized from time to time by the General Assembly and to the extent so authorized) shall prepare and submit to the Board Procurement Agency Activity Reports (PAAR) covering all procurement contracts in excess of [\$25,000] *\$50,000*, except contracts for the purchase of commodities and supplies, made pursuant to this chapter during the previous calendar month or not previously reported.

(2) In addition, a PAAR shall include a report of:

(a) All contract modifications and option renewals greater than [\$25,000] *\$50,000*, but less than the amount requiring Board approval, approved by the departments, the Department of Public Safety and Correctional Services, and the Maryland Environmental Service (for those specific projects as may be authorized from time to time by the General Assembly and to the extent so authorized) pursuant to this chapter;

(b) (text unchanged)

(c) All construction contract change orders greater than [\$25,000] *\$50,000*, but less than the amount requiring Board approval, approved by the Departments of General Services, Transportation, Public Safety and Correctional Services, and the Maryland Port Commission pursuant to this chapter.

(3) — (5) (text unchanged)

C. (text unchanged)

21.02.05 Department of General Services

Authority: State Finance and Procurement Article, §§4-204, 12-101, 12-107(b)(3), 12-108, and 13-108(a)(1), Annotated Code of Maryland

.04 Commodity Procurement.

A. Delegation of Purchasing Authority to Using Agencies.

(1) — (3) (text unchanged)

(4) Scheduled Purchase Items and Contract Items Supersede any Exempt or Delegated Procurement. The Department operates a regularly scheduled purchase program through which a using agency may plan and order needed commodities. The Department also develops term contracts for various commodities. Except for purchases off a local jurisdiction intergovernmental cooperative purchasing agreement, a using agency may not purchase from an

alternate source an item which is available through the regularly scheduled purchase program or an item which is available through a term requirements or indefinite quantity contract except where an item can be purchased from another vendor when the total cost is less than that of the item on a schedule resulting from an intergovernmental agreement and the price of the purchase does not exceed \$1,000. A written determination shall be made that compares all elements of cost demonstrating the lower cost. Additionally, the total cost per year for all items purchased from an alternate vendor(s) [shall] may *not* exceed \$10,000 for each agency.

B. — G. (text unchanged)

Subtitle 05 PROCUREMENT METHODS AND PROJECT DELIVERY METHODS

21.05.01 General Provisions

Authority: State Finance and Procurement Article, §§11-201, 11-205, 12-101, 13-102, 13-110, 13-202, and 14-401, Annotated Code of Maryland; Ch. 216, Acts of 2009

.01 Methods of Source Selection.

Unless otherwise authorized by law, all State procurement contracts shall be awarded by one of the following methods, *at the procurement officer's discretion, where applicable*:

A. — E. (text unchanged)

F. Noncompetitive negotiated procurement under COMAR 21.05.12.04; [or]

G. Intergovernmental cooperative purchasing under COMAR 21.05.09[.];

H. *Architectural and engineering services qualification based selection; or*

I. *Master contracting under COMAR 21.05.13.*

.05 Permissible Disclosures.

After a solicitation for bids under COMAR 21.05.02 or for proposals under COMAR 21.05.03 or 21.12.02—21.12.05 is issued and until a procurement officer makes a recommendation for award, a procurement officer may disclose to a person outside the Board of Public Works and the Executive Branch only:

A. (text unchanged)

B. Information that is available to the public under [State Government Article, §§10-611—10-628, Annotated Code of Maryland] *the Public Information Act, General Provisions Article, Title 4, Annotated Code of Maryland.*

21.05.02 Procurement by Competitive Sealed Bidding

Authority: State Finance and Procurement Article, §§12-101, 13-103, [13-204,] 13-210, and 14-301—14-308, Annotated Code of Maryland; *Chs. 586 and 587, Acts of 2017*

.04 Public Notice.

A. (text unchanged)

B. Publication. Notice of an invitation for bids for which the bid amount is reasonably expected to exceed [\$25,000] *\$50,000* shall be published in eMaryland Marketplace unless the resulting contract is reasonably expected to be performed entirely outside this State or the District of Columbia. Publication shall be at least 20 days before the bid submission date. Publication of notice less than 20 days before bid submission is defective unless notice of the project is not required by State law.

21.05.03 Procurement by Competitive Sealed Proposals

Authority: State Finance and Procurement Article, §§12-101, 13-104, and 13-105, Annotated Code of Maryland

.01 [Conditions for Use] *Preference*.

[A. Preference.] Procurement by competitive sealed proposals is the preferred method for:

A. [the] *The* procurement of human, social, cultural or educational services[.]; and

B. [real] *Real* property leases.

[B. Determinations. Except for the procurement of human, social, cultural or educational services, or real property leases, before a procurement by competitive sealed proposals may be conducted, the procurement officer, with the written approval of the agency head or designee, shall make a determination in accordance with COMAR 21.05.01.02 that competitive sealed bidding cannot be used because:

(1) Specifications cannot be prepared that would permit an award based solely on price; or

(2) Competitive sealed bidding is not practicable or is not advantageous to the State and there is compelling reason to use the source selection methodology set forth in this chapter.]

.02 Solicitation of Proposals.

A. — F. (text unchanged)

G. Receipt of Proposals

(1) (text unchanged)

(2) The identity of an offeror and the register of proposals may not be disclosed before the procurement officer makes a determination recommending the award of the contract pursuant to Regulation .03F of this chapter. After contract award, proposals shall be open to public inspection subject to the provisions of [State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland] *the Public Information Act, General Provisions Article, Title 4, Annotated Code of Maryland*.

.03 Evaluation of Proposals, Negotiations, and Award.

A. Evaluation.

(1) — (2) (text unchanged)

(3) Economic Benefits Evaluation Factor.

(a) This subsection applies only to proposals that the procurement officer reasonably expects to exceed [\$25,000] \$50,000. When a point system is used in the evaluation of these proposals, up to 10 percent of the total allocable technical points may be awarded under an economic-benefits evaluation factor. If a point system is not used, an economic-benefits evaluation factor may be included in the technical evaluation factors and be ranked in its relative order of importance, as the procurement officer determines.

(b) — (c) (text unchanged)

(4) — (6) (text unchanged)

B. — G. (text unchanged)

21.05.06 Emergency and Expedited Procurements

Authority: State Finance and Procurement Article, §§12-101 and 13-108, Annotated Code of Maryland

.01 Application.

A. Emergency Procurement. Regulation .02 of this chapter is established for procurement of supplies, services, maintenance, commodities, construction, or construction-related services in excess of [\$25,000] \$50,000 when competitive sealed bidding or competitive sealed proposals cannot be used in awarding or modifying a contract because of an emergency. Regulation .02 of this chapter does not

apply to field change orders incidental to construction contracts. The procurement officer, with the approval of the agency head or designee, may award an emergency contract by other than competitive sealed bidding under COMAR 21.05.02 or competitive sealed proposals under COMAR 21.05.03.

B. The expedited procurement method may be used only by the Maryland Port Commission or the Maryland Aviation Administration. Regulation .03 of this chapter is established for procurement of supplies, services, maintenance, commodities, construction, or construction-related services in excess of [\$25,000] \$50,000 when competitive sealed bidding or competitive sealed proposals cannot be used in awarding a contract because urgent circumstances require expedited action, and the action is in the public interest and outweighs the benefits of both competitive sealed bidding and competitive sealed proposals.

21.05.07 Small Procurement Regulations ([25,000] \$50,000 or Less)

Authority: State Finance and Procurement Article, §§12-101, 13-109, 14-301—14-308, and 14-406, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (3) (text unchanged)

(4) “Small procurement” means the use of the procedures set forth in this chapter to:

(a) Obtain items reasonably expected by the procurement officer to cost [\$25,000] \$50,000 or less;

(b) With respect to those procurements set forth in COMAR 21.01.03.03B, provide annual gross revenues to the contractor of [\$25,000] \$50,000 or less; or

(c) With respect to the Department of General Services *or Department of Transportation*, procure construction with a value of [\$50,000] \$100,000 or less.

(5) (text unchanged)

.04 Categories.

Small procurements are classified in three categories:

A. — B. (text unchanged)

C. Category III Small Procurements — More than \$15,000 but not more than [\$25,000] \$50,000, and, if a construction procurement by the Department of General Services *or Department of Transportation*, not more than [\$50,000] \$100,000.

.05 Prohibitions.

A. (text unchanged)

B. A procurement contract of more than [\$25,000] \$50,000 may not be awarded under the authority of this chapter unless:

(1) (text unchanged)

(2) The Department of General Services *or Department of Transportation* procures construction valued at [\$50,000] \$100,000 or less.

21.05.08 Mandatory Written Solicitation Requirements

Authority: State Finance and Procurement Article, §§3-412, 11-206, 12-101, 13-207, 13-218, 13-221, [13-317,] 14-303, 14-308, 14-406, 16-102, 16-202, 16-203, 17-401—17-402, and Title 19; Election Law Article, §§14-101—14-108; Annotated Code of Maryland; Ch. 293, Acts of 2009

21.05.09 Intergovernmental Cooperative Purchasing

Authority: State Finance and Procurement Article, §§12-101, 13-102, and 13-110, Annotated Code of Maryland; *Ch.774, Acts of 2017*

.04 Determinations Required.

