

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/11/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/23/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

05 13 06 .01-.17

3. Name of Promulgating Authority

Department of Housing and Community Development

4. Name of Regulations Coordinator

Mark S Petrauskas

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410-514-7834

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100 Community Place

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5. Name of Person to Call About this Document

Ramona Amin

Telephone No.

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Email Address

Ramona.Amin@Maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Ramona Amin, Assistant Attorney General, (telephone #410-514-7800) on December 5, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Clarence J. Snuggs

Title

Acting Secretary

Telephone No.

410-514-7005

Date

December 10, 2014

Title 05
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

Subtitle 13 NEIGHBORHOOD BUSINESS DEVELOPMENT

05.13.06 Food Desert Designation and Financing

Authority: Housing and Community Development Article, §6-308(a)(2), Annotated
Code of Maryland

Notice of Proposed Action

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The Acting Secretary of Housing and Community Development proposes to adopt new Regulations .01-.17 under COMAR 05.13.06 Food Desert Designation and Financing.

Statement of Purpose

The purpose of this action is to provide guidance for implementation of Chapter 228 of the 2014 laws of Maryland. The statute allows the Department to establish partnerships with community-based lenders as intermediaries that would administer loans to food related enterprises under the Neighborhood Business Development Program, and prescribes the policies, procedures, and authorizations for designating areas as food deserts and providing financial assistance to eligible small businesses and other food-related enterprises that provide fresh fruits, vegetable and other healthy foods to residents in food deserts. The new regulations will encourage more investment in start-up and expansion of food related enterprises in Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The proposed regulations would reduce expand access to capital for establishing and expanding food related enterprises in designated food deserts within Priority Funding Areas. Food deserts are generally defined as communities that do not have easy access to healthy foods including fresh fruits and vegetables, typically in the form of a supermarket or grocery store. The regulations would also make it easier for the Department to partner with third party intermediaries, with experience and capacity to provide technical assistance to food related enterprises, increasing successful outcomes, while easing the administrative burden on State agencies.

Because food deserts may be located outside of Sustainable Communities, the requirement that loans to food related enterprises under the Neighborhood Business Development Program be located in a designated Sustainable Community represents a

substantial barrier to food related enterprises. The proposed regulations would eliminate that barrier for loans to food related enterprises in designated food deserts, resulting in a positive economic impact on food related enterprises. However, the magnitude of that impact cannot be determined. The legislation would also allow the Department to partner with experienced local lending intermediaries to originate and administer loans to food related enterprises, resulting in ease of administration and improved technical support to borrowers. The Program would, however retain the authority to originate, underwrite and service the loans directly.

Small businesses will benefit from improved access to capital, however the magnitude of this benefit cannot be determined. Local governments may benefit from increased local revenue due to new business activity, however the magnitude of this benefit cannot be determined. The proposed regulations would be implemented with existing staff and program resources.

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

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

C. Local governments may benefit from increased local revenue due to new business activity, however the magnitude of this benefit cannot be determined.

E. Small businesses will benefit from improved access to capital, however the magnitude of this benefit cannot be determined.

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 regulations would improve access to capital for loans to small businesses seeking financing through the Neighborhood Business Development program for food

related enterprises, resulting in a positive economic impact to food related enterprises. However, the magnitude of that impact cannot be determined. The legislation would also allow the Department to partner with experienced local lending intermediaries to originate and administer microloans. This would ease administration and benefit borrowers who would receive direct technical assistance and loan administration through intermediaries. However, the magnitude of that impact cannot be determined.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Papagni, Program Officer, Division of Neighborhood Revitalization, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-209-5807 , or email to John.Papagni@Maryland.gov, or fax to 410-685-8270. Comments will be accepted through February 23, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

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 regulations will be implemented with existing staff and program resources.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 13 NEIGHBORHOOD BUSINESS DEVELOPMENT

Chapter 06 Food Desert Designation and Financing

Authority: Housing and Community Development Article, §6-308(a)(2), Annotated Code of Maryland

.01 General.

This chapter prescribes the policies, procedures, and authorizations for designating areas as food deserts and providing financial assistance to eligible small businesses and other food-related enterprises that provide fresh fruits, vegetables and other healthy foods to residents in food deserts.

.02 Definitions.

A. In this chapter, the following words have the meanings indicated and as defined in the Act.

B. Terms Defined.

(1) "Advisory Committee" means the Interagency Food Desert Advisory Committee established under Housing and Community Development Article, §6-308.2, Annotated Code of Maryland.

