



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 26, 2019

Re: **Synopses of Regulations received from 6/28/2019 through 7/25/2019**

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.

/cr

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 to 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 regulation implements Chapter 80 of 2019 by (1) repealing the termination date for provisions that define and govern the use of finfish trotlines as a type of commercial fishing gear and (2) adding a statutory reference to § 4-701.2 of the Natural Resources Article.

Proposed Regulation

DLS Control No. 19-096

Department of Natural Resources:

Fisheries Service:

Fish: COMAR 08.02.05.08

According to the department, the regulation updates rules for commercial eel fishing, consistent with recent changes to the Atlantic States Marine Fisheries Commission (ASMFC) Fishery Management Plan for American Eel. The regulation eliminates the American eel harvest permit established by the Department of Natural Resources in 2015 and makes conforming changes. The regulation also clarifies the website to which certain public notices regarding the eel fishery will be posted.

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.

Proposed Regulations
DLS Control No. 19-109
Department of Natural Resources:
Forest Conservation:
State Review and Approval of a Local Program: COMAR 08.19.02.02, .04, and .05
Model Forest Conservation Ordinance: COMAR 08.19.03.01

According to the department, the purpose of this action is to amend the regulations to reflect statutory changes that were adopted during the 2019 Legislative Session.

Proposed Regulations
DLS Control No. 19-112
Department of Natural Resources:
Fisheries Service:
Fishing in Nontidal Waters: COMAR 08.02.11.01, .03, and .04

According to the department, the purpose of this action is to increase the possession limit to twice the daily creel limit for trout species in certain areas, clarify the description for the Fishing Creek put-and-take trout fishing area, and include all nontidal impoundments as areas where an angler may keep a striped bass.

Public Safety and Correctional Services, Department of

Proposed Regulations
DLS Control No. 19-113
Department of Public Safety and Correctional Services:
Commission on Correctional Standards:
Administrative Procedures: COMAR 12.14.01.01
Minimum Standards for Adult Detention Centers: COMAR 12.14.03.05
Minimum Standards for Adult Correctional Institutions: COMAR 12.14.04.04
Minimum Standards for Adult Community Correctional Facilities:
COMAR 12.14.05.04

According to the department, the purpose of this action is to bring the Department of Public Safety and Correctional Services into compliance with Chapter 255 of 2018 by proposing new correctional standards for: the issuance of personal and menstrual hygiene products to inmates; the disposal of soiled menstrual hygiene products; and record keeping related to menstrual hygiene products.

Transportation, Department of

Proposed Regulations

DLS Control No. 19-108

Department of Transportation:

Maryland Transportation Authority:

Public Notice of Toll Schedule Revisions: COMAR 11.07.05.01, .02, .04, .05, and .06

According to the department, the purpose of this action is to amend COMAR 11.07.05 to include the use of dynamic pricing for tolls, defined as “a method of determining the toll where the toll rate varies in real-time to achieve a specified minimum operational metric,” and to define some terms and procedures associated with the application of that method.

Proposed Regulation

DLS Control No. 19-120

Department of Transportation:

Transportation Service Human Resources System:

Leave Benefits: COMAR 11.02.03.04

According to the department, the purpose of this action is to bring the current regulation into conformity with Chapter 680 (SB580) of 2017, which requires that agencies provide one additional day of personal leave to employees during leap years. Additionally, the amendment clarifies that payment for unused personal leave is subject to the budgetary constraints of the Maryland Department of Transportation.

Criminal Sentencing Policy, Commission on

Proposed Regulations

DLS Control No. 19-116

Independent Agencies:

Commission on Criminal Sentencing Policy:

General Regulations: COMAR 14.22.01.10

Criminal Offenses and Seriousness Categories: COMAR 14.22.02.01 and .02

According to the commission, the purpose of this action is to indicate modifications to the computation of the offender score in Regulation .10 under COMAR 14.22.01 General Regulations. These modifications clarify the instructions for scoring the juvenile delinquency component of the

offender score when there are multiple offense dates, to indicate that the offender's age by the date of the offense is based on the date of the most recent instant offense. Additionally, the purpose of this action is to indicate modifications to the offense headings and the table of seriousness categories (guidelines offense table) in Regulations .01 and .02 under COMAR 14.22.02 (Criminal Offenses and Seriousness Categories). The proposed revisions reflect new and amended offenses from the 2019 Legislative Session, the classification of a previously unclassified offense, and minor edits to the table.

