

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Transportation
(DLS Control No. 16-153)**

Overview and Legal and Fiscal Impact

Consistent with Chapter 256 of 2016, the regulation repeals COMAR 11.21.01.05 that, among other things, exempts a motor carrier or driver operating a motor vehicle providing emergency relief during certain emergencies from specified provisions of the Federal Motor Carrier Safety Regulations (FMCSRs).

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Transportation:

Motor Vehicle Administration – Commercial Motor Vehicles: Motor Carrier Safety:
COMAR 11.21.01.05

Legal Analysis

Background

A “transportation emergency” is any natural or man-made emergency that disrupts or hinders the free flow of traffic on the State’s highways and local streets and roads for more than eight hours so that public safety is or may be threatened as a result. When a transportation emergency is declared, the Secretary of Transportation or the Secretary’s designee must waive specified maximum hours-of-service time limits for all interstate and intrastate drivers providing direct assistance in restoring normal operations.

The FMCSRs, found in 49 C.F.R. Parts 390-399, address commercial vehicles in intrastate commerce. Specifically, 49 C.F.R., Part 390.23(a) allows the waiver of 49 C.F.R. Parts 390-399 for the purpose of facilitating emergency relief efforts. In order to be consistent with 49 C.F.R., Part 390.23(a), Chapter 256 of 2016, among other things, expanded the FMCSRs that the Secretary may waive if the Secretary reasonably expects the waiver will facilitate emergency relief efforts.

Summary of Regulation

The regulation repeals COMAR 11.21.01.05. The language in COMAR 11.21.01.05A is superfluous as it simply requires compliance with § 22-404.3 of the Transportation Article. Additionally, in order to be consistent with Chapter 256 of 2016, the regulation repeals COMAR 11.21.01.05B that exempts a motor carrier or driver operating a motor vehicle providing emergency relief during a certain emergency from specified provisions of the FMCSRs.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Motor Vehicle Administration cites § 12-104(b), 16-820, 25-111(f), and 25-111.1(a) of the Transportation Article as statutory authority for the regulations. Section 12-104(b) gives the department general authority to adopt regulations to carry out provisions of the Motor Vehicle laws.

Section 25-111(f) establishes authority for the administration to adopt regulations necessary for the safe operation of certain commercial vehicles and requires that the regulations be consistent with the FMCSRs. Although not cited by the department, subsection (j) of this section, as amended by Chapter 256 of 2016, expands the FMCSRs that the Secretary may waive during certain emergency relief efforts.

The remaining cited authority is not relevant to this regulation.

With the addition of § 25-111(j) of the Transportation Article, as amended by Chapter 256 of 2016, the relevant cited 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 regulation implements a provision of Chapter 256 of 2016 (House Bill 229), which authorizes the Secretary of Transportation to waive specified safety regulations for commercial motor vehicles in intrastate travel under specified circumstances to facilitate emergency relief efforts. The administration advises that repealing the regulation has no 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 administration advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Technical Corrections and Special Notes

The regulation repeals both section A and B of COMAR 11.21.01.05. However, the “Statement of Purpose” in the regulation only discusses the repeal of section B. Because the sections are being repealed for different reasons, the Department of Legislative Services suggested that the “Statement of Purpose” be amended to provide an accurate description of the changes made by the regulation. In response to suggestions from the Department of Legislative Services, staff for the administration agrees to follow up with the Division of State Documents to clarify the “Statement of Purpose.”

Additionally, the Department of Legislative Services recommended that the administration cite all of § 25-111 of the Transportation Article as statutory authority for these regulations.

Contact Information

Legal Analysis: Elizabeth Bayly – (410) 946/(301) 970-5350

Fiscal Analysis: Eric F. Pierce – (410) 946/(301) 970-5510