

Proposed Action on Regulations

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

Symbol Key

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

Promulgation of Regulations

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

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

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken.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an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 23 Public Health Impact Assessments

05.23.01 Procedure

Authority: Land Use Article, §7-509, Annotated Code of Maryland

Notice of Proposed Action

[24-141-P]

The Secretary of Housing and Community Development proposes to adopt new Regulations **.01—04** under a new chapter, **COMAR 05.23.01 Procedure**, under a new subtitle, **Subtitle 23 Public Health Impact Assessments**.

Statement of Purpose

The purpose of this action is to describe procedures and requirements for the public health impact statements for certain residential projects required under Ch. 122 (H.B. 538), Acts of 2024.

Estimate of Economic Impact

I. Summary of Economic Impact. This action is not anticipated to require additional expenditure by the Department of Housing and Community Development (DHCD). The receipt and review of public health impact assessments required under HB 538 will be handled by existing DHCD staff.

II. Types of Economic Impact.

	Revenue (R+/R-)	Expenditure (E+/E-)	
Impacted Entity			Magnitude

A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
trade groups	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Public	(+)	Indeterminable

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

D. The public health impact assessments, which are required by statute, will likely require some additional labor and/or expenditure by developers of certain qualified projects. However, the magnitude of the impact cannot be determined.

F. The public health impact assessment requirement is intended to protect residents of qualified residential projects being constructed in non-residential zones from health risks caused by prior uses of the site or prior or current uses in close proximity to the site. Residents of these projects will benefit from the requirement for the developer to conduct a thorough assessment of any potential health risks. However, the magnitude of the impact cannot be determined.

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 Jordan Gilmore, Senior Policy Analyst, Office of Policy Development, Department of Housing and Community Development, 7800 Harkins Road, Lanham, MD 20706, or call 443-571-2147, or email to jordan.gilmore@maryland.gov. Comments will be accepted through December 2, 2024. A public hearing has not been scheduled.

.01 Purpose.

The purpose of this chapter is to prescribe the policies and procedures relating to public health impact statements as required by Land Use Article, §7-509, Annotated Code of Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) "Area median income" means the median household income for the area adjusted for household size as calculated annually by the United States Department of Housing and Urban Development.

(2) "Department" means the Department of Housing and Community Development, a principal department of the State.

(3) "Environmental professional" means a person meeting the definition in Title 40, Part 312, of the Code of Federal Regulations.

(4) "Health hazard" means a chemical, physical, biological, or ergonomic factor in the environment that may have a negative impact on human health.

(5) "Public health impact assessment" means a written evaluation of potential negative impacts on public health associated with the proximity of a qualified project to any health hazards within an area zoned for nonresidential use.

(6) "Qualified project" means a residential project that meets the definition in Land Use Article, §§7-502, 7-503, or 7-504, Annotated Code of Maryland, as applicable.

(7) "Secretary" means the Secretary of the Department of Housing and Community Development, a principal department of the State.

.03 Public Health Impact Assessment Required.

A. Before a qualified project is authorized to exceed the density in an area zoned for nonresidential use under Land Use Article Title 7, Subtitle 5, Annotated Code of Maryland, the entity responsible for the qualified project shall:

- (1) Conduct a public health impact assessment;
- (2) Submit the public health impact assessment to the Department; and
- (3) Receive approval of the public health impact assessment from the Department.

B. A public health impact statement submitted to the Department under this chapter shall include:

- (1) An environmental assessment;
- (2) A project overview; and
- (3) An area overview.

C. An entity responsible for a qualified project that has applied for funding or financing from the Department shall only be required to submit the information required for the project overview and the area overview to the extent that the information has not been provided to the Department in its application and/or market study.

D. An environmental assessment under this chapter shall be completed by a qualified environmental professional and shall include:

- (1) An examination of the method of water supply and sewage disposal for the project;
- (2) A review of available documentation describing existing and previous building uses and building materials used on the project site;

(3) Interviews with previous owners and/or occupants of the project site to determine any prior use of the site;

(4) Interviews with owners and/or occupants of other properties in the immediate area to determine historical neighboring land use and the probability of contamination;

(5) An evaluation of the project site for pertinent environmental issues, including:

- (a) Foundation conditions;
- (b) Man-made hazards;
- (c) Stormwater runoff;
- (d) Underground storage tanks; and
- (e) Potential for hazards involving lead-based paint, radon gas, mold, asbestos, and PCBs;

(6) An evaluation of any other potential health hazards on or in close proximity to the project site;

(7) An evaluation of any environmental conditions particular to the project site;

(8) An evaluation of the proximity of the project site to any industrial facilities or other features that could potentially create a health hazard; and

(9) An evaluation of any mitigation of potential hazards.

E. A project overview under this chapter shall include detailed information regarding:

- (1) The proposed design of the project;
- (2) The number and type of housing units in the project;
- (3) The number of housing units affordable to families at or below 60 percent of the local area median income;
- (4) The monthly rent for market-rate and affordable units in the project;
- (5) Amenities and other project details; and
- (6) A summary of the zoning for the project site.

