

(2) Verification of credits generated by any other source shall be performed by a:

- (a) A State or county inspector;
- (b) A professional engineer registered in Maryland; or
- (c) A Department-approved verifier that:

- (i) Has the appropriate education, expertise, and training to perform the verification;
- (ii) Does not hold an interest in the operation or entity generating the credit; and
- (iii) Was not involved in the original application or qualification of the credits.

C. Each report prepared by an inspector or verifier in accordance with §B(2) of this regulation shall include:

(1) Documentation that the BMP implemented continues to meet baseline compliance and that the credit generating BMP continues to be operated and maintained in accordance with the terms of the trading contract and the requirements of this chapter; and

(2) Confirmation that no deficiencies exist and no corrective measures are needed or a detailed description of deficiencies and required corrective actions.

D. Based on the information obtained in the verification reports, the Department shall update the Registry as necessary.

**.12 Public Participation.**

A. The Department shall provide notice, and an opportunity for comment and a hearing, if requested, for NPDES permits that propose to allow trading under this chapter in accordance with the federal Clean Water Act and Code of Federal Regulations for new permits or modification of existing permits, as applicable.

B. The Department shall report all credit trades by a stormwater point source permittee annually, and make the report available to the public on the Registry.

**.13 Enforcement.**

A. If a BMP is not performing in conformance with its certification the Department may order:

- (1) Repairs or other remedies to address or eliminate any deficiencies, within a time period determined by the Department;
- (2) Additional inspections; and
- (3) Written substantiations that corrective measures have been taken.

B. The Department may suspend or revoke certification of a credit if:

- (1) There are any violations of this chapter;
- (2) A BMP is not performing in conformance with its certification;
- (3) The Department determines that misleading, false, or fraudulent information was provided in the application for certification of such credit or any other submission related to such credit; or
- (4) Any other action or inaction by a credit seller or credit buyer that the Department determines provides good cause to suspend or revoke such certification.

C. Within 30 days of a determination to suspend or revoke a certification, the Department shall:

- (1) Issue a notice of the suspension or revocation of credit certification, including an effective date thereof, to the credit seller or credit buyer; and
- (2) Update the Registry to reflect the suspension or revocation.

D. A corrective action order does not preclude the Department from exercising its enforcement authority. Suspension or revocation of credit certification does not preclude any other legal action that may be taken by the Department or another public or private entity.

**.14 Appeal Process.**

Any person aggrieved by the suspension or revocation of a credit taken in accordance with this chapter shall have the right to review in accordance with the provisions of the Administrative Procedure Act, State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

BENJAMIN H. GRUMBLES  
Secretary of the Environment

## Title 34 DEPARTMENT OF PLANNING

### Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS

#### 34.04.07 Heritage Structure Rehabilitation Tax Credit Certifications

Authority: State Finance and Procurement Article, §5A-303, Annotated Code of Maryland

**Notice of Proposed Action**  
[17-294-P]

The Maryland Department of Planning, Maryland Historical Trust (MHT), proposes to amend Regulations .02 and .05 under COMAR 34.04.07 Heritage Structure Rehabilitation Tax Credit Certifications.

**Statement of Purpose**

The purpose of this action is to amend two regulations in COMAR 34.04.07. The purpose for the amendments to COMAR 34.04.07.02 is to revise the definition of "qualified rehabilitation expenditure" such that it is clear that rehabilitation expenses incurred prior to the date that MHT approves the rehabilitation plan for a rehabilitation project will not qualify for the Heritage Structure Rehabilitation Tax Credit. The purpose for the amendments to COMAR 34.04.07.05 is to clarify that proposed amendments to "Part 2" tax credit applications are to be reviewed and acted on by MHT under the same procedures applicable to review and action on original Part 2 applications.

**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 Collin Ingraham, Administrator, Preservation Financial Incentives, Maryland Historical Trust, 100 Community Place, 3rd Floor, Crownsville, Maryland 21032-2023, or call 410-697-9558, or email to [Collin.Ingraham@maryland.gov](mailto:Collin.Ingraham@maryland.gov), or fax to 410-697-9616. Comments will be accepted through January 8, 2018. A public hearing has not been scheduled.

PROPOSED ACTION ON REGULATIONS

1196

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (13) (text unchanged)

(14) "Qualified rehabilitation expenditure" means any amount that is:

(a) (text unchanged)

(b) Expended [to complete] on a certified rehabilitation:

(i) Of a structure that is certified by the Director as a certified historic structure under Regulation .04 of this chapter (Part 1) by no later than the end of the calendar year during which the certified rehabilitation is completed; [and]

(ii) In compliance with a rehabilitation plan [that has been] approved by the Director under Regulation .05 of this chapter (Part 2); and

(iii) For work undertaken after approval by the Director of the rehabilitation plan under Part 2; and

(c) (text unchanged)

(15) — (23) (text unchanged)

.05 Procedures for Application for and Review of Certifications of Eligibility of Certified Historic Structure Rehabilitations (Part 2).

A. Part 2 Application Process.

(1) — (4) (text unchanged)

(5) At any time before completion of the rehabilitation, an applicant may [propose to] file with the Director an amendment to a Part 2 application [which the Director may approve or deny at the Director's discretion] in form and substance as instructed on the Trust's website.

B. Homeowner Tax Credit.

(1) Upon receipt of either a complete Part 2 application or an amendment to an application for the Homeowner Tax Credit, the Director shall review the application or amendment and determine whether:

(a) (text unchanged)

(b) The plan for the rehabilitation as described in the application or amendment meets the Standards for Certified Historic Structure Rehabilitation; and

(c) The anticipated qualified rehabilitation expenditures will exceed \$5,000; and

(d) No substantial part of the rehabilitation had begun at the time that the Trust received the application.

(2) The Director shall approve the Part 2 application or amendment and promptly send written notice of the approval to the applicant if the Director determines that each of the criteria set forth in §B(1) of this regulation is satisfied.

(3) The Director shall deny the Part 2 application or amendment and promptly send written notice of the denial to the applicant if the Director determines that any of the criteria set forth in §B(1) of this regulation is not satisfied.

C. Small Commercial Tax Credit.

(1) Upon receipt of either a complete Part 2 application or an amendment to an application for the Small Commercial Tax Credit, the Director shall review the application or amendment and determine whether:

(a) (text unchanged)

(b) The plan for the rehabilitation as described in the application or amendment meets the Standards for Certified Historic Structure Rehabilitation; and

(c) The anticipated qualified rehabilitation expenditures will exceed \$5,000 but not exceed \$500,000; and

(d) No substantial part of the rehabilitation had begun at the time that the Trust received the application.

(2) If the Director determines that each of the criteria set forth in §C(1) of this regulation is satisfied, the Director shall:

(a) Approve the Part 2 application or amendment;

(b) — (c) (text unchanged)

(3) If the Director determines that any of the criteria set forth in §C(1) of this regulation is not satisfied, the Director shall deny the Part 2 application or amendment and promptly send written notice of the denial to the applicant.

(4) The Director may not approve any Part 2 application or amendment and may not issue any initial credit certificates for a Small Commercial Tax Credit after the aggregate amount of initial credit certificates for the Small Commercial Tax Credit issued by the Director on or after January 1, 2015, totals \$4,000,000.

D. (text unchanged)

ROBERT McCORD  
Acting Secretary of Planning

