

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Transportation**
(DLS Control No. 14-230)

Overview and Legal and Fiscal Impact

These regulations make numerous changes for consistency with current security protocols and practices. The regulations primarily alter requirements and procedures for the operation of motor vehicles at port facilities.

The regulations present no legal issue of concern.

Transportation Trust Fund (TTF) expenditures for the Maryland Port Authority (MPA) decrease by \$60,000 annually beginning in fiscal 2015 due to the transfer of specified security responsibilities from the Maryland Transportation Authority (MDTA) to MPA. MDTA currently charges MPA \$85,000 annually to perform specified security duties; however, MPA reports that it is able to expand its existing private security contract to cover the expanded duties for an additional \$25,000 annually, resulting in an annual savings for MPA of \$60,000. MDTA nonbudgeted revenues and expenditures decrease by \$85,000 annually as a result of the regulations.

Regulations of COMAR Affected

Department of Transportation:

Maryland Port Administration: Hazardous Materials: COMAR 11.05.02.02

Vehicle Access, Parking, and Operation on Maryland Port Administration Property:
COMAR 11.05.03.02-.05, .07-.09, .12, and .14

Maryland Port Terminals, Properties, and Vessels Security: COMAR 11.05.07.03

Legal Analysis

Background

The regulations make numerous changes to MPA regulations relating to access to MPA property. The Maryland Department of Transportation states that the changes are generally for consistency with current security protocols and practices and address recurring issues such as security violations justifying the revocation of access privileges.

Summary of Regulations

The regulations repeal the authorization for the issuance of a temporary decal to allow a vehicle to access MPA property for a period ranging from one week to three months. Instead, the regulations create a 14-day pass to be used by a person who intends to operate a motor

vehicle on MPA property for seven days or longer. The pass requires prior notice to the MPA Office of Security or its designee and must be displayed on the vehicle's dashboard. A person requesting a 14-day pass must show justification as to why the person did not obtain an annual decal and must obtain a certain prior authorization to be on the facility for the requested period. The regulations specify that a pass may not be transferred or displayed by any person other than the person to whom it is issued. Upon expiration, the pass must be returned to the MPA Office of Security or its designee.

The regulations also:

- alter and establish certain speed limits on MPA property;
- restrict the access of certain special vehicles, including two-wheeled, self-propelled, and unlicensed vehicles, to MPA property;
- require a person entering MPA property, on request of a MDTA police officer, to provide the person's driver's license and other official photo identification;
- authorize MDTA Police to remove certain unattended vehicles likely to cause a safety or security risk;
- authorize the MPA Office of Security to revoke or refuse permit privileges of a permit holder or applicant and prohibit entrance onto the premises of a port facility by a potential entrant for certain misconduct; and
- cross-reference a definition for "MDTA Police" for purposes of MPA regulations relating to hazardous materials.

Finally, the regulations contain numerous nonsubstantive stylistic and clarifying changes.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 6-201 and 6-211 of the Transportation Article as authority for the regulations. Section 6-201 authorizes the Maryland Port Commission to adopt regulations for the operation of MPA "in a competitive manner within the port industry." Section 6-211 authorizes the commission to adopt and enforce regulations for the parking and operation of motor vehicles in and on its port facilities, including regulations that are reasonably necessary for the safety of persons and property or for efficient operation of the port facilities.

Section 6-204 also provides statutory support for the regulations. This section authorizes MPA to propose regulations for adoption by the commission and to do anything else "necessary or convenient" to carry out its statutory powers.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Correction

COMAR 11.05.03.03C(3)(a) contains a reference to “an annual or temporary decal” that, in light of the repeal of the authorization for the issuance of temporary decals, should be replaced with “an annual decal.”

Fiscal Analysis

TTF expenditures for the Maryland Port Authority (MPA) decrease by \$60,000 annually beginning in fiscal 2015 due to the transfer of specified security responsibilities from the MDTA to MPA. MDTA currently charges MPA \$85,000 annually to perform specified security duties; however, MPA reports that it is able to expand its existing private security contract to cover the expanded duties for an additional \$25,000 annually, resulting in an annual savings for MPA of \$60,000. MDTA nonbudgeted revenues and expenditures decrease by \$85,000 annually as a result of the regulations.

Agency Estimate of Projected Fiscal Impact

The department’s estimate of economic impact indicates that the regulations have no impact on State or local agencies. However, in further correspondence with the department, the department now advises that TTF expenditures decrease by \$60,000 annually due to the transfer of certain security duties from MDTA to MPA. Previously, MDTA provided specified visitor pass services for MPA through an existing on-site security office located on MPA property; however, this service was moved to an off-site building to enhance security shortly after 9/11. MDTA continued to provide the security services, charging MPA \$85,000 annually to cover its costs. MPA reports that, under the regulations, MPA’s existing security contractor can assume the additional responsibilities for \$25,000 annually, resulting in a net decrease in TTF expenditures of \$60,000 annually for MPA and a decrease of \$85,000 annually in MDTA’s nonbudgeted revenues and expenditures. The Department of Legislative Services concurs.

Impact on Budget

TTF expenditures decrease by \$60,000 annually beginning in fiscal 2015.

Agency Estimate of Projected Small Business Impact

The department 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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