F. An area overview under this chapter shall include detailed information regarding:

- (1) The demographics of the area surrounding the project site, including:
 - (a) Age;
 - (b) Race and ethnicity;
 - (c) Educational attainment;
 - (d) Financial status;
 - (e) Life expectancy;
 - (f) Infant mortality; and
 - (g) Population density;
- (2) Proximity of the project site to highways and transit;
- (3) Proximity of the project site to other local amenities; and
- (4) Access of the project site to services including:
 - (a) Hospitals;
 - (b) Fire departments; and
 - (c) Schools, including institutions of higher education.

G. An entity responsible for a qualified project subject to this chapter shall submit its public health impact assessment to the Department:

- (1) For projects for which the entity has applied for funding or financing through the Department:
 - (a) If applicable, as part of the Viability or Viability/Commitment package submitted to the Department; or
 - (b) For tax credit-only projects, at least 90 days before closing;
- (2) For projects for which the entity has not applied for funding or financing through the Department, at the time the density bonus is requested via form available on the Department's Multifamily Library web page.

.04 Evaluation of Public Health Impact Assessment by Department.

A. Upon receipt of a public health impact assessment under this chapter, the Department shall:

(1) Review the public health impact assessment, including any relevant information submitted by an entity responsible for a qualified project as part of its initial application or Viability or Viability/Commitment Package; and

(2) Make an initial determination as to the sufficiency of the information provided in the public health impact statement.

B. If the Department determines that the information submitted does not meet the requirements of Regulation .03 of this chapter or is insufficient to make a final determination, it shall promptly:

(1) Notify the entity responsible for the qualified project;

(2) Provide the entity responsible for the qualified project with documentation showing what additional information is requested; and

(3) Set a reasonable deadline for the submission of the requested additional information.

C. If the Department determines that the information submitted meets the requirements of Regulation .03 of this chapter, it shall make a determination as to whether further environmental assessment is necessary as a result of potential health hazards that have been identified.

D. The Department shall require a further environmental assessment if:

(1) The initial environmental assessment indicates health hazards on, or reasonably likely to affect, the project site; or

(2) The qualified project is a renovation project, unless the environmental professional who completed the initial environmental assessment has sufficiently demonstrated via written statement that a further environmental assessment should not be provided.

E. If the Department determines that a further environmental assessment is necessary, it shall:

(1) Promptly notify the entity responsible for the qualified project;

(2) Provide the entity responsible for the qualified project with documentation showing what additional information is requested, which may include specialized studies or reviews of, as applicable, such as:

(a) Asbestos and lead paint samplings and testing;

(b) Site and record reviews of any underground storage tanks and associated supply lines;

(c) Soil sampling and analysis;

(d) Groundwater or aquifer sampling;

(e) Testing for PCB contamination;

(f) In-depth investigation of neighboring properties;

(g) Radon testing; and

(h) Mold testing;

(3) Notify the Maryland Department of the Environment and request that the Department of the Environment provide the entity responsible for the qualified project with specific instructions on how to address or mitigate any health hazards found; and

(4) Set a reasonable deadline for the submission of the requested additional information.

F. Any further environmental assessment, if required by the Department under this chapter, shall meet the requirements described in Standard E1903-11 published by the American Society for Testing and Materials.

G. When the Department determines that an entity responsible for a qualified project has sufficiently addressed or mitigated any health hazards as determined by an environmental assessment performed under this chapter, the Secretary or the Secretary's designee shall certify so in writing.

H. When the Secretary or the Secretary's designee has certified in writing that there are no unmitigated health hazards that could reasonably affect the project or its residents, the public health impact assessment is considered approved and the qualified project may

proceed to underwriting or the density bonus application, as applicable.

JACOB DAY

Secretary of Housing and Community Development

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.01 General

Authority: Natural Resources Article, §4-1006.1, Annotated Code of Maryland

Notice of Proposed Action

[24-122-P]

The Secretary of Natural Resources proposes to amend Regulation .12 under **COMAR 08.02.01 General**.

Statement of Purpose

The purpose of this action is to revise the Submerged Aquatic Vegetation Protection Zones in order to correct two minor mistakes which have resulted in the proper areas not being identified. In the drafting and adoption of the 2023 updates to the Submerged Aquatic Vegetation Protection Zones, two coordinates were misidentified. The Department discovered these errors when creating the maps of these areas. In Worcester County, the wrong longitude was identified near Snug Harbor and Sinepuxent Bay. This resulted in an area that was entirely on land instead of in the water. In Calvert County, the longitude of one of the coordinates near Drum Point was misidentified, leading to areas on shore and in an adjacent creek being covered by an irregular shape. The proposed action corrects a coordinate in both areas. By correcting these two coordinates, the appropriate areas will be protected.

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 Submerged Aquatic Vegetation—Housekeeping, Regulatory Staff, Maryland Department of Natural Resources, Fishing and Boating Services, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or email to or submit comment to https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#sav_housekeeping, no fax. Comments will be accepted through December 2, 2024. A public hearing has not been scheduled.

.12 Submerged Aquatic Vegetation (SAV) Protection Zones.

A. (text unchanged)

B. Submerged Aquatic Vegetation (SAV) Protection Zones.

(1)—(4) (text unchanged)

(5) Worcester County.

(a) (text unchanged)