

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	04/01/2020	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/8/2020

2. COMAR Codification

Title Subtitle Chapter Regulation

34 05 01 01-04

3. Name of Promulgating Authority

Department of Planning

4. Name of Regulations Coordinator Telephone Number
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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 03/12/20.

Repeal of Existing Regulations

Authority: State Finance and Procurement Article, §§5-203, 5-301, 5-306, Annotated Code of Maryland; State Government Article, §2-2A-01, Annotated Code of Maryland; Local Government Article, §1-1307, Annotated Code of Maryland

Notice of Proposed Action

□

The Secretary of the Department of Planning proposes to amend 34.05.01.01-.04 to remove deadlines that are no longer applicable, clarify provisions, and incorporate changes necessary based on the Department's experience from the last time it utilized these regulations in 2011.

Statement of Purpose

The purpose of this action is to update and clarify the provisions of this subtitle.

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 Paul Cucuzzella, Assistant Attorney General, Maryland Department of Planning, 301 W. Preston St. 11th Fl., Baltimore, MD 21201, or call 410-767-1409, or email to paul.cucuzzella@maryland.gov, or fax to 410-767-4480. Comments will be accepted through June 7, 2020. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 21
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
No
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
The amendments to these regulations will create no additional costs for the agency.
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
The amendments to these regulations are intended to clarify the Department's process for allocating prisoner population for purposes of redistricting in ways that are consistent with current agency practices. As such, the Department will incur no additional costs.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
These regulations do not impact the operations of small businesses in any way.
- G. Small Business Worksheet:
- Impact Statement Part C — Legislative Information

Part C requests agencies to provide information required by the Department of Legislative Services in its report to the AELR Committee. Answer the questions in the space provided. Part C is not printed in the Maryland Register.

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

“Economic impact analysis” means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

These regulations do not have households or businesses as the intended beneficiary. The purpose of the regulations is to assure that the Department of Planning correctly allocates the State's prisoner population for purposes of congressional and legislative redistricting.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

Households will not be affected by the proposed action.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

Businesses will not be affected by the proposed action.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

None.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

None.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide

offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

There is no long-term economic impact.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

(1) There is no anticipated effect on the cost of providing goods and services; (2) There is no anticipated effect on the work force; (3) There is no anticipated effect on the cost of housing; (4) There is no anticipated effect on efficiency in production and marketing; (5) There is no anticipated capital investment, taxation, competition, and economic development; and (6) There is no anticipated effect on consumer choice.

Attached Document:

34.05.01.00 03/12/20

Title 34 DEPARTMENT OF PLANNING

Subtitle 05 CENSUS AND REDISTRICTING

Chapter 01 Redistricting Prison Populations

Authority: State Finance and Procurement Article, §§5-203, 5-301, 5-306, Annotated Code of Maryland; State Government Article, §2-2A-01, Annotated Code of Maryland; Local Government Article, §1-1307, Annotated Code of Maryland

.01 Purpose.

The purpose of this subtitle is to carry out the provisions of Ch. 67, Acts of 2010, *which mandates that for a person incarcerated in either a State or federal correctional facility the population figures used for the congressional and legislative districting plans that follow each decennial census count the person at the location of the person's last known residence before incarceration.*

.02 Scope. (text unchanged)

.03 Definitions.

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

B. Terms Defined.

(1) "Correctional Services" means the Department of Public Safety and Correctional Services.

(2) "Department" means the Maryland Department of Planning.

(3) "Bureau" means the Federal Bureau of Prisons.

[(2)](4) "Federal correctional facility" means a correctional facility that is located within Maryland and operated by the [Federal] Bureau [of Prisons].

[(3)](5) "Geocode['']" means the process of establishing geographical coordinates from [an] a postal address.

[(4)](6) Incarcerated Individual.

(a) "Incarcerated individual" means an individual who is actually or constructively detained in a [state] *State correctional facility* or a federal correctional facility on the date of the decennial census.