[Before sponsoring or participating in an intergovernmental cooperative purchasing agreement, the procurement officer of the primary procurement unit shall make a written determination that it is in the best interest of the State to do so, and which includes a statement that participation in the agreement:]

A. [Will] *The procurement officer for a primary procurement unit shall make a determination in accordance with §B or C of this regulation before the primary procurement unit may:*

(1) [Provide cost benefits to the State.] *Initially sponsor or participate in an intergovernmental cooperative purchasing agreement;*

(2) [Promote administrative efficiencies, or] *Renew an intergovernmental cooperative purchasing agreement; or*

(3) [Promote intergovernmental cooperation; and] *Modify an intergovernmental cooperative purchasing agreement.*

B. [Is not intended as a means to evade the purposes set forth under COMAR 21.01.01.03.] *A determination under §A(1) of this regulation shall be in writing and include:*

(1) *Sufficient evidence that the intergovernmental cooperative purchasing agreement:*

(a) *Will provide cost benefits to the State; or*

(b) *Will promote administrative efficiencies, or promote intergovernmental cooperation; and*

(2) *A statement how the intergovernmental cooperative purchasing agreement:*

(a) *Is in the best interest of the State; and*

(b) *Is not intended as a means to evade the purposes set forth under COMAR 21.01.01.03.*

C. *A determination under §A(2) or (3) of this regulation shall be in writing and include:*

(1) *Sufficient evidence that the intergovernmental cooperative purchasing agreement:*

(a) *Will provide cost benefits to the State; and*

(b) *Will promote administrative efficiencies, or promote intergovernmental cooperation; and*

(2) *A statement how the intergovernmental cooperative purchasing agreement:*

(a) *Is in the best interest of the State; and*

(b) *Is not intended to evade the purposes set forth under COMAR 21.01.01.03.*

D. *A primary procurement unit shall post each determination required under this regulation on the primary procurement unit's website before sponsoring, participating in, renewing, or modifying an intergovernmental cooperative purchasing agreement.*

.05 Approvals Required.

Before awarding, sponsoring, or participating in an intergovernmental cooperative purchasing agreement, the procurement officer shall obtain the approval of the primary procurement unit head, and any other approvals as required under this title.

.08 State Sponsored Agreements.

If a primary procurement unit sponsors an intergovernmental cooperative purchasing agreement:

A. (text unchanged)

B. The State's portion of the contract shall be awarded in the same manner as the contract would be awarded under this title if the unit

was the sole participant under the contract, *including compliance with all notice requirements; and*

C. (text unchanged)

21.05.13 Master Contracting

Authority: State Finance and Procurement Article, §§12-101, 13-101, 13-102, 13-113, and 13-114, Annotated Code of Maryland

.01 Definitions.

A. *In this chapter, the following words have the meaning indicated.*

B. *Terms Defined.*

(1) *"Designated procurement unit" means:*

(a) *The Department of Budget and Management;*

(b) *The Department of General Services;*

(c) *The Department of Information Technology; or*

(d) *The Department of Transportation.*

(2) *"Master contract" means an executed standard contract for a specified period of time between the State and a person approved as a master contractor that is subject to secondary competition for the awarding of work.*

(3) *"Master contracting" means a streamlined procurement method that provides for the qualification of bidders and offerors for the procurement of services, supplies, or commodities, that is subject to secondary competition for the awarding of work.*

(4) *"Master contractor" means a person awarded a master contract and qualified to compete to provide categories of services, supplies, or commodities under secondary competition.*

(5) *"Secondary competition" means a procurement process in which only approved master contractors may compete to provide the services, supplies, or commodities under the procurement.*

.02 Conditions for Use.

A. *Only a designated procurement unit may use the master contracting procurement method for selecting qualified bidders or offerors to be awarded master contracts.*

B. *A unit of the Executive Branch may issue a secondary competition solicitation to master contractors.*

.03 Solicitations for Awarding Master Contractors.

The solicitation for awarding master contracts shall include:

A. *The categories of services, supplies, or commodities in which an offeror may submit a proposal for qualification.*

B. *Information concerning proposal submission requirements, including the date, time, and place for the receipt of proposals.*

C. *A statement that discussions may be conducted with those responsible offerors that submit proposals initially judged by the procurement officer to be reasonably susceptible of being selected for award. However, if the request for proposals so notifies all offerors, discussions need not be conducted:*

(1) *With respect to prices that are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions;*

(2) *If time of delivery or performance does not permit discussions; or*

(3) *If it can be demonstrated clearly from the existence of adequate competition or accurate prior cost experience with the particular item, that acceptance of an initial offer without negotiation would result in a fair and reasonable price.*

D. *The mandatory solicitation requirements set forth in COMAR 21.05.08.*

E. *All required contract terms and conditions.*

F. *Public Notice.*

(1) *Distribution. Solicitations or notices of the availability of solicitations shall be mailed or otherwise furnished to a sufficient*

number of vendors for the purpose of securing competition. Notices of availability shall indicate where, when, and for how long solicitations may be obtained, generally describe the service, supply, or commodity desired, and may contain other appropriate information.

(2) *Publication.* Notice of solicitations for which the proposal is reasonably expected to exceed \$50,000 shall be published in eMaryland Marketplace unless the resulting contract is reasonably expected to be performed entirely outside this State or the District of Columbia. Publication shall be at least 20 days before the proposal submission date. Publication of notice less than 20 days before proposal submission is defective unless notice of the project is not required by State law.

G. *Proposal preparation time* is the period of time between the date of publication of the solicitation and the time and date set for receipt of proposals. The proposal preparation time shall be a minimum of 20 days.

H. Pre-Proposal Conferences.

(1) *Pre-proposal conferences* may be conducted by the procurement officer or designee to explain the procurement requirements.

(2) If a pre-proposal conference is held, it shall be announced to all prospective offerors who were sent a solicitation or who are known by the procurement officer to have obtained the solicitation documents.

(3) Any pre-proposal conference should be held long enough after the solicitation has been issued to allow prospective offerors to become familiar with it, but sufficiently before proposal opening to allow consideration of the pre-proposal conference results in the preparation of proposals.

(4) Attendance at a pre-proposal conference may be encouraged, but may not be made mandatory except to the extent required under COMAR 21.11.03.09C(2)(e). Nothing stated at the pre-proposal conference may change the solicitation unless a change is made by the procurement officer by written amendment.

(5) Pre-Proposal Conference Records.

(a) When a pre-proposal conference is held in connection with a procurement that is expected to exceed \$100,000, the procurement officer shall ensure that a written record of the conference is prepared as soon as practicable and that the record is sent to all prospective offerors who were sent a solicitation or who are known by the procurement officer to have obtained the solicitation.

(b) When a pre-proposal conference is held and a conference summary is made, the procurement officer shall ensure that the summary is sent to all prospective offerors who were sent a solicitation or who are known by the procurement officer to have obtained the solicitation.

(c) The record or summary of a pre-proposal conference is a public record that is open to public inspection during ordinary business hours.

(d) Electronic records and transmissions of a pre-bid conference satisfy the requirements of this regulation.

(6) Electronic Pre-Proposal Conferences.

(a) Electronic pre-proposal conferences may be conducted if specifically permitted or required in the solicitation.

(b) An electronic pre-proposal conference shall permit interactive communication between all prospective offerors and the procurement officer.

(c) If pre-proposal conferences are conducted by electronic means, prospective offerors shall be notified of the:

- (i) Date and time set for the electronic pre-proposal conference; and
- (ii) Manner and duration of the interactive session.

I. Amendments to Solicitations.

(1) *Form.* Each amendment to a solicitation shall be identified as such and shall require that the offeror acknowledge its receipt. The amendment shall reference the portion of the solicitation it amends. The procurement officer shall authorize the issuance of an amendment.

(2) *Distribution.* Amendments shall be sent to all prospective offerors who were sent a solicitation or who are known to the procurement officer to have obtained the solicitation documents.

(3) *Timeliness.* Amendments shall be distributed within a reasonable time to allow prospective offerors to consider them in preparing their proposals. If the time and date for receipt of proposals does not permit preparation, the time shall be increased to the extent possible in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

J. Late Proposals, Withdrawals, and Modifications.

(1) *Policy.* Any proposal received at the place designated in the solicitation after the time and date set for receipt of proposal is late. Any request for withdrawal or request for modification received at the place designated in the solicitation after the time and date set for receipt of proposals is late.

(2) *Treatment.* A late proposal, late request for modification, or late request for withdrawal may not be considered. Upon the written approval of the Office of the Attorney General, exceptions may be made when a late proposal, withdrawal, or modification is received before contract award, and the proposal, modification, or withdrawal would have been timely but for the action or inaction of State personnel directing the procurement activity or their employees. A late modification of a successful proposal that makes its terms more favorable to the State shall be considered at any time it is received and may be accepted upon the written approval of the Office of the Attorney General.