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 regulation clarifies the reimbursement rates that the Maryland Medical Care Program (Medicaid) will reimburse an acute hospital.

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 regulation implements a 3.0% rate increase for rare and expensive case management (REM) program services.

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, these regulations require that, as part of the inspection of a dental office for a dentist who applies for (1) an anesthesia or sedation permit or (2) the renewal of a Class III anesthesia permit, the dental office must have either a defibrillator or automated external defibrillator (AED), regardless of whether the dentist treats adult patients only.

Evaluation Report

DLS Control No. 19-105

Maryland Department of Health:

Mental Hygiene Regulations: COMAR 10.21.01-.30.

Evaluation Report submitted for review by the Joint Committee on Administrative, Executive, and Legislative Review under the Regulatory Review and Evaluation Act.

Evaluation Report

DLS Control No. 19-106

Maryland Department of Health:

Alcohol and Drug Abuse Administration: COMAR 10.47.01-.05.

Evaluation Report submitted for review by the Joint Committee on Administrative, Executive, and Legislative Review under the Regulatory Review and Evaluation Act.

Proposed Regulation

DLS Control No. 19-119

Maryland Department of Health:

Medical Care Programs:

Health Homes: COMAR 10.09.33.09

According to the department, the purpose of this action is to update the monthly rate to comply with the Fiscal Year 2020 budget, which provides for a 3.5 percent rate increase for Health Home providers beginning July 1, 2019.

Labor, Maryland Department of

Proposed Regulation

DLS Control No. 19-111

Maryland Department of Labor:

State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration

Contractors: Compliance with International Mechanical Code:

COMAR 09.15.05.01 through .03

According to the department, the purpose of this action is to amend Regulations .01 through .03 under COMAR 09.15.05 (Enforcement of International Mechanical Code) to reflect Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors' adoption of the 2018 editions of the International Mechanical Code and certain chapters of the International Residential Code for One- and Two-Family Dwellings. The Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors further proposes to adopt revised modifications to the 2018 International Mechanical Code.

Proposed Regulation

DLS Control No. 19-114

Maryland Department of Labor:

Board of Plumbing:

State Plumbing Code: COMAR 09.20.01.01 through .06

According to the department, the purpose of this action is to reflect the Board of Plumbing's adoption of the 2018 editions of the International Plumbing Code, certain chapters of the

International Residential Code, the International Fuel Gas Code, and the 2017 edition of the Liquefied Petroleum Gas Code.

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.

Public Service Commission

Proposed Regulations

DLS Control No. 19-115

Public Service Commission:

Service Supplied by Electric Companies:

General: COMAR 20.50.01.03

Engineering: COMAR 20.50.02.06

Records and Reports: COMAR 20.50.03.04

Service Quality and Reliability Standards: COMAR 20.50.12.02

Service Quality and Reliability Standards: COMAR 20.50.12.05

Service Quality and Reliability Standards: COMAR 20.50.12.07

Service Quality and Reliability Standards: COMAR 20.50.12.11

According to the commission, the purpose of this action is to:

- revise the method of identifying Major Outage Events (MOE); thereby streamlining reporting requirements for certain provisions of the MOE under COMAR 20.50.01.03;
- revise the reporting and record keeping requirements for distribution transformers under COMAR 20.50.02.06 and COMAR 20.50.03.04;
- establish reliability standards for years 2020 – 2023 under COMAR 20.50.12.02;
- revise reporting requirements for reliability indices reporting under COMAR 20.50.12.05;
- revise the emergency responder guarded down wire response standards under COMAR 20.50.12.07; and

- revise reporting requirements for the annual reliability performance reports under COMAR 20.50.12.11.

Education, State Board of

Proposed Regulation

DLS Control No. 19-107

State Board of Education:

State School Administration:

Educational Equity: COMAR 13A.01.06.01 through .05

According to the board, the purpose of this action is to establish educational equity as a priority for the Maryland State Department of Education and all local school systems.

Proposed Regulations

DLS Control No. 19-110

State Board of Education:

Specific Subjects:

Program in Comprehensive Health Education:

COMAR 13A.04.18.01 and .02

According to the board, the purpose of this action is to include new health education standards, incorporate mandated instruction, and update disease prevention language in programs in Comprehensive Health Education, Grades Prekindergarten–12.