



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:** George H. Butler, Jr., AELR Committee Counsel  
Kathryn H. Selle, AELR Committee Counsel  
Nathan W. McCurdy, AELR Committee Counsel

**Date:** July 15, 2019

**Re:** **Synopses of Regulations received from 6/28/2019 through 7/14/2019**

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Enclosed please find synopses of regulations received by the Joint Committee on Administrative, Executive, and Legislative Review (AELR) 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: Jake Weissmann  
Alexandra M. Hughes

### **Elections, State Board of**

#### **Proposed Regulations**

#### **DLS Control No. 19-102**

#### **Board of Elections:**

#### **Provisional Voting:**

**Provisional Voting Documents and Supplies:** COMAR 33.16.02.03

**Provisional Voting Documents and Supplies:** COMAR 33.16.02.06

**Issuance of Provisional Ballot:** COMAR 33.16.03.01

**Pre-Canvass Procedures:** COMAR 33.16.04.02

**Canvass of Ballots – Procedures:** COMAR 33.16.05.03

According to the board, the purpose of this action is to generally amend the current regulations to conform with Election Law §3-306 which allows for same day registration on election day.

### **Natural Resources, Department of**

#### **Proposed Regulation**

#### **DLS Control No. 19-095**

#### **Department of Natural Resources:**

#### **Fisheries Service:**

**Gear:** COMAR 08.02.25.06

According to the department, the purpose of this action is to update commercial finfish trotline regulations in response to legislation passed during the 2019 regular session.

In 2016, the General Assembly passed House Bill 63, which authorized the department to write clear rules for the use of finfish trotline gear that would allow commercial watermen to target invasive blue and flathead catfish while also addressing concerns about the gear possibly interacting with spawning striped bass. This bill added finfish trotlines to the list of commercial gears the department may regulate. The bill included a sunset provision for 2019.

In 2019, the General Assembly passed Senate Bill 7. The bill makes permanent the ability for the department to regulate and allow the use of finfish trotlines in the Chesapeake Bay and its tidal tributaries. The proposed action adds the new statute to the licensing requirements for the permit and removes the June 2019 sunset from regulation to match the new statute. This is a housekeeping change that continues current practice with finfish trotlines and ensures that licensees may continue to use the gear.

**Proposed Regulation**  
**DLS Control No. 19-096**  
**Department of Natural Resources:**  
**Fisheries Service:**  
**Fish:** COMAR 08.02.05.08

According to the department, the purpose of this action is to remove the American Eel Harvest Permit.

Addendum V to the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for American Eel was implemented January 1, 2019. Addendum V removes state-by-state quotas if the management trigger is met. Under Addendum V, management action will now be initiated if the coastwide cap is exceeded by ten percent in two consecutive years. If the management trigger is exceeded, only those states accounting for more than one percent of the total yellow eel landings will be responsible for adjusting their measures.

Maryland has a relatively small number of harvesters and the top ten harvest approximately 90 percent of the landings. The industry has demonstrated their interest and ability to act as management partners. For these reasons and at the advice of the American Eel Workgroup, the department no longer feels that a permit is necessary. The proposed action removes the American Eel Harvest Permit, all reporting requirements for the permit, and penalties related to the permit. The proposed action also changes terminology for where public notices will be posted for consistency and accuracy. This action is supported by the industry and the Atlantic States Marine Fisheries Commission.

**Proposed Regulation**  
**DLS Control No. 19-103**  
**Department of Natural Resources:**  
**Fisheries Service:**  
**Yellow Perch:** COMAR 08.02.21.03

According to the department, the purpose of this action is to clarify coordinates in the yellow perch chapter regarding where fyke nets cannot be set. A recent review of coordinates found three areas that need to be clarified. The proposed action updates and clarifies coordinates in the Bush and Chester Rivers.

### **Heritage Areas Authority, Maryland**

#### **Proposed Regulations**

**DLS Control No. 19-097**

#### **Independent Agencies:**

#### **Maryland Heritage Areas Authority:**

**Designation of Recognized Heritage Areas:** COMAR 14.29.01.01 through .09

**Maryland Heritage Areas Grant Program:** COMAR 14.29.02.01 through .12

**Designation of Certified Heritage Areas:** COMAR 14.29.03.01 through .10

**Maryland Heritage Areas Loan Program:** COMAR 14.29.04.01 through .13

**Procedures for Hearings in Contested Cases:** COMAR 14.29.05.01 through .13

According to the authority, the purpose of this action is to (1) make a number of non-substantive changes to the regulations meant to, among other things, clarify ambiguous language, provide logical flow, assure internal consistency, assure consistency with the heritage areas statute, and remove inoperative language and (2) make substantive changes and additions to the regulations that, among other things: implement changes made to the heritage areas statute by Chapter 143 of 2019; incorporate current agency practices; implement new practices determined necessary and appropriate by the MHAA; and appropriately organize the regulations.

### **Maryland Department of Health**

#### **Proposed Regulation**

**DLS Control No. 19-098**

#### **Maryland Department of Health:**

#### **Medical Care Programs:**

**Acute Hospitals:** COMAR 10.09.92.07

According to the department, the purpose of this action is to amend hospital payment procedures set forth in the acute hospitals chapter to clarify the Program will reimburse hospitals at the rate set for the Program by the Health Services Cost Review Commission (HSCRC).

#### **Proposed Regulations**

**DLS Control No. 19-099**

#### **Maryland Department of Health: Procedures:**

#### **Fair Hearing Appeals Under the Maryland State Medical Assistance Program:**

COMAR 10.01.04.03, .05, .06, .09, and .10

#### **Medical Care Programs: Maryland Medicaid Managed Care Program:**

**Eligibility and Enrollment:** COMAR 10.09.63.06

#### **Maryland Medicaid Managed Care Program:**

**MCO Dispute Resolution Procedures:** COMAR 10.09.71.04

According to the department, the purpose of this action is to clarify managed care organization (MCO) responsibilities and procedures when a fair hearing concerns MCO services,

in order to align with federal requirements. Additionally, this action corrects an error in the current language regarding a HealthChoice enrollee's disenrollment effective date

**Proposed Regulation**

**DLS Control No. 19-100**

**Maryland Department of Health:**

**Medical Care Programs:**

**Maryland Medicaid Managed Care Program: Rare and Expensive Case**

**Management: COMAR 10.09.69.14**

According to the department, the purpose of this action is to implement a three percent rate increase for Rare and Expensive Case Management (REM) services effective July 1, 2019, pursuant to the Fiscal Year 2020 Budget Bill.

**Proposed Regulations**

**DLS Control No. 19-101**

**Maryland Department of Health:**

**Board of Dental Examiners:**

**Anesthesia and Sedation: COMAR 10.44.12.11 and .21**

According to the department, the purpose of this action is to require a dentist who applies for an anesthesia or sedation permit to have either a defibrillator or automated external defibrillator in their dental office as part of their on-site permit inspection, regardless of whether the dentist treats adult patients only. Additionally, the proposed amendments require the examination of either a defibrillator or automated external defibrillator as part of the on-site inspection of a dental office when a dentist wishes to renew a Class III anesthesia permit, regardless of whether the dentist treats adult patients only.

**Higher Education Commission, Maryland**

**Proposed Regulation**

**DLS Control No. 19-104**

**Maryland Higher Education Commission:**

**Financial Aid:**

**Cybersecurity Public Service Scholarship Program: COMAR 13B.08.20.02**

According to the commission, the purpose of this action is to clarify the definition of full-time enrollment under COMAR 13B.08.20.02 as it relates to eligibility for the Cybersecurity Public Service Scholarship Program.