(2) "Business" means a commercial or industrial enterprise.

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

(4) "Financial assistance" means any form of grant, loan, assurance, guarantee, or other credit enhancement, reduction in the principal obligation of or in the rate of interest payable on a loan or portion of a loan, and prepayment of interest on a subordinate or superior loan or portion of a loan.

(5) "Financial assistance documents" means those documents executed by an approved applicant and the Department which set forth the terms and conditions of financial assistance under the Program.

(6) "Food Desert" means the part of priority funding area designated by the Secretary under Regulation .05 of this chapter.

(7) "Food desert project" or "project" means a project or activity which qualifies for financial assistance under the Program.

(8) "Nonprofit organization" means a corporation, foundation, or other entity that specifies in its charter or bylaws that no part of the net earnings may inure to the benefit of any private shareholder or individual holding any interest in the entity.

(9) "Program" means the Business Development Program, also known as the Neighborhood Business Works Program.

(10) "Small business" means a business that employs a number of employees, or has annual gross receipts, no greater than the limits set forth by the U. S. Small Business Administration.

(11) "Secretary" means the Secretary of Housing and Community Development.

(12) "State" means the State of Maryland.

.03 Food Desert Designation Application.

A. An application for a food desert designation shall be submitted by a local government or local governments.

B. An application for a food desert designation shall be submitted to the Department on forms prescribed by the Department and in accordance with the schedule that the Department establishes.

C. An application for a designation shall provide:

(1) A detailed map and description of the proposed food desert demonstrating the proposed areas within a priority funding area;

(2) Information and data on the:

(a) Availability of fresh fruit, vegetables, and other healthy foods in the area;

(b) Income levels of local residents;

(c) Transportation needs of local residents and the availability of public transportation;

(3) Any comments the applicant has received from the local governments or community; and

(4) Any other information that the Department considers relevant.

.04 Food Desert Designation Application Processing.

A. Application Evaluation.

(1) Each application shall be submitted to the Department to determine whether all of the information required under Regulation .03 of this chapter is contained in the application.

- (2) Upon receipt of all required information, the Department shall:
 - (a) Convene the Advisory Committee to:
 - (i) Review applications;
 - (ii) Provide assistance and guidance to applicants; and
 - (iii) Make recommendations to the Secretary.
 - (b) Refer the application to other State agencies for comment, as the Department considers appropriate;
 - (c) Consider any recommendation from a State unit; and
 - (d) Analyze each application to determine whether the proposed food desert merits designation.
 - (3) The Advisory Committee or the Department may request additional information from the applicant concerning an application, including oral presentations.
 - (4) Upon completion of the requirements in §A(1)—(3) of this regulation, the Advisory Committee shall make a recommendation on the application to the Secretary after considering the:
 - (a) Availability of fresh fruit, vegetables, and other healthy foods in the area;
 - (b) Income levels of local residents;
 - (c) Transportation needs of local residents and the availability of public transportation;
 - (5) Any comments from local governments and other State agencies; and
 - (6) Any other factors that the Advisory Committee considers relevant.
- B. Upon receipt of the recommendation from the Advisory Committee, the Secretary may request additional information from the applicant concerning the application, including oral presentations.

.05 Designation of a Food Desert.

- A. The Secretary, on the recommendation of the Advisory Committee, may designate an area as a food desert.
- B. If the Secretary determines not to designate all or part of an area as a food desert, the Secretary shall issue a written notice of denial with an evaluation and explanation of the denial.
- C. Reconsiderations.
 - (1) An applicant may request initial reconsideration of a denial by submitting a written request to the Secretary.
 - (2) The request for reconsideration must be received within 30 days following the date of the denial notice.
 - (3) The request for reconsideration shall address each reason for the denial and provide documentation supporting reasons for reconsideration of the application.
 - (4) The Secretary shall respond in writing to the applicant's request for reconsideration within 90 days of receipt of the request for reconsideration.
 - (5) An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.02.

.06 Modification of a Food Desert Designation.

- A. An applicant may submit modifications to a food desert designation to the Department in accordance with the schedule that the Department establishes.
- B. The Secretary, on the recommendation of the Advisory Committee, may approve modifications to a food desert designation.
- C. Regulations .03—.05 of this chapter shall apply to the procedures and approval process for modifying a food desert designation.
- D. The Department may establish an abbreviated application for modifying a food desert designation.

