

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	07/08/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/21/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

11 07 07 02, .04, .06, .08, and .09

3. Name of Promulgating Authority

Department of Transportation

4. Name of Regulations Coordinator

Natalie I Henson

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410-865-1091

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5. Name of Person to Call About this Document

Patrick A. Fleming

Telephone No.

410-537-1089

Email Address

pflaming2@mdta.maryland.gov

6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
Date when existing text was downloaded from COMAR online: 05-01-2015.
- 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

If yes, corresponding proposed text published in:

- same issue
- future issue
- previous issue; it appeared in
:
Md. R
(vol.) (issue) (page no's) (date)
Under Maryland Register docket no.: --E.

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 Kimberly A Millender, Assistant Attorney General, (telephone #410-537-1012) on 06/22/2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Bruce W. Gartner

Title

Executive Director, MDTA

Telephone No.

410-537-1001

Date

06/24/2015

**Title 11
DEPARTMENT OF TRANSPORTATION**

Subtitle 07 MARYLAND TRANSPORTATION AUTHORITY

11.07.07 Electronic Toll Collection and Toll Violation Enforcement

Authority: Transportation Article, §§ 4-205, 4-312, 21-1414, 21-1415, 26-401 and 27-110; Courts and Judicial Proceedings Article, §§ 7-301, 7-302; Annotated Code of Maryland

Notice of Proposed Action

□

The Executive Director of the Maryland Transportation Authority proposes to amend Regulations .02, .04, .06, .08, & .09 under COMAR 11.07.07 Electronic Toll Collection and Toll Violation Enforcement.

This action was considered by the Chairman and Members of the Maryland Transportation Authority Board of Directors at an open meeting held on May 28, 2015 notice of which was published pursuant to General Provisions Article § 3-301, Annotated Code of Maryland. Final Action on these proposed regulations will be open to the public. Notice of the meeting will be placed on the MDTA website (www.mdta.maryland.gov) and will be announced through publication in the Maryland Register, pursuant to General Provisions Article § 3-301, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to make the definitions consistent with statute, correct a reference error, and detail business practices in compliance with House Bill 1241, Chapter 122, Acts of 2015.

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 Patrick A. Fleming, Manager of Government Relations, Maryland Transportation Authority, 2310 Broening Highway, Baltimore, MD 21224, or call 410-537-1089, or email to pfleming2@mdta.maryland.gov, or fax to 410-537-5653. Comments will be accepted through September 20, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Special - MDTA Toll Revenue and Bonds

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

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

The proposed changes adjust definitions to conform with statute and provide the framework for the MDTA to waive video tolls and civil penalties

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

The proposed changes adjust definitions to conform with statute and provide the framework for the MDTA to waive video tolls and civil penalties

G. Small Business Worksheet:

Title 11 DEPARTMENT OF TRANSPORTATION

Subtitle 07 MARYLAND TRANSPORTATION AUTHORITY

Chapter 07 Electronic Toll Collection and Toll Violation Enforcement

Authority: Transportation Article, §§ 4-205, 4-312, 21-1414, 21-1415, 26-401 and 27-110; Courts and Judicial Proceedings Article, §§ 7-301, 7-302; Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) – (13) (text unchanged)

(14) "Pay" means the Authority receives [the] payment [of a toll] by:

(a) Cash;

(b) Permitting a charge against an E-ZPass account with a balance sufficient to pay the toll due; or

(c) Another means of payment approved by the Authority.

(15) "Person alleged to be liable" [means:

(a) The registered owner of a motor vehicle involved in a video toll transaction; or

(b) A person to whom a registered owner of a motor vehicle has transferred liability for a video toll transaction in accordance with Transportation Article, §21-1414, Annotated Code of Maryland and this chapter.] *has the meaning stated in Transportation Article, § 21-1414, Annotated Code of Maryland.*

(16) – (17) (text unchanged)

(18) "Registered owner" [means, with respect to a vehicle, the person or persons designated as the registered owner in the records of the state agency that is responsible for vehicle registration.] *has the meaning stated in Transportation Article, §21-1414, Annotated Code of Maryland.*

(19) – (22) (text unchanged)

(23) "Toll violation" means the failure to pay a video toll within the time prescribed by the Authority in a notice of toll due and as otherwise provided in a response from the [MDTA]Authority regarding a denial of a transfer of liability.

(24) – (27) (text unchanged)

(28) "Video toll" [means the amount assessed by the Authority when a video toll transaction occurs.] *has the meaning stated in Transportation Article, §21-1414, Annotated Code of Maryland.*

(29) "Video toll transaction" [means any transaction in which a vehicle does not or did not pay a toll at the time of passage through a toll collection facility with a video monitoring system.] *has the meaning stated in Transportation Article, §21-1414, Annotated Code of Maryland.*

.04 Terms and Conditions for E-ZPass Account Holders.