(3) *Records.* A record shall be made of each request for late proposal acceptance, modification, or withdrawal which shall be retained in the appropriate procurement file.

K. Receipt of Proposals.

(1) Proposals and modifications shall be held in a secure place until the established due date. Proposals may not be opened publicly but shall be opened in the presence of at least two State employees. After the established due date, a register of proposals shall be prepared that identifies each offeror.

(2) The identity of an offeror and the register of proposals may not be disclosed before the procurement officer makes a determination recommending the award of the contract pursuant to Regulation .04B of this chapter. After contract award, proposals shall be open to public inspection subject to the provisions of the Public Information Act, General Provisions Article, Title 4, Annotated Code of Maryland.

.04 Evaluation of Proposals for Awarding Master Contracts and Debriefings.

A. The designated procurement unit shall establish a procedure for the consideration and approval of proposals for qualification of multiple offerors in each category of services, supplies, or commodities.

B. Upon completion of all discussions, the procurement officer shall make a determination recommending award of the master contracts to the responsible offerors whose proposals are determined to be qualified, considering price and evaluation factors set forth in the solicitation. After obtaining the approval of this recommendation by the agency head or designee, all other approvals required by this title, and certification by the appropriate fiscal authority as to the availability of funds, the designated procurement unit may award the master contracts.

C. Notice of Award. After a master contract is entered into, the designated procurement unit shall publish notice of its award in eMaryland Marketplace not more than 30 days after the execution and approval of the master contract.

D. Debriefing of Unsuccessful Offerors.

(1) When a contract is to be awarded on some basis other than price alone, unsuccessful offerors may submit a written request for a debriefing to the procurement officer within a reasonable time. Debriefing shall be provided at the earliest feasible time after the procurement officer receives a request for a debriefing and before the contract award is presented to the agency head or designee or the Board for approval. The debriefing shall be conducted by a procurement official familiar with the rationale for the selection decision and contract award.

(2) Debriefing shall:

(a) Be limited to discussion of the unsuccessful offeror's proposal and may not include specific discussion of a competing offeror's proposal;

(b) Be factual and consistent with the evaluation of the unsuccessful offeror's proposal; and

(c) Provide information on areas in which the unsuccessful offeror's technical proposal was deemed weak or deficient.

(3) Debriefing may not include discussion or dissemination of the thoughts, notes, or rankings of individual members of an evaluation committee, but may include a summary of the procurement officer's rationale for the selection decision and recommended contract award.

(4) A summary of the debriefing shall be made a part of the contract file.

.05 Secondary Competition Solicitation.

A. A unit of the Executive Branch that requires services, supplies, or commodities available under a master contract may, with the approval of the designated procurement unit that awarded the master contract, issue a secondary competition solicitation to master contractors.

(1) If the unit of the Executive Branch expects the total cost of the services, supplies, or commodities in the secondary competition to exceed \$100,000, the unit shall issue the secondary competition solicitation to all master contractors in the appropriate category established by the designated procurement unit.

(2) If the unit of the Executive Branch expects the total cost of the services, supplies, or commodities in the secondary competition to be \$100,000 or less, the unit shall issue the secondary competition solicitation to a minimum of six master contractors or all master contractors, whichever is less, in the appropriate category established by the designated procurement unit. If the total number of master contractors available to be solicited exceeds six, the procurement officer shall make a written determination including the reasons why the particular master contractors were selected to be solicited.

B. The master contract shall specify the type of secondary competition solicitation to be used from the following:

(1) Task Order Request for Proposals (TORFP):

(a) To be used when a scope of work for services, supplies, or commodities requires master contractors to submit a proposal which is then evaluated for the best value to the State.

(b) A TORFP shall follow the provisions for Competitive Sealed Proposals and requests for proposals as set forth in COMAR 21.05.03, except for task order evaluation and award which shall follow COMAR 21.05.13.06.

(2) Purchase Order Request for Proposals (PORFP):

(a) To be used when specific services, supplies, or commodities are available at a fixed price, typically as defined in a catalog or price sheet of the master contract.

(b) A PORFP shall follow the provisions for Competitive Sealed Bidding and invitations for bids as set forth in COMAR 21.05.02, except for purchase order evaluation and award which shall follow COMAR 21.05.13.06.

(3) Request for Resumes (RFR):

(a) To be used when temporary personnel are required.

(b) A RFR requests master contractors to submit resumes for qualified candidates in response to a specific scope of work, with resumes evaluated, candidates interviewed, and selection made in accordance with COMAR 21.05.13.06.

C. The secondary competition solicitation shall include a statement of the factors that will be used in evaluating a master contractor's response and the relative importance of each factor.

D. The designated procurement unit that awarded the master contract may require the secondary competition solicitation to be reviewed and approved by that designated procurement unit prior to publication.

.06 Secondary Competition Evaluation, and Awards.

A. The procuring unit of the Executive Branch that has received responses from master contractors to a secondary competition solicitation shall evaluate the responses and may select a master contractor for award based on the response that is determined to be the most advantageous to the State considering the evaluation factors set forth in the secondary competition solicitation.

B. If expressly permitted in the secondary competition solicitation, secondary competition awards may include renewal options, and awards may be made to more than one master contractor.

C. The total dollar amount of secondary competition awards to master contractors may not exceed the monetary ceiling value of the particular master contract from which the secondary competition was solicited.

D. Secondary competition awards to master contractors may not exceed the period of performance of the particular master contract from which the secondary competition was solicited unless the master contract is modified to be extended for a period of time to allow for a task order to continue beyond the term of the original master contract, and that period of time is no longer than one-third of the base term of the original master contract. No additional task orders may be issued after the master contract's original, unmodified end date.

E. A TORFP award by a unit of the Executive Branch shall include a performance evaluation procedure to be used by the unit to evaluate the performance of the master contractor that has completed work on the task order.

F. The designated procurement unit that awarded the master contract may require the secondary competition award recommendation to be reviewed and approved by that designated procurement unit prior to award.

G. Procurement agencies are required to report secondary competition awards over \$50,000 in eMaryland Marketplace.

H. If valued over \$200,000, a secondary competition award, renewal option, or modification shall be submitted to the Board of Public Works for review and approval, before execution, on the appropriate Action Agenda in accordance with COMAR 21.02.01.05.

.07 Construction Master Contract Exceptions.

The requirements in Regulations .05A(1) and (2) and C and .06A of this chapter do not apply to a master contract for construction that is procured and awarded under this chapter and states how task orders will be awarded and the maximum number of qualified contractors that will be awarded a master contract for construction.

Subtitle 07 CONTRACT TERMS AND CONDITIONS

21.07.01 Mandatory Contract Provisions — All Contracts (Except as Provided Under COMAR 21.05.07, 21.07.02, and 21.07.03)

Authority: Election Law Article, §§14-101—14-108; State Finance and Procurement Article, §§12-101, 13-211, 13-217—13-219, 13-221—13-223, [13-317,] 16-202, 17-401, 17-402, and 19-114; [State Government] *General Provisions* Article, §§5-101 and 5-503; Annotated Code of Maryland; *Chs. 588, 589, and 630, Acts of 2017*

.19 Financial Disclosure.

Mandatory provision for all contracts:

“The Contractor shall comply with the provisions of [§13-221 of the] State Finance and Procurement Article [of the], §13-221, Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate [\$100,000] \$200,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches [\$100,000] \$200,000, file with the Secretary of State of Maryland certain specified

information to include disclosure of beneficial ownership of the business.”

.25 Contract Affidavit.

Mandatory contract addendum. The contract addendum shall be in substantially the same form as follows and submitted upon initial award and each renewal thereafter:

CONTRACT AFFIDAVIT

A. — B. (text unchanged)

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate [\$100,000] \$200,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches [\$100,000] \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. — F. (text unchanged)

21.07.02 Mandatory Construction Contract Clauses

Authority: State Finance and Procurement Article, §§12-101, 13-216, 13-218, and 13-225, Annotated Code of Maryland

.10 Performance and Payment Bonds.

Mandatory provision for all construction contracts exceeding \$100,000:

A. Performance Bond. The required performance bond shall be in the form specified as follows:

PERFORMANCE BOND

Principal	Business Address of Principal
Surety a corporation of the State of _____ and authorized to do business in the State of Maryland	Obligee STATE OF MARYLAND
Penal Sum of Bond (express in words and figures)	Date of Contract _____, 20____
Description of Contract	Date Bond Executed _____, 20____
Contract Number: _____	

KNOW ALL [MEN] BY THESE PRESENTS, That we, the Principal named above and Surety named above, are held and firmly bound unto the Oblige named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State of Maryland, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred as “the Contract.”