.07 Eligible Projects.

- In order to be eligible for financial assistance, a project shall satisfy the following requirements:
- A. The project is in a food desert;
 - B. The project will provide fresh fruits, vegetables and other healthy foods to residents in food deserts.
 - C. The project has a commitment of monies from private, local, or federal funds so that upon receipt of financial assistance under the Program there will be adequate funding to assure completion of the project;
 - D. As determined by the Department, the project is not feasible but for the financial assistance from the Program and the financial assistance requested is the least amount of money necessary to complete the project;
 - E. The financial assistance from all State government sources, including but not limited to the Program, may not exceed 50 percent of total project costs;
 - F. The project is ready to proceed upon receipt of financial assistance under the Program;
 - G. The local jurisdiction in which the project is located has adopted a local resolution, or its authorized designee has delivered a letter to the Program, expressing support for the project;
 - H. The operating income and expenses projected for the project show income sufficient, in the sole discretion of the Department, to repay on schedule any loans authorized or guaranteed by the Program; and
 - I. Upon completion, the project will be in compliance with all applicable zoning requirements and standards as well as the applicable building code of the local jurisdiction in which the project is located.

.08 Terms and Conditions of Financial Assistance.

A. The financial assistance from the Program shall be on such terms as the Department considers necessary to make the project financially feasible.

B. Financial assistance in the form of a loan from the Program may be secured, at the discretion of the Department, by a security instrument described in §C of this regulation, which may be subordinate to other security interests.

C. The security shall be acceptable to the Department and may be:

- (1) A mortgage or deed of trust lien;
- (2) A cash escrow;
- (3) A letter of credit;
- (4) A pledge of depository accounts;
- (5) A pledge of accounts receivable;
- (6) An assignment of income;
- (7) A security interest in machinery and equipment; or
- (8) Any other form of security or collateral acceptable to the Department.

D. The principal and interest of a loan made or guaranteed under the Program shall:

- (1) Be repayable out of revenues specified by an approved applicant;
- (2) Bear interest at a rate determined to be necessary and reasonable for the project which may be as low as zero percent; and
- (3) Be repayable in accordance with a schedule determined by the Department and may be on a deferred payment schedule.

E. In order to facilitate the successful completion or operation of a project, the Department may modify:

- (1) The rate of interest;
- (2) The time or amount of payment; or
- (3) Any other term of a loan.

F. Default. In the event of default, the Department shall have the right to modify the rate of interest, the time or amount of payment, or any other term of financial assistance in order to ensure repayment and achieve the purposes of the Program.

G. Property, Liability, and Other Insurance.

(1) At or before closing of the financial assistance, and at such other times as required by the Department, the applicant shall provide evidence that the applicant, contractor, and other parties, have obtained and maintained the following insurance:

- (a) Owner's liability;
- (b) Owner's property or hazard or contractor's builder's risk;
- (c) Contractor's liability;
- (d) Business income;
- (e) Architect's errors and omissions; and
- (f) Engineer's errors and omissions.

(2) All insurance required under §G(1) of this regulation shall meet the following requirements:

- (a) Be written by a company registered with the Maryland Insurance Administration, or a company approved by the Department in the event the property and company are located out-of-State;
- (b) Be in force at the time of closing;
- (c) Not be terminable without prior notification to the Department; and
- (d) Contain such other terms and coverage satisfactory to the Department.

(3) In addition to the requirements of §G(2) of this regulation, owner's liability and business income insurance shall:

- (a) Name the Department as an additional insured; and
- (b) Remain in force for the duration of the loan.

(4) In addition to the requirements of §G(2) of this regulation, contractor's liability insurance shall:

- (a) Name the Department as an additional insured; and
- (b) Remain in place through final closing or such later date as the Department requires.

(5) In addition to the requirements of §G(2) of this regulation, owner's property or hazard insurance and builder's risk insurance shall:

- (a) Name the Department as an additional insured, loss payee, and mortgagee; and
- (b) Remain in force for the duration of the loan.

.09 Limitations on Financial Assistance.

A. Minimum Amount of Financial Assistance.

- (1) The minimum amount of financial assistance from the Program to a project is \$1,000.
- (2) The maximum amount of financial assistance from the Program to a project may not exceed 50 percent of total project costs.