A. – F. (text unchanged)

G. Speed Violations - Procedures.

(1) A speed violation notice [shall] *may* be sent per E-ZPass account for E-ZPass private *and business accounts*. [accounts and per transponder for E-ZPass business accounts.]

(2) Notice of Warning for a Speed Violation. A warning notice [shall] *may* be sent for the first speed violation in a toll lane and the notice shall include the consequences for receiving a second violation.

(3) Notice of E-ZPass Account Suspension for a Speed Violation.

(a) (text unchanged)

(b) An E-ZPass account suspension notice [shall] *may* be sent for a second speed violation in a toll lane occurring within 180 days of the first speed violation for which notice has been given by the Authority.

(c) - (d) (text unchanged)

(4) Notice of E-ZPass Account Closure for a Speed Violation.

(a) An E-ZPass account closure notice [shall] *may* be sent for the third speed violation in a toll lane occurring within 180 days of the first speed violation for which notice has been given by the Authority.

(b) – (c) (text unchanged)

(5) The Authority may issue speed violation notices by *email or* first class U.S. mail.

.06 Video Toll Transactions.

A. Notice of Toll Due (NOTD).

(1) The Authority shall send the person alleged to be liable that was involved in a video toll transaction a NOTD containing:

(a) - (h) (text unchanged)

(i) A warning that failure to pay the video toll, request a transfer of liability in the manner and time prescribed, or the late payment of the video toll, will result in a Toll Violation [with issuance of] *subject to* a citation and a civil penalty, in the amount set forth in Regulation .09 of this chapter, and that continued failure to pay may lead to refusal or suspension of the motor vehicle registration and referral to the CCU;

(j) – (k) (text unchanged)

(2) Except as provided in §B of this regulation, the person alleged to be liable [for the video toll transaction shall pay the amount due within] *who receives a NOTD shall have at least 30 days to pay the video toll* from the mailing date of the NOTD.

(3) Except as provided for in §B of this regulation, failure of the person alleged to be liable to pay the video toll by the NOTD payment due date shall constitute a toll violation subject to a citation and a civil penalty, in the amount set forth in Regulation .09 of this chapter.

(4) (text unchanged)

B. Transfer of Liability.

(1) (text unchanged)

(2) The Authority [shall] *must* receive the request for a transfer of liability, including all supporting documentation by the NOTD payment due date.

(3) If the Authority does not receive payment of the video toll or a request for a transfer of liability by the NOTD payment due date, a toll violation [shall] *will* result [and the Authority shall issue] *subject to issuance of* a citation [for a toll violation] *and a civil penalty* as set forth in Regulation .07 of this chapter.

(4) – (5) (text unchanged)

(6) If the Authority denies the request for transfer of liability as described in this regulation:

(a) The person alleged to be liable [shall] *will* receive a determination of a request for transfer of liability from the Authority indicating it is denied;

(b) (text unchanged)

(c) If payment is not received in accordance with §B(6)(b) of this regulation, a toll violation will result with a date relating back to the day after the original NOTD payment due date [and the Authority shall issue] *subject to* a citation *and a civil penalty* for a toll violation as set forth in Regulation .07 of this chapter.

.08 [Collection and Suspension.] *Collection, Suspension and Waiver.*

A. Notice of Referral to the MVA for Refusal.

(1) (text unchanged)

(a) If [full payment is] *payment of all outstanding video tolls or civil penalties* is not received by the Authority within 15 days of the mailing date on the past due notice, the Authority shall notify the MVA to refuse to renew or transfer the vehicle registration in accordance with COMAR 11.15.28.03.

(b) The Authority shall notify the [MVA to permit the renewal or transfer of the vehicle registration] *MVA*:

(i) [When payment is made in full for any outstanding unpaid final toll violations, including those that may have occurred after the referral to MVA, whether collection is being sought through the CCU or directly at the Authority and payment is made to the MVA in accordance with §A(2)(e) of this regulation;] *Within 3 business days, to permit the renewal or transfer of the vehicle registration when no outstanding video tolls or civil penalties exist for any final toll violations, including those that may have occurred after the referral to MVA, when the Authority receives payment directly or is notified by CCU of payment; or*

(ii) [If amounts have been referred to the CCU, the registered owner of the vehicle enters into a confessed judgment with the CCU to pay the amount due to the Authority and payment is made to the MVA in accordance with §A(2)(e) of this regulation.] *Within 3 business days, to permit the renewal or transfer of the vehicle registration if amounts have been referred to CCU, and the registered owner of the vehicle enters into a confessed judgment with the CCU to pay the amount due to the Authority and the Authority is notified by CCU of the confessed judgment.*

(c) (text unchanged)

(2) A past due notice shall:

(a) – (b) (text unchanged)

(c) Identify to whom payment shall be made for the various unpaid final toll violations that are included in the referral in the case where portions of the amount due have already been referred to the CCU for collection in accordance with §C of this regulation;

(i) *Additional unpaid final toll violations that accrue after the final toll violation that lead to referral to MVA shall be added to the total amount due and are to be paid in accordance with §A(1)(a) of this regulation.*

(d) – (e) (text unchanged)

[(3) Additional unpaid final toll violations that accrue after the final toll violation that leads to referral to MVA shall be added to the total amount due and are to be paid in accordance with §A (1)(b) of this regulation.]

