

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Agriculture
(DLS Control No. 14-006)**

Overview and Legal and Fiscal Impact

These regulations implement the Spay/Neuter Grant Program of the Department of Agriculture, as required by Chapters 561 and 562 of 2013. In addition to establishing guidelines and requirements for grant applicants and grant recipients, the regulations identify measures the department may take if a grant recipient violates a grant agreement or misuses grant funds. The regulations also establish fees on commercial dog and cat feed registered in the State, which are paid into the Spay/Neuter Fund to support the operation of the Spay/Neuter Grant Program.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Agriculture:

Office of the Secretary: Spay/Neuter Grant Program:
COMAR 15.01.10.01-.10

Legal Analysis

Background

In 2011, the Task Force on the Establishment of a Statewide Spay/Neuter Fund was established for the purpose of studying and making recommendations regarding the funding and establishment of a spay/neuter fund. The recommendations of the task force included:

- creating a surcharge of approximately \$100 annually on pet food brand registration;
- establishing a competitive grant program for spay/neuter services;

- creating a statewide veterinarian reimbursement voucher program for low-cost spay and neuter surgeries and free rabies vaccine shots;
- establishing a spay/neuter advisory board; and
- requiring local government-operated or funded animal control shelters to submit annual animal intake and euthanasia data.

Chapters 561 and 562 of 2013 implemented many of these recommendations, establishing the Spay/Neuter Fund as a special, nonlapsing fund in the Department of Agriculture. The purpose of the fund is to reduce animal shelter overpopulation and cat and dog euthanasia rates by financing grants for programs that facilitate and promote spay and neuter services. The chapter laws also required the department to establish a \$100 fee – phased in over three years – on each brand name or product name of commercial dog or cat feed that is registered in the State. A Spay/Neuter Advisory Board was created to monitor the fund.

Chapters 561 and 562 also established a number of reporting requirements relating to the fund and the disbursement of spay/neuter grants. The department must report on the activities financed by the fund to the Governor and the General Assembly each year by August 31 and on the fee revenue collected for the fund by December 15, 2015. Chapters 561 and 562 are scheduled to terminate after nine years, on September 30, 2022.

Summary of Regulations

The action adds a new chapter of regulations dealing with the Spay/Neuter Grant Program. Regulations .01 and .02 state the purpose of the program and define terms applicable to the new chapter. Regulations .03 through .05 cover the grant application process, including who may apply for grants, the form and content of grant applications, and the standards the department will apply when evaluating grant proposals. Regulations .06 through .08 establish rules and requirements for grant recipients, including the content of grant agreements, the timeline for the distribution of grant funds, and project monitoring and reporting requirements. Regulation .09 authorizes the department to discontinue grant payments, seek repayment of grant funds, or deny future grant eligibility to a grant recipient who has violated a grant agreement or misused grant funds. Finally, Regulation .10 phases in a fee on the registration of commercial dog and cat feed, consistent with § 2-1603 of the Agriculture Article.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 2-1605 of the Agriculture Article as authority for the regulations. This section grants the department broad authority to implement Subtitle 16 of Title 2 of the Agriculture Article, including all the laws dealing with the Spay/Neuter Fund and the

Spay/Neuter Grant Program. Relevant provisions of this title include §§ 2-1602 and 2-1603. Section 2-1602(f)(v) requires the department to adopt regulations requiring a grant recipient to “report relevant information on how the grant was used, including data on the number and type of spay or neuter surgeries performed and a description of any public education and outreach implemented.” Section 2-1603(a) requires the department to establish a registration fee for commercial dog and cat feed, phased in over a three-year period. This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The Maryland Department of Agriculture advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs, as the regulations merely implement SB 820/HB 767 of 2013 (enacted as Chapters 561 and 562). The fiscal and policy notes for SB 820/HB 767 of 2013 included corresponding increases in special fund revenues and general/special fund expenditures of \$517,500 in fiscal 2014, increasing to \$1.0 million annually beginning in fiscal 2016, reflecting revenue from the fee on dog and cat commercial feed and expenditures under the Spay/Neuter Grant Program. These regulations do not have any fiscal impact independent from the impact identified in the fiscal and policy notes for SB 820/HB 767.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The Maryland Department of Agriculture advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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