(b) "Incarcerated individual" does not include an individual:

(i) (text unchanged)

(ii) Whose last known [address] *residence* is [an out-of-State address] *not within the State of Maryland*.

[(5)](7) "Last known residence" means [a] *the domicile of an incarcerated individual immediately prior to the incarceration [in a state or federal correctional facility]*.

[(6)](8) State Correctional Facility.

(a) (text unchanged)

(b) (text unchanged)

(c) "State correctional facility" does not include:

(i) The centralized booking facility in Baltimore City that is operated by the Division of Pretrial Detention and Services in [the Department of Public Safety and] Correctional Services; or

(ii) A local *correctional* facility as defined in Correctional Services Article, §1-101, Annotated Code of Maryland.

.04 Geocoding Last Known Residence of Incarcerated Individuals.

A. [The] *Following completion of each decennial census, the Department shall:*

(1) *Request and receive from Correctional Services and the Bureau the address of the last known residence for each incarcerated individual; and*

(2) *Subject to §B and §C of this regulations, geocode [the last know residence of an] for each incarcerated individual [that was provided by the Department of Public Safety and] the address of the last known residence received from Correctional Services or the [Federal] Bureau [of Prisons].*

B. The Department shall make reasonable efforts to correct [the last known addresses] *any address received from Correctional Services or the Bureau that the Department is unable to geocode by, among other things:*

(1) *Verifying and correcting the address zip [codes] code against the United States Postal Service zip code locator;*

(2) *Correcting any misspellings [of city and street names] in the address;*

(3) *Correcting or adding a street [suffixes] suffix or prefix [against the United States Postal Service zip code locator];*

(4) *Correcting or adding a street direction [using the United States Postal Service zip code locator]; and*

(5) *[Removal of extra information from the address field;*

(6) *Removal of apartment number*

(7) *Removal of decimal point] Removing from the address any extraneous, superfluous, or inaccurate information.*

[C. Ungeocodable Last Known Address.

(1) On or before February 11, 2011, if the Department is unable to geocode the last known address of an incarcerated individual after making reasonable efforts in accordance with this section, then the last known address of an incarcerated individual shall be the state or federal correctional facility where the individual is incarcerated.

(2) On or before February 11, 2011, if the Department is unable to determine whether an incarcerated individual was not a resident of the State based on information provided by the Department of Public Safety and Correctional Services prior to incarceration, then the Department will assign the geographical coordinates of the state or federal correctional facility where the incarcerated individual is located.

(3) The Department will assign the geographical coordinates of the state or federal correctional facility where the incarcerated individual is located.]

C. *When Unable to Geocode Last Known Residence. The last known residence of an incarcerated individual shall be the State or federal correctional facility where the individual is incarcerated if:*

(1) *The address provided to the Department for the individual by Correctional Services or the Bureau cannot be geocoded for reasons included in §D of this regulation; or*

(2) *The Department is unable to geocode the address provided to the Department for the individual by Correctional Services or the Bureau after making reasonable efforts in accordance with §B of this regulation.*

D. [Examples of ungeocodable last known addresses] *Addresses that cannot be geocoded include:*

(1) [Addresses] *An address defined as "homeless";*

(2) [or no] *An address listed [for the incarcerated individual] as no address for an individual;*

[(2)](3) [Addresses] *An address identified as a [state] State or federal correctional [facilities] facility;*

[(3)](4) [Rural] *A rural route [addresses] address;*

[(4)](5) [Post] *A post office box [addresses] address;*

[(5)](6) [Addresses] *An address that includes [with] no house number;*

[(6)](7) [Other addresses including those with no street suffix, other extra information in the address, or multiple errors in the address] *An address with other errors or omissions that cannot be corrected in accordance with §B of this regulation; and*

[(7)](8) [Addresses that are incorrect or are not contained in the United States Census Bureau's TIGER street centerline file used to geocode addresses] *An address that cannot be located through use of the geocoder mapping applications utilized by the Bureau.*