

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of the Environment
(DLS Control No. 15-040)**

Overview and Legal and Fiscal Impact

This regulation incorporates by reference Supplement 26 to the Maryland Regulations for the Control of Ionizing Radiation (1994), which includes several substantive changes, technical corrections, and updates to make the regulations consistent with federal law.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of the Environment:

Radiation Management: Radiation Protection: COMAR 26.12.01.01

Legal Analysis

Background

The Radiological Health Program (RHP) within the Maryland Department of the Environment is responsible for controlling the use of radiation, protecting public health and safety, and protecting the environment from inadvertent and unnecessary radiation exposure. This is accomplished through registration and certification of radiation machines, licensing of radioactive materials, inspections, and enforcement actions to ensure regulatory compliance. RHP regulates the use of both radiation machines and radioactive materials. With respect to radioactive materials, Maryland must adopt regulations that conform to federal Nuclear Regulatory Commission (NRC) requirements.

Summary of Regulation

The regulation incorporates by reference Supplement 26 to the Maryland Regulations for the Control of Ionizing Radiation (1994). The supplement incorporates the following changes:

- prohibiting a person that owns or operates a radiation machine facility from possessing, using, or storing a radiation machine before the facility is registered;
- exempting common and contract carriers, freight forwarders, warehousemen, and the United States Postal Service from regulations in Part C, E, G, V, W, and X to the extent

that these entities transport or store byproduct material in the regular course of business to conform to NRC requirements;

- a United States Nuclear Regulatory Commission regulation establishing additional security requirements for the use and transport of category 1 and category 2 quantities of radioactive materials to conform to NRC requirements; and
- various technical corrections, including clarifying that specified consequences are implemented if a radiation machine does not meet one of three requirements, rather than all three requirements, updating references to an agency form, and correcting a typographical error in a footnote.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 8-106, 8-301, and 8-304 of the Environment Article as authority for the regulations. Section 8-106 authorizes the Secretary to adopt regulations for controlling sources of radiation and requires these regulations to conform to relevant standards set by NRC. Sections 8-301 and 8-304 authorize the Secretary to adopt regulations for licenses related to the use of radiation sources and the inspection of radiation machines, respectively.

This authority is correct and complete. The regulation complies 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 department advises that the regulation has no fiscal impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

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

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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