



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

Memorandum

To: Members of the AELR Committee
Standing Committee Chairs

From: Marie H. Razulis, AELR Committee Counsel
George H. Butler, Jr., AELR Committee Counsel
Crystal L. Lemieux, AELR Committee Counsel

Date: September 23, 2016

Re: **Synopses of Regulations received from 9/9/2016 through 9/22/2016**

Enclosed please find synopses of regulations received by the AELR Committee during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

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cc: Victoria L. Gruber
Alexandra Hughes

Agriculture, Department of

Emergency/Proposed Regulations

DLS Control No. 16-209

Department of Agriculture:

Soil and Water Conservation:

Agricultural Operation Nutrient Management Plan Requirements:

COMAR 15.20.07.02

Emergency approval is requested so that this fall, agricultural operations subject to the Nutrient Management Law have greater flexibility in applying nutrients to farm fields to avoid the potential for emergency applications in winter.

This action alters requirements under the Department of Agriculture's Nutrient Management program, applicable to regulated agricultural operations. This action extends and makes statewide the winter deadline and prohibition for spreading nutrients to fertilize farm fields from September 10 to December 15; it removes the requirement that agricultural operations incorporate nutrients in the soil of farm fields during spring and fall applications. Lastly, it provides an emergency exception to the winter applications prohibition that allows agricultural operators to spread nutrients in winter on farm fields to prevent the overflow of storage structures to prevent point-source winter pollution.

Health and Mental Hygiene, Department of

Proposed Regulation

DLS Control No. 16-208

Department of Health and Mental Hygiene:

Food:

Shellfish Sanitation: COMAR 10.15.07.01

According to the department, the purpose of this action is to update to the most recent revision of the incorporation by reference of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

Proposed Regulation

DLS Control No. 16-213

Department of Health and Mental Hygiene:

Health Services Cost Review Commission:

Rate Application and Approval Procedures: COMAR 10.37.10.07-2

According to the department, the purpose of this action is to designate those outpatient services provided at a freestanding medical facility that are subject to Health Services Cost Review Commission rate regulation in conformance with newly enacted law.

Proposed Regulations

DLS Control No. 16-215

Department of Health and Mental Hygiene:

Board of Physicians:

General Licensure Regulations: COMAR 10.32.01.08, .10, and .11

Delegation of Duties by a Licensed Physician-Physician Assistant:

COMAR 10.32.03.09

Licensure of Polysomnographic Technologists: COMAR 10.32.06.07 and .08

Licensure of Athletic Trainers: COMAR 10.32.08.07

Licensure of Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants: COMAR 10.32.10.13

Licensing of Respiratory Care Practitioners: COMAR 10.32.11.09 and .11

According to the department, the purpose of this action is to revise the timeframe for physicians and allied health professionals to earn continuing medical education (CME) credits. For renewals, the proposed changes would allow licensees to earn CME credits during the two-year period preceding the date of license expiration. Currently, for renewals, CME credits must be earned prior to the date the renewal application is submitted.

This proposal to change the timeframe to earn CME credits is being made, in part, due to concerns expressed by the legislature during the 2016 Maryland General Assembly session.

The proposed regulations also include the following changes, which have been made for clarity or consistency purposes (1) updating the taglines for COMAR 10.32.03.09, 10.32.08.07, and 10.32.11.09; (2) adding language regarding satisfying tax liabilities to COMAR 10.32.01.08, 10.32.03.09, 10.32.10.13, and 10.32.11.11; (3) adding language regarding compliance with renewal requirements to COMAR 10.32.01.08; (4) updating language regarding practicing without a license in COMAR 10.32.01.08; (5) adding two definitions and correcting citations in COMAR 10.32.01.10; and (6) deleting duplicative language in COMAR 10.32.01.11.

Proposed Regulations

DLS Control No. 16-220

Department of Health and Mental Hygiene:

Mental Hygiene Regulations:

Fee Schedule – Mental Health Services – Community-Based Programs and

Individual Practitioners: COMAR 10.21.25.03 and .08

According to the department, the purpose of this action is to add cross references to COMAR 10.63 and update the definitions to align with COMAR 10.63 which are the new community-based behavioral health programs and services regulations.

Proposed Regulation

DLS Control No. 16-221

Department of Health and Mental Hygiene:

Developmental Disabilities:

Fee Payment System for Licensed Residential and Day Programs:

COMAR 10.22.17.06 through .08

According to the department, the purpose of this action is to enact in regulation FY17 reimbursement rates.

Proposed Regulation

DLS Control No. 16-222

Department of Health and Mental Hygiene:

Board of Dental Examiners:

Fees: COMAR 10.44.20.02

According to the department, the purpose of this action is to establish a 50% reduction in the late fee and reinstatement fee in 2017 and 2018 for dental radiation technologists with even numbered certificates resulting in a staggered renewal period for all dental radiation technologists. Since those with even numbered certificates will renew their certificates in 2017 for a one-year period, and again in 2018 for a two-year period, in the interests of fairness, any late fee or reinstatement fee should be 50% of the customary two-year fee since those individuals will be renewing their certificates twice while those with odd numbered certificates will be renewing their two-year certificate only once during the same period.