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW, THEREFORE, during the original term of said Contract, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Contract; and
2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

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Whenever Principal shall be declared by the Administration to be in default under the Contract, the Surety may, within 15 days after notice of default from the Administration, notify the Administration of its election to either promptly proceed to remedy the default or promptly proceed to complete the contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Administration thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture *have signed below, each member has set forth below the name of the partnership or joint venture*, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of:

Witness:

_____ as to

Individual Principal

_____ (SEAL)

In Presence of:

Witness:

_____ as to

_____ as to

_____ as to

Co-Partnership Principal

_____ (SEAL)

(Name of Co-Partnership)

By: _____ (SEAL)

_____ (SEAL)

_____ (SEAL)

Corporate Principal

Attest:

(Name of Corporation)

AFFIX

_____ as to

By: _____ CORPORATE

Corporate Secretary

President

SEAL

Attest: _____ (SEAL)

(Corporate Surety)

By: _____ SEAL

Title _____

Signature

Bonding Agent's Name: _____

(Business Address of Surety)

Agent's Address _____

Approved as to legal form and sufficiency this

_____ day of _____ 20 __

Asst. Attorney General

B. (text unchanged)

21.07.03 Mandatory Terms and Conditions for Purchase Orders Over [\$25,000] \$50,000

Authority: State Finance and Procurement Article, §§12-101, 13-217—13-219, 13-221, 16-202, 17-401, 17-402; Election Law Article, §§14-101—14-108; and [State Government] *General Provisions* Article, §§[15-502—15-503]5-502—5-503; Annotated Code of Maryland; *Ch. 630, Acts of 2017*

.07 Financial Disclosure.

“The Contractor shall comply with State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State and receives in the aggregate [\$100,000] \$200,000 or more during a calendar year shall, within 30 days of the time when the [\$100,000] \$200,000 is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.”

.08 Political Contribution Disclosure.

“The Contractor shall comply with Election Law Article, [§§14-101—14-108] *Title 14*, Annotated Code of Maryland, which requires that every person that enters into [contracts, leases, or other agreements] *a procurement contract with the State [of Maryland], a county, a municipal corporation, or [a] other political subdivision of the State, [including its agencies,] during a calendar year in which the person receives a contract with a governmental entity in the [aggregate] amount of [\$100,000] \$200,000 or more, shall file with the State [Administration] Board of Elections [Laws a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.] statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contribution in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Election website: http://www.elections.state.md.us/campaign_finance/index.html.”*

Subtitle 10 ADMINISTRATIVE AND CIVIL REMEDIES

21.10.04 Contract Claims and Disputes

Authority: State Finance and Procurement Article, §§12-101 and 15-201—15-223, Annotated Code of Maryland

.04 Disposition of Contractor Claim.

A. — B. (text unchanged)

C. The contractor claim and recommended decision of the procurement officer shall be submitted for review to the reviewing authority and the Office of the Attorney General. [The] *Unless the reviewing authority remands the proceeding with instructions to the procurement officer, the reviewing authority [may] shall approve, modify, or disapprove the recommended decision within 180 days after receiving the contract claim or a longer period if the parties agree.* In disapproving a recommended decision, the reviewing

authority may order the procurement officer to effect a resolution of the claim.

D. Unless the contractor claim is remanded to the procurement officer, the decision of the reviewing authority, *including a decision not to pay a contract claim*, is the final action by the procurement agency and shall be furnished to the contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt. *Failure to reach a decision within the time required under §C of this regulation may be deemed, at the option of the contractor, to be a decision not to pay the contract claim that may be appealed in accordance with Regulation .09 of this chapter.*

E. (text unchanged)

Subtitle 11 SOCIOECONOMIC POLICIES

21.11.01 Small Business Procurements

Authority: State Finance and Procurement Article, §§12-101, 14-201—14-208, and 14-501—14-505, Annotated Code of Maryland; *Ch. 119, Acts of 2016*

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) “Certified small business” means a business, other than a nonprofit business, that:

(a) Is certified by the [Department of General Services] *Governor’s Office of Small, Minority, and Women Business Affairs* pursuant to regulations adopted by that Department; and

(b) Meets the criteria for a small business as defined under COMAR 21.01.02.01B(80).

[(2) “Designated procurement unit” means:

(a) The State Treasurer;

(b) The Department of Commerce;

(c) The Department of the Environment;

(d) The Department of General Services;

(e) The Department of Health and Mental Hygiene;

(f) The Department of Housing and Community Development;

(g) The Department of Human Resources;

(h) The Department of Information Technology;

(i) The Department of Juvenile Services;

(j) The Department of Labor, Licensing, and Regulation;

(k) The Department of Natural Resources;

(l) The State Department of Education;

(m) The Department of State Police;

(n) The Department of Public Safety and Correctional Services;

(o) The Department of Transportation;

(p) The University System of Maryland;

(q) The Maryland Port Commission;

(r) The State Retirement Agency;

(s) The Maryland Insurance Administration;

(t) The Maryland Stadium Authority;

(u) The State Lottery Agency;

(v) Morgan State University; and

(w) The Maryland Transportation Authority.]

[(3)] (2) — [(6)] (5) (text unchanged)

.04 Small Business Eligibility/Certification.

A. To be eligible to receive a small business price preference under the small business preference program, or to be eligible for award of a procurement under the small business reserve program, a

business must be certified by the [Maryland Department of General Services] *Governor's Office of Small, Minority, and Women Business Affairs* as a small business in accordance with regulations adopted by the [Department of General Services] *Governor's Office of Small, Minority, and Women Business Affairs*. A business so certified shall be added to the certified small business list maintained by [that Department] *the Governor's Office of Small, Minority, and Women Business Affairs*. To maintain its certification as a small business, a business shall reapply for certification every year, not later than on the anniversary date of the initial certification.

B. Affidavit. Upon request of the [Department of General Services] *Governor's Office of Small, Minority, and Women Business Affairs*, a business seeking certification or recertification as a small business shall execute and submit a Small Business Affidavit in the form prescribed under §D of this regulation.

C. Other Information. The [Department of General Services] *Governor's Office of Small, Minority, and Women Business Affairs* may, in its sole discretion, request any other information in support of the certification request.

D. — E. (text unchanged)

.05 Small Business Preference Program.

A. (text unchanged)

B. Procedures.

(1) — (2) (text unchanged)

(3) Direct Solicitation. When soliciting bids for a procurement designated for a small business preference, the procuring unit shall send a solicitation or notice of the solicitation to all certified small businesses for the subject of the contract contained on the [Department of General Services] *Governor's Office of Small, Minority, and Women Business Affairs* Certified Small Businesses List. When soliciting bids under the small business preference program, others selected from the business community at large, including certified minority business enterprises, shall also be solicited.

(4) — (5) (text unchanged)

.06 Small Business Reserve Program.

A. Applicability.

(1) All procurements by [the designated] *a* procurement [units listed under Regulation .01A] *unit* are eligible for designation as small business reserve procurements.

(2) (text unchanged)

B. Scope. [Each designated] *To the extent practicable, each* procurement unit shall structure its procurement procedures to achieve the result that a minimum of [10] *15* percent of the unit's total dollar value of procurements for goods, supplies, services, maintenance, construction, construction-related services, architectural services, and engineering services are expended directly with certified small businesses at the prime contract level.

C. Exclusion. For purposes of computing the [designated] procurement units total dollar value of procurements, exempt procurements under §A(2) of this regulation are excluded.

D. Expenditures [Plan.]

(1) Forecasts. Each [designated] procurement unit shall, based upon the approved budget and other applicable factors, annually prepare a fiscal year procurement expenditure forecast. The forecast shall project expected expenditures under procurements to be awarded or currently under contract, and the unit shall develop a plan allocating a minimum of 10 percent of the total expected expenditures under these contracts directly to certified small businesses.

(2) Included and Excluded Expenditures.

(a) Expenditures in a current fiscal year under a multiyear contract awarded in a prior fiscal year shall be included in the [designated] procurement unit's forecast and counted toward both

total procurement dollars and small business reserve dollars, as applicable. This excludes expenditures under contracts awarded before October 1, 2004.

(b) [Expenditures to certified small businesses made under procurements not reserved for small business may be included towards attainment of the annual small business reserve amount] *Only those payments resulting from a procurement designated as a small business reserve procurement may be applied towards the procurement unit's overall small business reserve payment achievement.*

(c) Expenditures to certified small businesses *awarded under small business reserve procurements* may be included towards attainment of the small business reserve amount notwithstanding the procurement method used.

E. Solicitation Notice. Each solicitation for bids or proposals for a procurement designated for a small business reserve shall include the following notice:

NOTICE TO BIDDERS/OFFERORS

SMALL BUSINESS RESERVE PROCUREMENT

This is a Small Business Reserve Procurement for which award will be limited to certified small business vendors. Only businesses that meet the statutory requirements set forth in State Finance and Procurement Article, §§14-501—14-505, Annotated Code of Maryland, and that are certified by the [Department of General Services] *Governor's Office of Small, Minority, and Women Business Affairs* Small Business Reserve Program are eligible for award of a contract.

For the purposes of a Small Business Reserve Procurement, a small business is a for-profit business, other than a broker, that meets the following criteria:

A. — D. (text unchanged)

[F.] E. — [G.] F. (text unchanged)

[H.] G. Reporting. The [designated] procurement units shall submit a report on the Small Business Reserve Program annually as required under COMAR 21.13.01.03B.