B. Notice of Referral to the MVA for Suspension.

(1) The Authority may send to the registered owner in Maryland or any state with which the Authority has entered into reciprocal agreement in accordance with Transportation Article, §21-1415, Annotated Code of Maryland, a past due notice for any vehicle incurring at least \$1,000 in unpaid final toll violations, under the provisions of Transportation Article, §27-110, Annotated Code of Maryland, indicating that failure to pay will result in referral to the MVA for suspension of the vehicle registration.

(a) (text unchanged)

(b) If [full payment is] *payment of all outstanding video tolls or civil penalties is not* received by the Authority within 15 days of the mailing date on the past due notice, the Authority shall notify the MVA to suspend the vehicle registration in accordance with COMAR 11.15.28.04.

(c) The Authority shall notify the [MVA to lift suspension of the vehicle registration] MVA;

(i) [When payment is made in full for any outstanding unpaid final toll violations, including those that may have occurred after the referral to MVA, whether collection is being sought through the CCU or directly at the Authority and payment is made to the MVA in accordance with §B(2)(e) of this regulation;] *Within 3 business days, to lift suspension of the vehicle registration when no outstanding video tolls or civil penalties exist for any final video toll violations, including those that may have occurred after the referral to MVA, when the Authority receives payment directly or is notified by CCU of payment; or*

(ii) [If amounts have been referred to CCU, the registered owner of the vehicle enters into a confessed judgment with CCU to pay the amount due to the Authority and payment is made to the MVA in accordance with §B(2)(e) of this regulation.] *Within 3 business days, to lift suspension of the vehicle registration if amounts have been referred to CCU, and the registered owner of the vehicle enters into a confessed judgment with CCU to pay the amount due to the Authority and the Authority is notified by CCU of the confessed judgment.*

(d) (text unchanged)

(2) A past due notice shall:

(a) – (b) (text unchanged)

(c) Identify to whom payment shall be made for the various unpaid final toll violations that are included in the referral in the case where portions of the amount due have already been referred to the CCU for collection in accordance with §C of this regulation;

(i) Additional unpaid final toll violations that accrue after the referral to MVA shall be added to the total amount due and are to be paid in accordance with §B(1)(b) of this regulation.

(d) [~~advise~~ *Advise* the registered owner that payment of the outstanding unpaid final toll violations due to the Authority by the payment due date shall avoid referral and that failure to pay will result in referral to the MVA for refusal of the vehicle registration; and

(e) (text unchanged)

[(3) Additional unpaid final toll violations that accrue after the referral to MVA shall be added to the total amount due and are to be paid in accordance with §B(1)(c) of this regulation.]

C. Final Notice – Referral to the CCU.

(1) The Authority may send to a person that has incurred unpaid final toll violations that total the amount established by the CCU, a final notice of possible referral to the CCU. The CCU shall act as the authorized agent for any civil action instituted for the collection of unpaid Final Toll Violations pursuant to Transportation Article, §21-1414(d)(6)(i), Annotated Code of Maryland.

(a) (text unchanged)

(b) If [full payment is] *payment of all outstanding video tolls or civil penalties is not* received by the Authority within 15 days of the mailing date on the final notice to avoid referral to the CCU, the Authority will refer those final toll violations to the CCU.

(2) – (4) (text unchanged)

D. Waiver of Tolls and Civil Penalties.

(1) *Notwithstanding any provision of the electronic toll collection process as set forth in this chapter, until the Authority refers the debt to the CCU, the Authority may waive any portion of the video toll due or civil penalty assessed under Transportation Article, §21-1414, Annotated Code of Maryland.*

(a) *A person alleged to be liable who receives an NOTD or citation may request a waiver of any portion of the video toll due and the civil penalty.*

(b) *The person alleged to be liable shall provide documentation to the Authority to support his or her request for the waiver.*

(2) *Waivers may be granted based upon, but not limited to, the following:*

(a) *Notice related issues, including, but not limited to, receipt or processing and handling delays;*

(b) *Extended absences of the person alleged to be liable, including, but not limited to, hospitalization, incarceration, and long-term out-of-State travel;*

(c) *License plate issues, including but not limited to, theft, fraud or lost plates;*

(d) *Emergency traffic diversion onto a toll collection facility; and*

(e) *Payment error, including, but not limited to, referencing an incorrect payee, providing an incorrect payment amount, and using an incorrect mailing address for payment to the Authority.*

(3) *Additional information related to waivers is maintained by the Authority on its website.*

.09 Fees.

A. (text unchanged)

B. Fees established by the Authority are as follows [.]: