



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: Kathryn H. Selle, AELR Committee Counsel
John J. Joyce, AELR Committee Counsel
Kathleen P. Kennedy, AELR Committee Counsel

Date: May 29, 2020

Re: **Synopses of Regulations received from 5/15/2020 through 5/28/2020**

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

Emergency Regulations

DLS Control No. 20-048

Board of Elections:

Election Day Activities:

Officials' Duties Generally: COMAR 33.07.03.04

Absentee Ballots: Issuance and Return: COMAR 33.11.03.06 and .08

According to the board, the regulations (1) repeal the requirement for local election directors to conduct a polling place evaluation program; (2) repeal provisions establishing procedures for handling absentee ballots returned at early voting centers and election day polling places; and (3) allow voters to return a voted ballot at a ballot drop off container outside locations designated by the local board of elections

Agriculture, Department of

Proposed Regulation

DLS Control No. 20-054

Department of Agriculture:

Office of the Secretary:

Hemp Farming Program: COMAR 15.01.17.01 through .18

According to the department, the purpose of this action is to create a regulatory framework, consistent with the Agriculture Improvement Act of 2018 (the “2018 Farm Bill”), that will govern the Hemp Farming Program. This is a new statutory program that will be administered by the Maryland Department of Agriculture. The purpose of the program, which establishes hemp as an agricultural product in Maryland, is twofold: (1) Promotional – promoting the production of hemp in this State and the commercial sale of hemp products in and outside the State; and (2) Regulatory – Monitoring and regulating the production of hemp in this State. Under the 2018 Farm Bill, to have primary regulatory authority over the production of hemp in this State, the department is required to submit, for USDA’s approval, a plan addressing the monitoring and regulation of hemp production in this State. To begin this process, the department recently submitted the proposed action to USDA for review. After completing its initial review, USDA noted that the proposed action is consistent with the 2018 Farm Bill. As required under the 2018 Farm Bill, the proposed action includes provisions for maintaining information on the land where hemp is produced, testing the levels of delta-9 tetrahydrocannabinol, disposing of plants not meeting necessary requirements, and licensing requirements.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 20-049

Department of Natural Resources:

Wildlife:

Upland Game Birds and Mammals: COMAR 08.03.05.05

According to the department, the purpose of this action is to simplify the regulations for control of crows and blackbirds to conform to the federal regulations for these species. Since crows and blackbirds are considered migratory birds, the control of these species is regulated by the U.S. Fish and Wildlife Service. Migratory birds are jointly regulated by the Department of Natural Resources. There is a corresponding federal standard to this proposed action, but the proposed action is no more restrictive or stringent.

Proposed Regulation

DLS Control No. 20-050

Department of Natural Resources:

Wildlife:

Upland Game Birds and Mammals COMAR 08.03.05.03

According to the department, the purpose of this action is to repeal the need to retain proof of sex for pheasants harvested by hunters. The Department of Natural Resources now allows either male or female pheasants to be harvested during the open pheasant season, therefore there is no need to require the head, head plumage, and feet of a harvested pheasant remain attached in such a manner as to permit identification of the sex of the bird.

Proposed Regulations

DLS Control No. 20-051

Department of Natural Resources:

Wildlife:

Regulated Shooting Areas: COMAR 08.03.13.04 and .05

According to the department, the purpose of this action is to clarify that a regulated shooting area cannot include adjacent waters of the State as part of the private regulated shooting area. The proposed amendments also clarify that hunting from the shoreline of a private regulated shooting area is allowed over waters of the State including placing decoys, retrieving downed birds, and shooting crippled birds on adjacent waters of the State. The person must follow the bag and possession limit for properly marked captive-raised mallards. There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Proposed Regulation
DLS Control No. 20-052
Department of Natural Resources:
Wildlife:
Waterfowl: COMAR 08.03.07.10

According to the department, the purpose of this action is to amend the Department of Natural Resources regulations regarding control of resident Canada geese such that the state regulations are consistent with recent changes to the federal resident Canada goose depredation order in 50 CFR §21.50. Since resident Canada geese are considered migratory birds, the control of these species is regulated by the U.S. Fish and Wildlife Service. Migratory birds are jointly regulated by the Department of Natural Resources. The proposed amendments will extend the period when a person can lethally control resident Canada geese causing damage to agricultural crops by one month. Another amendment will extend the period when a person may destroy a resident Canada goose nest to any time of year. There is a corresponding federal standard to this proposed action, but the proposed action is no more restrictive or stringent.

Planning, Department of

Proposed Regulations
DLS Control No. 20-057
Department of Planning:
Historical and Cultural Programs:
Heritage Structure Rehabilitation Tax Credit Certifications:
COMAR 34.04.07.02 -.03
Heritage Structure Rehabilitation Tax Credit Certifications:
COMAR 34.04.07.05-.06

According to the department, the purpose of this action is to amend the regulations that govern Historic Revitalization Tax Credit Certifications to comport with applicable statutory changes made during the 2020 Session of the General Assembly under 2020 Md. Laws, Chapters 314 and 633, effective July 1, 2020.

Education, State Board of

Proposed Regulation
DLS Control No. 20-055
State Board of Education:
School Personnel:
Child Sexual Abuse and Sexual Misconduct History: COMAR 13A.07.14.01-.06

According to the board, the purpose of this action is to establish a process, including requirements for specific documentation regarding whether an individual has ever been disciplined

for allegations of “child sexual abuse” or “sexual misconduct,” for the hiring of public school and nonpublic school employees who have direct contact with minors. This law applies to local boards of education, nonpublic schools, and contracting agencies that contract with a county board of education or nonpublic school to provide a service to a school or the students of a school.

Proposed Regulations

DLS Control No. 20-056

State Board of Education:

Students:

General Regulations: COMAR 13A.08.01.01

Student Records: COMAR 13A.08.02.01

According to the board, the purpose of this action is to update the version of the Maryland Student Records System Manual incorporated by reference in the regulations.

Procurement Regulations, State

Proposed Regulations

DLS Control No. 20-053

State Procurement Regulations:

Administrative and Civil Remedies:

Maryland State Board of Contract Appeals – General:

COMAR 21.10.05.05 and .06

Maryland State Board of Contract Appeals – Procedures For Appealing Contract

Disputes: COMAR 21.10.06.05, .12, and .27

According to the department, the purpose of this action is to revise, clarify, and bring up to date the regulations of the Maryland State Board of Contract Appeals such that the regulations are aligned with the Maryland Rules of Civil Procedure and the Annotated Code of Maryland. These are changes to the procedures used by the Board for filing appeals and for hearing and administering decisions on appeals, and are designed to improve the efficiency and overall effective administration of appeals.