[I.] H. SBR Liaison Officer. The head of each [designated] procurement unit shall designate an employee to be the SBR liaison officer in the administration of that unit's small business reserve program. The SBR liaison officer shall be a high-level employee reporting directly to the agency head or head of the [designated] procurement unit. The SBR liaison officer shall be responsible for coordinating the procurement unit's outreach efforts to the small business community, reviewing the unit's contracting procedures to ensure compliance with small business reserve requirements, assisting in the resolution of small business reserve contracting issues, and submitting required small business reserve program reports or information.

21.11.03 Minority Business Enterprise Policies

Authority: State Finance and Procurement Article, §§12-101 and 14-301—14-308, Annotated Code of Maryland; Ch. 268, 283, 293, 328, and 715, Acts of 2009; Ch. 619, Acts of 2010; Chs. 252, 253, and 254, Acts of 2011; Ch. 154, Acts of 2012; Chs. 340, 438, Acts of 2017

.10 Contract Award.

A. (text unchanged)

B. Additional Documentation.

(1) — (2) (text unchanged)

(3) *Within 10 days after notice from the prime contractor of the State's intent to award a contract, each MBE serving as a subcontractor on the contract shall complete a document stating the percentage and type of work assigned to the subcontractor under the contract and submit copies of the completed form to both the procurement officer and the prime contractor.*

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

C. — F. (text unchanged)

.12 Amendment of MBE Participation Schedule.

A. If at any time after submission of a bid or proposal and before execution of a contract, a bidder or offeror determines that a certified MBE listed on the MBE participation schedule required under Regulation .09C(3) of this chapter has become or will become unavailable or [is] ineligible to perform the work required under the contract, then the bidder or offeror [shall]:

(1) Within 72 hours of making the determination, *shall* provide written notice to the procurement officer; and

(2) Within 5 business days of making the determination, *may* make a written request to the procurement officer to amend the MBE participation schedule.

B. — D. (text unchanged)

E. Amendments to the MBE participation schedule occurring after the date of contract award.

(1) *For purposes of this regulation, “good cause” includes documented nonperformance by the certified MBE or election by the certified MBE to cease work on the contract. Failure of the certified MBE to provide a bond as requested by the contractor is not considered to be nonperformance by the certified MBE if the requested bond violates State Finance and Procurement Article, §13-227, Annotated Code of Maryland.*

[(1)] (2) — [(2)] (3) (text unchanged)

.12-1 Counting Minority Business Enterprise Participation.

A. General. When a certified MBE participates in a contract, the procurement agency shall consider §§B, C, [and] D, *and E* of this regulation in determining whether and the extent to which the certified MBE’s participation may be counted toward the MBE participation goals.

B. — D. (text unchanged)

E. *Counting Value of Supplies and Equipment.*

(1) *For purposes of this section, “regular dealer” means:*

(a) *A firm that owns, operates, or maintains a store, a warehouse, or any other establishment in which the materials, supplies, articles, or equipment are of the general character described by the specifications required under the contract and are bought, kept in stock, or regularly sold or leased to the public in the usual course of business; and*

(b) *Does not include a packager, a broker, a manufacturer’s representative, or any other person that arranges or expedites transactions.*

(2) *If the certified MBE is a regular dealer, then a procurement unit may apply only 60 percent of the costs of the materials and supplies provided by the regular dealer toward the MBE participation goal.*

(3) *If the certified MBE is neither a regular dealer nor a manufacturer, a procurement unit:*

(a) *May not count any portion of the costs of the materials and supplies toward the MBE participation goal; and*

(b) *May count the entire amount of the fees or commissions charged for assistance in procuring materials and supplies, fees, or transportation charges for delivering the materials and supplies required on a procurement toward the MBE participation goal if the procurement unit determines the fees:*

(i) *Are reasonable; and*

(ii) *Not excessive as compared with fees customarily allowed for similar services.*

21.11.05 Procurement from Maryland Correctional Enterprises, Blind Industries and Services of Maryland, and [Community Services Providers] the Employment Works Program

Authority: State Finance and Procurement Article, §§12-101 and 14-101—14-108; Correctional Services Article, §3-515; Annotated Code of Maryland; *Ch. 415, Acts of 2015; Ch. 313, Acts of 2016*

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (3) (text unchanged)

(4) “Individual-with-disability-owned business” means a business:

(a) — (c) (text unchanged)

(d) Whose workforce includes individuals with disabilities comprising a percentage of the workforce that is at or above the minimum required under the policies or guidelines established by the [State] Pricing and Selection Committee for *Blind Industries and Services of Maryland* and the Employment Works Program;

(e) Whose total gross revenues for contracts assigned under the Employment Works Program at the time of assignment do not exceed the maximum allowed under policies or guidelines established by the [State] Pricing and Selection Committee for *Blind Industries and Services of Maryland* and the Employment Works Program; and

(f) That continues to meet all other eligibility criteria established by the [State] Pricing and Selection Committee for *Blind Industries and Services of Maryland* and the Employment Works Program.

(5) — (7) (text unchanged)

(8) “Pricing authority” means the Department of General Services[,] *or the Pricing and Selection Committee for [the] Blind Industries and Services of Maryland [Pricing Committee, or the State Pricing and Selection Committee for] and the Employment Works Program.*

(9) — (10) (text unchanged)

.04 Duties of Pricing Authorities.

A. (text unchanged)

B. The *Pricing and Selection Committee for Blind Industries and Services of Maryland [Pricing Committee] and the Employment Works Program* shall:

(1) (text unchanged)

(2) [Determine the current average market prices for services and supplies provided by Blind Industries and Services of Maryland;] *Ensure that supplies and services provided by Blind Industries and Services of Maryland or a community service provider create work opportunities for individuals who have a mental or physical disability, including blindness, for which Blind Industries and Services of Maryland or the community service provider was established to assist;*

(3) *Choose appropriate supplies and services for community service providers and individual-with-disability-owned businesses to offer for procurement;*

[(3)] (4) Except for services and supplies provided under the Maryland Blind Vending Program, [determine the fair market prices for services and supplies provided by Blind Industries and Services of Maryland; and;] *set prices to reflect the fair market prices of supplies and services that Blind Industries and Services of Maryland, community service providers, and individual-with-disability-owned businesses provide;*

[(4) Transmit periodically to the Secretary of General Services for inclusion in the master list:

(a) A listing of those services and supplies available for procurement from Blind Industries and Services of Maryland,

(b) The fair market price for each service and supply, and

(c) Any necessary instructions governing the procurement of a service or supply from Blind Industries and Services of Maryland.]

(5) *Adjust prices for the supplies and services that Blind Industries and Services of Maryland, community service providers, and individual-with-disability-owned businesses provide, in accordance with market conditions;*

(6) *At the request of a community service provider or an individual-with-disability-owned business, review and, if appropriate, change the price of a supply or service;*

(7) *Establish and periodically review eligibility policies or guidelines for participating community service providers and individual-with-disability-owned businesses;*

(8) *Maintain a current list of community service providers and individual-with-disability-owned businesses;*

(9) *Periodically review and revise the list of community service providers and individual-with-disability-owned businesses, and send any revised list to the Secretary of General Services, who shall make the list available to each person responsible for buying supplies or services for the State or a State aided or controlled entity;*

(10) *Maintain current lists of supplies and services that Blind Industries and Services of Maryland, community service providers, and individual-with-disability-owned businesses provide; and*

(11) *Periodically review and revise the lists of supplies and services maintained in accordance with §B(10) of this regulation, and send any revised list to the Secretary of General Services who shall make the lists available to each person responsible for buying supplies or services for the State or a State aided or controlled entity.*

[C. The State Pricing and Selection Committee for the Employment Works Program shall:

(1) Meet as often as necessary, at the call of any of its members, but at least annually;

(2) Determine the fair market prices for services and supplies provided by community service providers or individual-with-disability-owned businesses;

(3) Transmit periodically to the Secretary of General Services for inclusion in the master list:

(a) A listing of those services and supplies available for procurement from community service providers or individual-with-disability-owned businesses;

(b) The fair market price for each service and supply contract award when specifications have been made available by the procurement agency,

(c) Any necessary instructions governing the procurement of a service or supply from a community service provider or individual-with-disability-owned business; and

(d) A list of community service providers and individual-with-disability-owned businesses;

(4) Recommend the types of services and supplies to be made available for procurement from community service providers or individuals-with-disability-owned businesses in accordance with this chapter;

(5) Establish and periodically review eligibility policies or guidelines for participating community service providers and individual-with-disability-owned businesses;

(6) Maintain a current list of community service providers and individual-with-disability-owned businesses; and

(7) Periodically review and revise the list of community service providers and individual-with-disability-owned businesses.]

.07 Responsibilities of Procurement Agencies.

A. — B. (text unchanged)

C. Supplies and Services.

(1) (text unchanged)

(2) If a supply or service is listed as available from more than one selling entity and no ordering priority is otherwise specified in the master list, the procurement agency shall, subject to §C(3) of this regulation, obtain that supply or service from a selling entity in accordance with the following order of priority:

(a) — (b) (text unchanged)

(c) [A community service provider;] *The Employment Works Program.*

[(d) An individual-with-disability-owned business.]

