

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Health and Mental Hygiene
(DLS Control No. 16-100)**

Overview and Legal and Fiscal Impact

The regulation reduces fees for applications for annual day camps, plan review fees for food processing plants, plan review fees for retail chain or franchise operation planning for food service facilities, and application fees for construction of a public pool or spa.

The regulation presents no legal issues of concern.

General fund revenues decline by approximately \$50,560 annually beginning in fiscal 2017 from a reduction in fees. General fund expenditures are not affected.

Regulation of COMAR Affected

Department of Health and Mental Hygiene:

Procedures: Fees for Community Health Programs: COMAR 10.01.17.02

Legal Analysis

Background

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. Governor Hogan announced a second round of fee reductions or eliminations on May 12, 2016. This regulation is part of the second round of reductions or eliminations. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

Summary of Regulation

The regulation reduces several application and plan review fees. The fee for an annual youth camp application for a day camp under COMAR 10.01.17.02B is reduced, effective January 1, 2017. Application fees are based on the number of camper days, and the reductions range from \$5 to \$45.

The regulation also reduces fees for plan review of food processing plants under section D. Each fee that is currently \$400 is reduced to \$300. Similarly, the fees for plan review of a food service facility that is a retail chain or franchise operation under section E and the application

review fee for construction of a public pool or spa under section G are reduced by \$100 to new fees of \$300.

Unlike the changes to the day camp fees under section B, the changes to fees under sections D, E, and G do not indicate a specific date on which the new fees apply. These fee changes apply to applications and plan reviews submitted on or after the date the regulation takes effect.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Health and Mental Hygiene cites §§ 2-104, 14-403, 21-301, 21-308, 21-309, 21-309.1, 21-403, 21-412, 21-808, and 21-812 of the Health-General Article as statutory authority for the regulation. More specifically, § 2-104(b) gives the Secretary of Health and Mental Hygiene authority to adopt rules and regulations to carry out the provisions of law with the jurisdiction of the Secretary. Section 2-104(n) authorizes the Secretary to adopt regulations establishing fees to cover administrative costs associated with inspections and investigations carried out under the Health-General Article, and for costs associated with permits, licenses, certifications, or registrations issued under the Health-General Article. Section 14-403 authorizes the Secretary to impose a fee for the purpose of inspecting, monitoring, and regulating youth camps. Section 21-301 provides the defined terms for food establishment licensing. Section 21-308 authorizes the Secretary to establish license fees for food establishments. Section 21-309 establishes the duration of a license from the date of issuance. The remaining cited authority is not relevant to this regulation.

The relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

General fund revenues decline by approximately \$50,560 annually beginning in fiscal 2017 from a reduction in fees. General fund expenditures are not affected.

Agency Estimate of Projected Fiscal Impact

The department advises that general fund revenues decline by an estimated \$50,560 annually, beginning in fiscal 2017, from a reduction in fees for youth day camp applications, plan reviews for specified food processing plants and food service facilities, and review of applications for construction of a public pool or spa. The department's estimate is based on fiscal 2015 revenues associated with these fees and assumes that the number of applications and plan reviews received will remain steady in future years.

More specifically, the regulation reduces annual application fees for youth day camps by approximately 5% and reduces both the plan review fee for specified food processing plants and food service facilities and the application review fee for construction of a public pool or spa from \$400 to \$300. Based on fiscal 2015 revenues, the department estimates that general fund revenues decline by roughly 5%, or \$12,660 annually, beginning in fiscal 2017 from reductions to youth day camp application fees, \$34,300 from the reduction in plan reviews fees for specified food processing plants and food service facilities, and \$3,600 from the reduction in the application review fee for construction of a public pool or spa. **Exhibit 1** provides a detailed breakdown of the current and proposed fees and the estimated reduction in general fund revenues.

Exhibit 1
Estimated General Fund Revenue Reduction from Proposed Fee Changes

<u>Fee</u>	<u>FY 2015 Units</u>	<u>Current Fee</u>	<u>Proposed Fee</u>	<u>Revenue Reduction</u>
Annual Youth Day Camp Application				
1-500 camper days	252	\$200	\$190	(\$2,520)
501-2,000 camper days	193	525	500	(4,825)
2,001 to 5,000 camper days	75	700	665	(2,625)
>5,000 camper days	46	900	855	(2,070)
Good Standing Annual Youth Day Camp Application				
1-500 camper days	6	50	45	(30)
501-2,000 camper days	8	130	125	(40)
2,001 to 5,000 camper days	40	175	165	(400)
>5,000 camper days	15	225	215	(150)
<i>Subtotal: Youth Day Camp Applications</i>				<i>(12,660)</i>
Food Processing Plants (various plant types)	343	400	300	(34,300)
Application Review – Construction Pool/Spa	36	400	300	(3,600)
Total				(\$50,560)

Impact on Budget

General fund revenues decline by an estimated \$50,560 annually, beginning in fiscal 2017. General fund expenditures are not affected. Thus, there is no material impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has a meaningful impact on small businesses in Maryland. The Department of Legislative Services disagrees, as the regulation results in relatively small reductions in fees for individual small businesses. The fee reductions for youth day camps range from \$5 to \$45 annually, depending on the size of the camp and whether the camp is in good standing. The one-time fee reductions for plan reviews for food processing plants and food service facilities and application reviews for construction of a public pool or spa are only \$100. Furthermore, approximately one-half of the applicants for plan reviews in fiscal 2015 were not small businesses.

Additional Information

The department initially estimated an annual general fund revenue reduction of \$46,870 beginning in fiscal 2017. The department later submitted more specific data and revised the estimated impact to be \$50,560, as reflected in this analysis.

Contact Information

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