B. Disbursement of Financial Assistance. Financial assistance may be disbursed in accordance with the terms and conditions set forth in the financial assistance documents.

C. The Secretary may approve an exception to the maximum amount of the financial assistance, up to 65 percent of total project costs, on the basis that other potential sources of funds have been sought and clearly are not available and it is not feasible to reduce the size or scope of the project.

D. The Secretary may approve an exception to the minimum amount of the financial assistance on the basis that it is not feasible to increase the size or scope of the project.

.10 Food Desert Project Applications and Processing.

A. An application for financial assistance shall be submitted to the Department and shall be made upon standard forms prescribed by the Department.

B. Each application shall:

(1) Contain the applicant's organizational documents, including as applicable its articles of incorporation and bylaws, its articles of organization and operating agreement, its certificate of limited partnership and limited partnership agreement, or its partnership or joint venture agreement;

(2) Contain a description of the project;

(3) Contain proof of the dollar amount committed to the project from private and non-State public resources, and proof of any applications submitted to private and non-State public sources of financing for the project except that if the applicant is not applying to any private or non-State public resources, the Program may request additional information which would have been contained in those applications;

(4) Contain sufficient information to determine that the:

(a) Project is located in a food desert,

(b) Project is eligible in accordance with Regulation .07 of this chapter,

(c) Terms and requirements of financial assistance as set forth in Regulation .08 of this chapter can be met,

and

(5) Contain the following additional information:

(a) The number and types of jobs to be created or retained by the project;

(b) The amount, size, and types of commercial or industrial space to be created or retained;

(c) The cost of the project;

(d) A project budget identifying all sources and uses of project development funds;

(e) Except for projects seeking financial assistance for minor rehabilitation, a pro forma showing anticipated project revenue, expenses, and debt service and other indebtedness of the project;

(f) Identification of the revenues which can be used to repay the financial assistance provided by the Program;

and

(g) Other and further information as the Program may request.

C. Application Evaluation.

(1) Each application submitted shall be reviewed by the Program to determine whether all of the information required under §B of this regulation is contained in the application.

(2) Upon submission of all required information, the Program shall undertake an analysis of each application and make a recommendation to the Secretary, as to whether, in accordance with this section, a project is eligible for financial assistance, the amount of financial assistance, and any special terms and conditions for a project.

(3) The Program may take the information set forth in an application and the following factors into consideration in recommending an award of financial assistance:

(a) The ratio, as permitted under Regulation .07E of this chapter, of Program and other State funds to both private and other non-State public funds;

(b) The relationship of a project to area revitalization plans, efforts, and strategies;

(c) The capability of an applicant to administer a project;

(d) The potential of the business to serve the needs of the food desert in which it is situated;

(e) A plan to seek out sources of Maryland-grown produce and Maryland produced foods;

(f) A strategy to encourage hiring local residents; and

(g) Other factors which the Program determines are desirable in fostering commercial and economic revitalization within a local jurisdiction.

D. Approval of Applications.

(1) If the Program determines to recommend approval of a project for financial assistance, the Program shall present the project to the Secretary.

(2) The Secretary, in the sole discretion of the Secretary, may delegate to an authorized officer of the Department the authority to approve, disapprove, or approve with modifications financial assistance provided under the Program.

E. Rejection of Applications. If the Program determines not to recommend approval of a project for financial assistance, the Program shall issue a written notice of rejection with an evaluation and explanation for rejection.

F. Reconsideration.

(1) An applicant may request reconsideration of a rejection by submitting a written request, to the Secretary, which is received within 30 days following the date of the rejection notice. The request for reconsideration shall address each reason for the rejection and provide documentation supporting reasons for reconsideration of the issues.

The Secretary shall respond in writing to the applicant's request for reconsideration within 30 days of receipt by the Secretary of the request for reconsideration.

(2) An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.02.

(3) The Secretary, in the sole discretion of the Secretary, may delegate to an authorized officer of the Department the authority to approve, disapprove, or approve with modifications a request for reconsideration of a rejection under the Program.

G. Closing. The closing of an award of financial assistance shall be scheduled at a time acceptable to the Department and the Office of the Attorney General.

.11 Books and Accounts.

Applicants, contractors, and subcontractors shall maintain such books, accounts, and records and shall file with the Department such financial and other reports as the Department may from time to time require. All of these books, accounts, and records shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours. Books, accounts, and records of contractors and subcontractors shall be maintained and made available for inspection for three years past the date of termination of the contractual relationship between the contractor and the applicant.

.12 Fees and Charges.

The Department may charge fees related to the processing of an application for financial assistance and servicing of financial assistance.

.13 Loan Administration by Approved Entities

A. General. The Department may approve non-profit and for-profit entities to originate and administer loans to food desert projects in accordance with this chapter.

B. To be eligible to administer a loan program, the entity must submit an application to the Department and meet the following minimum criteria to the satisfaction of the Department:

(1) Provide evidence satisfactory to the Department supporting the entity's demonstrated ability to:

- (a) Manage a performing portfolio of business loans for a minimum period of five years;
- (b) Evaluate loan applications, underwrite loans, and administer a loan program;
- (c) Leverage Program proceeds with other private or public sources of funding;
- (d) Comply with Program statutes, regulations, guidelines and policies;
- (e) Provide adequate resources and staff to implement the Program, including staff trained to efficiently:
 - (i) Process loan applications, draw schedules and other loan documentation;
 - (ii) Evaluate loan portfolio performance; and
 - (iii) Monitor the work performed with the loan proceeds;
- (f) Provide substantive technical assistance to borrowers;
- (g) Obtain coverage by a fidelity bond or employee dishonesty liability insurance in an amount to be

determined by the Department; and

(h) Be duly organized and in good standing in the State of Maryland.

(2) Provide audited financial statements for a period of three years that demonstrates the entity's ability to maintain consistent:

- (a) Revenues;
- (b) Operating reserves;
- (c) Net assets;
- (d) Unrestricted assets; and
- (e) Portfolio delinquency rates.

C. An approved entity shall execute and comply with the terms of an administration agreement, loan agreement, loan note, assignment, and other documents governing the duties of the entity under the Program, as required by the Department.

D. An approved entity shall be directly responsible for fulfilling all of its duties and responsibilities under the Program and may not assign its responsibilities without the prior written consent of the Department.

E. The Department may monitor an approved entity's administration of loans funded by the Department, and may enforce its remedies under the Program loan documents including revoking the entity's approval to administer a loan program under this chapter.

F. Other Requirements.

(1) An approved entity shall:

(a) Maintain financial records of loan disbursements for at least five years, and shall make them available for review by the Department at all reasonable times;

(b) Provide the Department with periodic reporting on:

- (i) Loan disbursements; and
- (ii) Other information required by the Department.

(2) Upon notice to an approved entity, and during normal business hours, the Department may inspect the files of an approved entity relating to any loans originated under the Program.

G. To fund loans under this regulation the Department may:

(1) Directly fund a loan that is originated by an approved entity; or

(2) Provide financial assistance to an approved entity for the purpose of the approved entity making a loan for a food desert project.

.14 Program Administration.

The Program may establish, from time to time, detailed Program guidelines containing underwriting standards, processing requirements, and other requirements or matters relating to providing financial assistance.

.15 Nondiscrimination.

A. An applicant may not discriminate against a person on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical or mental disability, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, in any aspect of the Program.

B. An applicant shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, credit practices, and drug and alcohol free workplaces, including:

(1) Titles VI and VII of the Civil Rights Act of 1964, as amended;

(2) Title VIII of the Civil Rights Acts of 1968, as amended;

(3) The Fair Housing Amendments Act of 1988, as amended;

(4) The Department's Minority Business Enterprise Program, as amended;

(5) The Governor's Executive Order 01.01.1989.18 on Drug and Alcohol Free Workplaces, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order;

(6) Title 20 of the State Government Article, Annotated Code of Maryland, as amended; and

(7) The Americans with Disabilities Act of 1990, as amended.

C. Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and other parties.

.16 Waiver.

The Secretary may waive or vary provisions of these regulations to the extent that the waiver or variance is consistent with the Act and if, in the written determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

.17 False Statements.

A. A person may not knowingly make or cause to be made a false statement or report in any document required to be furnished to the Department by an agreement relating to financial assistance.

B. A person applying for or benefiting from financial assistance under the Program may not knowingly make or cause to be made a false statement or report for the purpose of influencing the action of the Department on an application or for the purpose of influencing the action of the Department affecting financial assistance already provided.

C. A person who violates §A or B of this regulation is subject to the following penalties:

(1) Immediate cancellation or acceleration of the form of financial assistance provided by the Program; and

(2) Guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$50,000, or imprisonment not exceeding five years, or both.