(3) — (4) (text unchanged)

D. — F. (text unchanged)

21.11.13 Veteran-Owned Small Business Enterprises

Authority: State Finance and Procurement Article, §§14-601—14-605; Chs. [507 and 508, Acts of 2010] 343 and 344, Acts of 2015

.01 General — Purpose.

This chapter provides that maximum contracting opportunities be extended to veteran-owned small business enterprises, as both prime contractors and subcontractors, and establishes that:

A. Each procurement agency shall structure its procedures for making procurements to try to achieve an overall minimum of [0.5] 1 percent of the unit's total dollar value of all procurement contracts made directly or indirectly with veteran-owned small business enterprises; and

B. (text unchanged)

Subtitle 13 PROCUREMENT REPORTING REQUIREMENTS

21.13.01 Reporting Requirements

Authority: *Election Law Article, §§14-101 and 14-107; State Finance and Procurement Article, §§12-101, 13-207, 14-208, 14-305, 14-505, 15-110, 15-111, and 17-104[.]; Annotated Code of Maryland*

.17 State Board of Elections Report.

A. *Definition.*

(1) *In this regulation, the following term has the meaning indicated.*

(2) *Defined Term — Doing Public Business.*

(a) *“Doing public business” means making or having a single contract with a single governmental entity involving cumulative consideration of at least \$200,000.*

(b) *“Doing public business” does not include receiving a salary from a governmental entity.*

B. *Each governmental entity shall prepare and submit a quarterly report to the State Board of Elections within 10 Business Days following the close of each calendar quarter on a form provided by the State Board of Elections, pursuant to Election Law Article §14-107, Annotated Code of Maryland. The report shall include the required information for any person that was awarded a contract that caused the person to be doing public business with the governmental entity during the preceding calendar quarter.*

SHEILA McDONALD
Executive Secretary

Special Documents

DEPARTMENT OF THE ENVIRONMENT WATER AND SCIENCE ADMINISTRATION

Tentative Determination to Modify a Stormwater Permit Prince George's County, Maryland

The Maryland Department of the Environment (MDE) has reached a tentative determination to modify the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) permit issued to Prince George's County to control storm drain system pollutant discharges. MDE has drafted permit modifications designed to comply with the United States Environmental Protection Agency's (EPA) regulations, control stormwater pollutant discharges from the County's storm drain system, and allow Prince George's County to use Maryland's newly authorized nutrient trading program as an option to meet its 20 percent impervious surface restoration requirement.

The EPA regulations (40 CFR Part122.62) and current permit conditions (see PartVII.E.1, Permit Revocation and Modification) allow for NPDES permits to be modified for an appropriate cause. Prince George's County officially requested a modification of its current permit (Discharge Permit Number 11-DP-3314 MD0068284) on August 31, 2018 to allow the use of nutrient trading to meet the 20

percent impervious surface restoration requirement by the end of the current permit term (i.e., January 1, 2019). MDE has determined the use of nutrient credits by the County for meeting the 20 percent impervious surface restoration requirement is acceptable. Therefore, MDE hereby proposes to add a new paragraph that allows for nutrient trading to meet this requirement in PART IV.E.3; and to rename the original permit's PART IV.E.3 and PART IV.E.4 as PART IV.E.4 and PART IV.E.5, respectively.

For more information on stormwater management in Maryland or to view the proposed permit modifications go to: https://mde.maryland.gov/programs/Water/StormwaterManagementProgram/Pages/storm_gen_permit.aspx or contact Mr. Raymond Bahr at 410-537-3545 or 1-800-633-6101. Copies of the document may be procured at a cost of \$0.36 per page. MDE will hold a public hearing concerning the tentative determination to modify Prince George's County's MS4 permit on Thursday, October 25, 2018 at 5 PM, MDE first floor, 1800 Washington Boulevard, Baltimore, Maryland, 21230. Comments on this tentative determination to modify Prince George's County's MS4 permit will be accepted by Raymond Bahr, Maryland Department of the Environment, Water and Science Administration, 1800 Washington Boulevard, Baltimore, Maryland, 21230, or raymond.bahr@maryland.gov, if received within 90 days of publication of this notice. The 60-day extension of the comment period allowed for by section 1-606 (d) (1) (ii) of the Maryland Environmental Article is being invoked to extend the usual 30-day comment period to 90 days.

[18-20-14]

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 the schedule published in the *Maryland Register*, Volume 45, Issue 10, pages 547-550 (May, 11, 2018) and *Maryland Register*, Volume 45, Issue 13, pages 681-682 (June 22, 2018). This review schedule is not a solicitation by the Commission for Certificate of Need applications, and does not indicate, in and 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.

The Commission will use the following regional configuration of jurisdictions for the General Hospital Project, Special Hospital Project, Freestanding Ambulatory Surgical Facility Project, and Schedule Two Comprehensive Care Facility Project Review Schedules:

Western Maryland: Allegany, Frederick, Garrett, and Washington	Central Maryland: Anne Arundel, Baltimore, Carroll, Harford, Howard, and Baltimore City
Eastern Shore: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester	Montgomery & Southern Maryland: Calvert, Charles, Montgomery, Prince George's, and St. Mary's

General Hospital Projects

The Commission hereby publishes the following schedules for the submission of Certificate of Need applications by general hospitals, for projects that involve: (1) capital expenditures by or on behalf of general 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 a general hospital; and/or (4) a change in the type or scope of any health care service offered by a general hospital, as specified at COMAR 10.24.01.02A, except for neonatal intensive care. Please note that the following schedule does not apply to a project to establish a new general hospital.

**Schedule One
All General Hospital Projects**

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	November 2, 2018	November 14, 2018	January 4, 2019
Central Maryland	December 7, 2018	December 19, 2018	February 8, 2019
Eastern Shore	January 4, 2019	January 16, 2019	March 8, 2019
Montgomery & Southern Maryland	February 1, 2019	February 13, 2019	April 5, 2019

**Schedule Two
All General Hospital Projects**

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	May 10, 2019	May 22, 2019	July 12, 2019
Central Maryland	June 7, 2019	June 19, 2019	August 9, 2019
Eastern Shore	July 12, 2019	July 31, 2019	September 13, 2019
Montgomery & Southern Maryland	August 2, 2019	August 14, 2019	October 4, 2019

Special Hospital Projects (Pediatric, Psychiatric, Chronic, and Rehabilitation)

The Commission hereby publishes the following schedules for the submission of Certificate of Need applications by special hospitals, for projects that involve: (1) capital expenditures by or on behalf of special hospitals that exceed the applicable capital expenditure threshold referenced at COMAR 10.24.01.02A(5); (2) proposed changes in bed capacity at existing hospitals; (3) the relocation of a special hospital; and/or (4) a change in the type or scope of any health care service offered by a special hospital, as specified at COMAR 10.24.01.02A. Please note that the following schedule does not apply to a project to establish a new special hospital.

**Schedule One
Special Hospitals (Pediatric, Psychiatric, Chronic, and Rehabilitation)**

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	November 2, 2018	November 14, 2018	January 4, 2019
Central Maryland	January 4, 2019	January 16, 2019	March 8, 2019
Eastern Shore	February 1, 2019	February 13, 2019	April 5, 2019
Montgomery & Southern Maryland	March 1, 2019	March 13, 2019	May 3, 2019

**Schedule Two
Special Hospital Projects (Pediatric, Psychiatric, Chronic, and Rehabilitation)**

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	May 10, 2019	May 22, 2019	July 12, 2019
Central Maryland	June 7, 2019	June 19, 2019	August 9, 2019
Eastern Shore	July 12, 2019	July 31, 2019	September 13, 2019
Montgomery & Southern Maryland	August 2, 2019	August 14, 2019	October 4, 2019

Freestanding Ambulatory Surgical Facility Projects

The Commission hereby publishes the following schedules for the submission of Certificate of Need 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 Facility Projects

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Montgomery & Southern Maryland	January 4, 2019	January 16, 2019	March 8, 2019
Western Maryland	February 1, 2019	February 13, 2019	April 5, 2019
Central Maryland	March 1, 2019	March 13, 2019	May 3, 2019
Eastern Shore	April 5, 2019	April 17, 2019	June 7, 2019

Schedule Two
Freestanding Ambulatory Surgical Facility Projects

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Montgomery & Southern Maryland	August 2, 2019	August 14, 2019	October 4, 2019
Western Maryland	September 6, 2019	September 18, 2019	November 2019
Central Maryland	October 4, 2019	October 16, 2019	December 6, 2019
Eastern Shore	November 1, 2019	November 13, 2019	January 3, 2020

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.