Proposed Regulation

DLS Control No. 16-223

Department of Health and Mental Hygiene:

Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech

Language Pathologists:

Licensure and Continuing Education: COMAR 10.41.03.08

According to the department, the purpose of this action is to codify existing procedures for licensees who want to make their licenses inactive including (1) requiring a licensee to submit a certain application and pay a certain fee to the Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists, which is already established in regulation under COMAR 10.41.01.02, to apply for inactive status; (2) specifying that, while a license is inactive, a licensee may not practice the profession for which the license is held in the State; (3) limiting the inactive status to two years, unless renewed for an additional two-year period, not to exceed more than six continuous years; (4) requiring the board to provide a certain notification to licensees who have requested and complied with the requirements to apply for inactive status; and (5) requiring the board to reactivate certain licensees whose licenses are inactive if the licensee applies to the board, pays a certain fee, which is already established in regulation under COMAR 10.41.01.02, submits to the board satisfactory proof of completion of a certain amount

of continuing education hours, and, for a licensee whose license has been inactive for more than four years, takes and passes the board's Law Examination.

Labor, Licensing and Regulation, Department of

Proposed Regulation

DLS Control No. 16-217

Department of Labor, Licensing, and Regulation:

Division of Labor and Industry:

Maryland Occupational Safety and Health Standard for Confined Spaces:

COMAR 09.12.35.01-.05

According to the department, the purpose of this action is to repeal Maryland's Occupational Safety and Health Standard for Confined Spaces. At the federal level, the Occupational Safety and Health Administration has adopted new standards on confined spaces with the Standards relating to Confined Spaces in Construction, 29 CFR Part 1926. The commissioner has proposed adopting the new federal standards by incorporation by reference, notice of which was published in 43:2 Md. R. 176 (January 22, 2016). This action seeks to repeal the existing Maryland regulations before Final Action on the proposed incorporation by reference of the federal standard.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 16-216

Department of Natural Resources:

Wildlife:

Hunting Privilege, Suspension and Restitution: COMAR 08.03.16.01 through .05

According to the department, the purpose of this action is to establish criteria for suspension of hunting privileges in accordance with the Wildlife Poaching Prevention Act of 2012 and to define deer poaching and gross score for clarification purposes for implementing the Poaching Restitution Act of 2016. The Department of Natural Resources has the authority to suspend for a period not exceeding five years the hunting license or hunting privileges of a person who is convicted of a State or federal hunting violation. Landowners hunting on their own property and certain other persons are afforded the privilege to hunt without a hunting license. The Department of Natural Resources proposes through these regulations the violations which will result in the suspension of a person's hunting license or hunting privilege for one, three or five years. Regulations .04 and .05 establish the monetary values of wildlife that the courts may consider when imposing restitution fees for hunting violations.

Proposed Regulation

DLS Control No. 16-224

Department of Natural Resources:

Wildlife:

General Wildlife Hunting Regulations: COMAR 08.03.10.11

According to the department, the purpose of this action is to repeal the regulation that declares the monetary values of certain wildlife species. A new regulation is being proposed under COMAR 08.03.16 Hunting Privilege, Suspension and Restitution that declares the monetary values of certain groups of wildlife. The new regulation may be used by the courts when imposing restitution fees for hunting violations. COMAR 08.03.10.11 will be repealed so as to not conflict with the new monetary value regulation.

Transportation, Department of

Proposed Regulations

DLS Control No. 16-219

Department of Transportation:

Office of the Secretary:

Major Transportation Project Scoring and Ranking System:

COMAR 11.01.18.01 and .02

According to the department, the purpose of this action is to establish in regulation the Major Transportation Project Scoring and Ranking System required by the passage of Chapter 36, Acts of 2016 – Maryland Open Transportation Investment Decision Act of 2016.

Lottery and Gaming Control Agency, Maryland State

Proposed Regulation

DLS Control No. 16-218

Maryland State Lottery and Gaming Control Agency:

Gaming Provisions:

Video Lottery Facility Minimum Internal Control Standards: COMAR 36.03.10.11

According to the agency, the purpose of this action is to update the regulation to allow a casino to use a higher-definition camera, which has superior live coverage, playback, and video retention to a standard-definition camera.

Education, State Board of

Proposed Regulation

DLS Control No. 16-211

State Board of Education:

Specific Subjects:

Driver Education Programs: COMAR 13A.04.03.01 through .11

According to the board, the purpose of this action is to repeal the regulations contained under Chapter 03 Driver Education Programs because they are no longer needed. Driver education programs are now governed by the Maryland Vehicle Administration.

Proposed Regulation

DLS Control No. 16-212

State Board of Education:

Local School Administration:

Recognition of Employee Organizations: COMAR 13A.02.08.01 through .03

According to the board, the purpose of this action is to repeal these regulations because they are no longer needed since the Public School Labor Relations Board now has jurisdiction over and have adopted regulations to carry out this activity.

Proposed Regulation

DLS Control No. 16-214

State Board of Education:

General Instruction Programs:

Maryland Seal of Biliteracy Program: COMAR 13A.03.07.01 through .05

According to the board, the purpose of this action is to establish a voluntary recognition program for Maryland students who have achieved high levels of proficiency in English and another language as required by Senate Bill 781.