Schedule One
Projects Proposing New Comprehensive Care Facility Beds

Jurisdiction	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
St. Mary's County	November 2, 2018	November 14, 2018	January 4, 2019
Queen Anne's County	December 7, 2018	December 19, 2018	February 8, 2019
Worcester County	January 4, 2019	January 16, 2019	March 8, 2019
Harford County	February 1, 2019	February 13, 2019	April 5, 2019

Schedule One
Part B: Other Comprehensive Care Facility Projects

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Eastern Shore	November 2, 2018	November 14, 2018	January 4, 2019
Western Maryland	December 7, 2018	December 19, 2018	February 8, 2019
Central Maryland	January 4, 2019	January 16, 2019	March 8, 2019
Montgomery & Southern Maryland	February 1, 2019	February 13, 2019	April 5, 2019

Schedule Two
Part A: Other Comprehensive Care Facility Projects

Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Western Maryland	May 10, 2019	May 22, 2019	July 12, 2019
Central Maryland	June 7, 2019	June 19, 2019	August 9, 2019
Eastern Shore	July 12, 2019	July 31, 2019	September 13, 2019
Montgomery & Southern Maryland	August 2, 2019	August 14, 2019	October 4, 2019

Freestanding Medical Facility Projects

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. Please note that these schedules do not apply to the filing of a request for an Exemption from Certificate of Need by a general hospital seeking to convert to a freestanding medical facility.

**Schedule One
Freestanding Medical Facility Projects**

Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
December 7, 2018	December 19, 2018	February 8, 2019

**Schedule Two
Freestanding Medical Facility Projects**

Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
June 7, 2019	June 12, 2019	August 9, 2019

Cardiac Surgery Services

The Maryland Health Care Commission provides the following schedule for the review of applications for Certificates of Need ("CON") by general hospitals seeking to introduce cardiac surgery services. An applicant must demonstrate that the proposed project is consistent with the general criteria for CON review set forth at COMAR 10.24.01.08G(3). This review schedule is not a solicitation by the Commission for CON applications, and it does not indicate that additional capacity is needed or that CON applications submitted 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.

Region Definitions

Eastern (Lower Shore): Dorchester, Somerset, Wicomico, and Worcester Counties.

Metropolitan Washington: Calvert, Charles, Frederick, Montgomery, Prince George's, and St. Mary's Counties, and the District of Columbia.

Western: Allegany, Garrett, and Washington Counties.

**Schedule One
Cardiac Surgery Services**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Metropolitan Washington	February 1, 2019	February 13, 2019	April 5, 2019
Eastern (Lower Shore)	March 8, 2019	March 20, 2019	May 10, 2019
Western	April 5, 2019	April 17, 2019	June 7, 2019

**Schedule Two
Cardiac Surgery Services**

Health Planning Region	Letter of Intent Due Date	Pre-Application Conference Date	Application Submission Date
Metropolitan Washington	September 6, 2019	September 18, 2019	November 8, 2019
Eastern (Lower Shore)	October 4, 2019	October 16, 2019	December 6, 2019
Western	November 1, 2019	November 13, 2019	January 4, 2020

[18-20-18]

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.

EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

Subject: Public Meeting

Date and Time: October 4, 2018, 1 — 3 p.m.

Place: 653 W. Pratt St., Ste. 212, Baltimore, MD

Add'l. Info: The State Emergency Medical Services Advisory Council meets regularly on the 1st Thursday of each month.

Contact: Leandrea Gilliam (410) 706-4449
[18-20-05]

EMERGENCY MEDICAL SERVICES BOARD

Subject: Public Meeting

Date and Time: October 9, 2018, 9 a.m. — 11 p.m.

Place: 653 W. Pratt St., Ste. 212, Baltimore, MD

Add'l. Info: Part of the meeting may include a closed session. The State Emergency Medical Services Board (EMS Board) meets regularly on the 2nd Tuesday of each month.

Contact: Leandrea Gilliam (410) 706-4449
[18-20-04]

DEPARTMENT OF THE ENVIRONMENT/LAND AND MATERIALS ADMINISTRATION

Subject: Public Meeting

Date and Time: October 11, 2018, 7 — 9 p.m.

Place: Maryland Department of the Environment, 1800 Washington Blvd., Baltimore, MD

Add'l. Info: Notice of Receipt of Permit Application and Related Documents, Notice of an Informational Meeting, and Opportunity to Offer Comments

The Maryland Department of the Environment (the "Department"), Land and Materials Administration, is currently reviewing an application for a Controlled Hazardous Substance (CHS) Permit for post-closure care of a site located at 2000 Race Street, Baltimore, MD 21230. The site is bounded by Race Street, Swann Park, the Middle Branch of the Patapsco River and the BGE Spring Gardens property. An elevated portion of Interstate 95 (I-95) traverses the site. Access to the site is restricted by security fencing, but a portion of the site is used as a parking area

for Swann Park. There are currently no structures on the site other than supporting piers for I 95.

In addition to the permit application, the Department is also reviewing two related documents: an interim remedial measures assessment (IRMA) determination report, and a corrective measures alternatives analysis. The permit application and these additional documents were submitted to the Department under the terms of a consent order entered into among the Department, Honeywell International, Inc., 101 Columbia Road, Morristown, NJ 07962 ("Honeywell"), and the Mayor and City Council of Baltimore ("Baltimore City"). The Department received the submittal on August 24, 2018.

The site was previously the location of an agricultural chemical production and repackaging facility. The facility ceased operation in 1976. Closure of the facility included decontamination and demolition of site buildings, with demolition materials being buried on site. As part of the closure, an engineered asphalt and clay cap was constructed over the entire site. The cap was installed to isolate controlled hazardous substances associated with manufacturing operations. The cap also covers chromite ore processing residues that were used as fill material at the site.

The IRMA Determination Report summarizes an evaluation performed by Honeywell, in collaboration with Baltimore City, of site conditions and environmental risks posed by the site. The report concludes that contaminated site media do not present an imminent and substantial endangerment to human and ecological receptors.

The Corrective Measures Alternatives Analysis is an evaluation by Honeywell and Baltimore City of alternative measures intended to maintain site containment in a manner that is protective of human health and the environment. The post-closure permit application provides information on proposed methods of long-term monitoring and maintenance to assure containment of controlled hazardous substances in accordance with the requirements of Code of Maryland Regulations (COMAR) 26.13.

The Department has scheduled an informational meeting for the purpose of discussing the application and related documents, and the Department's permit

review process. Representatives of the applicants and the Department will be available to answer specific questions. The informational meeting is scheduled for October 11, 2018 at 7:00 p.m. at the offices of the Department at 1800 Washington Blvd., Baltimore, MD 21230.

The Department will arrange for the meeting to include an interpreter for hearing impaired persons, upon written request. Such requests should be submitted to the Department by the close of business on October 5, 2018, and addressed to: Mr. Albert Simkins, Maryland Department of the Environment, Resource Management Program, 1800 Washington Boulevard, Suite 610, Baltimore, MD 21230-1719.

Persons may also submit written comments to the Department on the IRMA Determination Report. Comments will be accepted by the Department until the close of business on October 29, 2018, and should be addressed to Ms. Kaley Laleker, Acting Director, Land and Materials Administration, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 610, Baltimore, MD 21230-1719.

The application and related documents are available for public review at the Department's offices by appointment. The application and related documents are also available for public review through November 2, 2018 at the Enoch Pratt Free Library, Light Street Branch, 1251 Light Street, Baltimore, Maryland, 21230. Persons wishing to speak directly to a representative of the applicant may contact Ms. Victoria Streitfeld at (973) 455-5030.

For further information regarding this notice, to schedule an appointment to review the application, or to be placed on a mailing list for future actions regarding this application, please contact Mr. Albert Simkins at (410) 537-3402 or albert.simkins@maryland.gov.

Contact: Edward Hammerberg (410) 537-3356

[18-20-20]

FIRE PREVENTION COMMISSION

Subject: Public Meeting

Date and Time: October 18, 2018, 9:30 a.m.

Place: Laurel Municipal Bldg., 8103 Sandy Spring Rd., Council Chambers, Laurel, MD

Add'l. Info: If public schools are closed in Prince George's County due to inclement weather the meeting and any appeals will be rescheduled. Portions of the meeting may be held in closed session.

Contact: Heidi Ritchie (877) 890-0199
[18-20-15]

MARYLAND DEPARTMENT OF HEALTH

Subject: Public Meeting

Date and Time: October 17, 2018, 4 — 6 p.m.

Place: 201 W. Preston St., Rm. L3, Baltimore, MD 21201

Contact: Christine Boyd (410) 767-8827
[18-20-02]

MARYLAND DEPARTMENT OF HEALTH

Subject: Public Meeting

Date and Time: October 17, 2018, 1 — 3 p.m.

Place: Spring Grove Hospital Campus, Dix Bldg. Basement, Catonsville, MD

Contact: Berit Dockter (410) 767-5159
[18-20-03]

MARYLAND DEPARTMENT OF HEALTH

Subject: Public Hearing

Date and Time: November 1, 2018, 9 a.m. — 12 p.m.

Place: West Village Commons, Towson University, 424 Emerson Dr., Towson, MD 21204

Add'l. Info: Meeting of the Maryland Medicaid Pharmacy Program's Pharmacy and Therapeutics Committee (Preferred Drug List). As soon as available, classes of drugs to be reviewed, speaker registration guidelines, and directions to meeting location will be posted on the Maryland Medicaid Pharmacy Program website at: <https://mmcp.health.maryland.gov/pap/Pages/Public-Meeting-Announcement-and-Procedures-for-Public-Testimony.aspx>.

Submit questions via email to: mdh.marylandpdlquestions@maryland.gov.

Contact: Shawn Brice (410) 767-6896
[18-20-10]

MARYLAND DEPARTMENT OF HEALTH

Subject: Receipt of Application

Add'l. Info: The Maryland Department of Health (MDH) is currently accepting applications and nominations for physicians, pharmacists and consumers to serve on the Maryland Medicaid Program's Pharmacy and Therapeutics (P&T) Committee beginning May, 2019.

Additional Information: Pursuant to COMAR 10.09.03.12 (Preferred Drug Program), the Secretary of MDH appoints members to the P&T Committee to serve in an advisory capacity. The Committee reviews classes of medications and develop recommendations for a Preferred Drug List (PDL) for the Program by considering the clinical efficacy and cost effectiveness of drugs for prescribing to Medicaid participants.

The Committee is composed of 12 members:

- 5 members are physicians, licensed and residing in Maryland, with 1 being a psychiatrist;
- 5 members are pharmacists, licensed and residing in Maryland, with 1 having expertise with mental health drugs;
- 2 Members are consumer representatives residing in the State.

Consideration for membership on the Committee shall be given to appointing physicians and pharmacists participating in the Program or with experience in developing or practicing under a preferred drug list.

The Committee meets at least twice a year, and may meet at other times at the discretion of MDH. To the extent feasible, the Committee reviews all drug classes included in the PDL at least every 12 months. The 3-4 hour meetings are in the Baltimore area and are normally scheduled for the first Thursday morning of May and November. Members serve a 3 year term from the date of their appointment and can serve more than one term.

Provider Synergies, LLC, an affiliate of Magellan Medicaid Administration, is currently providing administrative and technical support to MDH with regard to the P&T Committee.

All interested applicants are required to submit a formal application through the Maryland Department of Health's (MDH) Office of Appointments and Executive Nominations application link at <http://forms.dhmm.maryland.gov>. Applications must be submitted no later than Friday, October 26, 2018.

Any additional questions regarding applications may be addressed to Gina Homer at the Medicaid Pharmacy Program (Gina.Homer@Maryland.gov) or 410-767-1749.

Contact: Gina Homer (410) 767-1749
[18-20-13]

MARYLAND DEPARTMENT OF HEALTH/ TASK FORCE TO STUDY ACCESS TO HOME HEALTH CARE FOR CHILDREN AND ADULTS

Subject: Public Meeting

Date and Time: October 24, 2018, 2 — 4 p.m.

Place: 201 W. Preston St., Rm. L-3 , Baltimore, MD

Add'l. Info: Meeting regarding the Report on Home- and Community Based Services as required by HB 1696 (Chapter 798, Acts of 2018).

Contact: Yasmine Houghton (410) 767-5186
[18-20-12]

MARYLAND HEALTH CARE COMMISSION

Subject: Public Meeting

Date and Time: October 18, 2018, 1 — 4 p.m.

Place: 4160 Patterson Ave., Rm. 100, Baltimore, MD

Contact: Valerie Wooding (410) 764-3570
[18-20-07]

MARYLAND HEALTH CARE COMMISSION

Subject: Receipt of Application

Add'l. Info: On September 7, 2018 the Maryland Health Care Commission (MHCC) received three Certificates of Need application submitted by:

Johns Hopkins Bayview Medical Center — Matter No. 18-24-2430 — Convert 16 chronic beds to 16 comprehensive inpatient rehabilitation beds. After the project the hospital will have 60 chronic care beds and 28 inpatient rehabilitation beds; Proposed Cost: \$0.

Atlantic General Surgical Center, — Matter No. 18-23-2431 — Construction of an ambulatory surgery facility with 2 sterile operating room and 3 non-sterile procedure rooms to be located in a medical office building on Racetrack Road, Ocean Pines; Proposed Cost: \$8,883,332.

University of Maryland Shore Medical Center at Easton — Matter No. 18-20-2432 — Replacement and relocation of the existing hospital to a new site to be located at 10000 Longwoods Road, Easton; Proposed Cost: \$349,904,500.

The MHCC shall review the applications under Health-General Article, §19-101 et seq., Annotated Code of Maryland, and COMAR 10.24.01.

Any affected person may make a written request to the Commission to receive copies of relevant notices concerning the applications. All further notices of proceedings on the applications will be sent

only to affected persons who have registered as interested parties.

Please refer to the Matter No. listed above in any correspondence on the applications. A copy of the applications are available, for review, in the office of the MHCC, during regular business hours by appointment, or on the Commission's website at www.mhcc.maryland.gov.

All correspondence should be addressed to Paul Parker, Deputy Director, Center for Health Care Facilities Planning and Development, MHCC, 4160 Patterson Ave., Baltimore, Maryland 21215.

Contact: Ruby Potter (410) 764-3276

[18-20-16]

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Subject: Public Meeting

Date and Time: October 19, 2018, 9 a.m. — 12 p.m.

Place: Spring Grove Hospital Campus, 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. The meeting may take place by teleconference. Please call the office to confirm.

Contact: Lauren Murray (410) 402-8556

[18-20-19]

STATE ADVISORY COUNCIL ON QUALITY CARE AT THE END OF LIFE

Subject: Public Meeting

Date and Time: October 26, 2018, 10 a.m. — 12 p.m.

Place: Office of Health Care Quality, Bland Bryant Bldg., Spring Grove Hospital Center campus, Catonsville, MD

Add'l. Info: See the map and directions: <https://health.maryland.gov/ohcq/docs/Map%20of%20Campus.pdf> The public is welcome.

Contact: Paul Ballard (410) 767-6918

[18-20-06]

RACING COMMISSION

Subject: Public Meeting

Date and Time: October 25, 2018, 12:30 — 1 p.m.

Place: Laurel Park, Laurel, MD

Contact: J. Michael Hopkins (410) 296-9682

[18-20-09]

COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS

Subject: Public Meeting

Date and Time: October 9, 2018, 10:30 a.m. — 12 p.m.

Place: 500 N. Calvert St., Baltimore, MD

Contact: Patti Schott (410) 230-6165

[18-20-01]

DEPARTMENT OF VETERANS AFFAIRS/MARYLAND VETERANS COMMISSION

Subject: Public Meeting

Date and Time: October 16, 2018, 10:30 a.m. — 2 p.m.

Place: 29449 Charlotte Hall Rd., Charlotte Hall, MD

Contact: Denise Nooe (410) 260-3840

[18-20-22]

BOARD OF WELL DRILLERS

Subject: Public Meeting

Date and Time: October 24, 2018, 9 a.m. — 12 p.m.

Place: MDE, 1800 Washington Blvd., Baltimore, MD

Add'l. Info: A portion of this meeting may be held in closed session.

Contact: Elaine Nolen (410) 537-4466

[18-20-11]

WORKERS' COMPENSATION COMMISSION

Subject: Public Meeting

Date and Time: October 11, 2018, 9:30 — 11:30 a.m.

Place: 10 E. Baltimore St., Baltimore, MD

Add'l. Info: Portions of this meeting may be held in a closed session.

Contact: Amy Lackington (410) 864-5300

[18-20-08]

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- 01 Procedures
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- 05 Freestanding Ambulatory Care Facilities
- 06 Diseases
- 07 Hospitals
- 08 Health Facilities Grants

### **Part 2**

- 09 Medical Care Programs

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  - 13 MVA – Vehicle Equipment
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  - 17 MVA – Driver Licensing and Identification Documents
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  - 21 MVA – Commercial Motor Vehicles
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- 03 Water Supply, Sewerage, Solid Waste, and Pollution Control  
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- 04 Regulation of Water Supply, Sewage Disposal, and Solid Waste
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- 07 Board of Environmental Sanitarians

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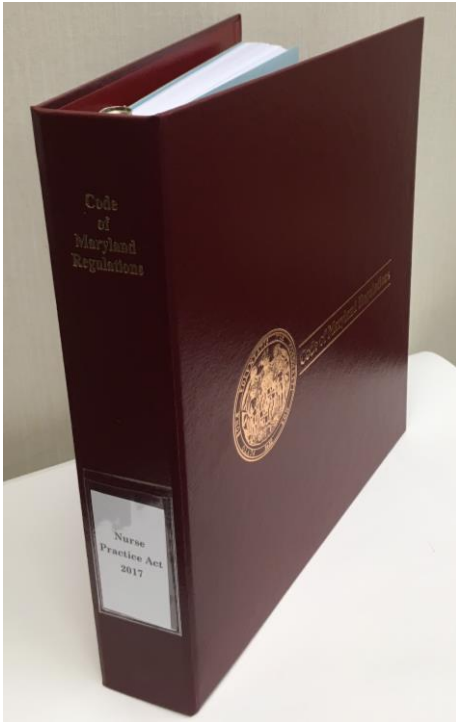
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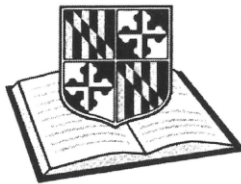
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