

MARYLAND REGISTER

Proposed Action on Regulations	
Date Filed with AELR Committee April 10, 2025	Date Filed with Division of State Documents Document Number 25-054-P Date of Publication in MD Register

1. Desired date of publication in Maryland Register: May 2, 2025

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
09	33	02	01
09	33	02	02
09	33	02	03
09	33	02	04
09	33	02	05
09	33	02	06
09	33	02	08
09	33	02	09

3. Promulgating Authority

Maryland Department of Labor

4. Name of Regulations Coordinator

Leza Griffith

Telephone Number

410-230-6268

Mailing Address

Maryland Department of Labor
100 S. Charles Street, Suite 9200
Tower One
Baltimore, MD 21201

Email

leza.griffith1@maryland.gov

5. Name of Person to Call About this Document

Dylan McDonough

Telephone Number

443-763-9380

Mailing Address

Maryland Department of Labor
100 South Charles St. (Tower I, Suite 2000)
Baltimore, MD 21201

Email

dylan.mcdonough@maryland.gov

6. Check applicable items:

☒	New Regulations
☒	Amendments to Existing Regulations
☐	Repeal of Existing Regulations
☐	Recodification
☐	Incorporation by Reference of Documents Requiring DSD Approval

7. Is there Emergency text that is identical to this Proposal:

☐ Yes ☒ No

8. Incorporation by Reference

☐	Incorporation by Reference (IBR) approval form(s) attached and 16 copies of documents proposed for incorporation submitted to DSD. (Submit 16 paper copies of IBR document to DSD and one copy to AELR.)
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9. Public Body - Open Meeting

☐ OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland

☐ OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting

10. Children's Environmental Health and Protection

☐ Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Leza Griffith, Assistant Attorney General, telephone #410-230-6268, on March 11, 2025. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Portia Wu

Title

Secretary

Telephone No.

410-767-5870

Date

March 11, 2025

Title 09

MARYLAND DEPARTMENT OF LABOR

Subtitle 33 JOB SERVICE

09.33.02 Economic Stabilization

Authority: Labor and Employment Article, §§11-301— [11-304]11-306, State Government Article, §10-206; Annotated Code of Maryland

Notice of Proposed Action

[25-054-P]

The Maryland Department of Labor proposes to:

amend regulations .01-.06 under COMAR under 09.33.02 Economic Stabilization Act and promulgate new regulation .07-.09

Statement of Purpose

The purpose of this action is to This request for regulations is based on the passing of Senate Bill 780 which became law in the 2020 legislative session and Senate Bill 801 which was adopted in 2021, both of which amend certain aspects of the Economic Stabilization Act. Updated regulations are needed to reflect these changes and to ensure proper procedures in administration, execution, and oversight of the Economic Stabilization Act. These regulations will:

1. Change reporting guidelines for eligible employers from voluntary to mandatory;
2. Outline exceptions to the act;
3. Add definitions for “Employer,” “Employee,” and “Secretary” and updates the definition to “reduction in operations;” Change the timeline of written notice from an employer before a reduction in operations;
4. Give the MD Labor Secretary or the Secretary’s designee authority to compel compliance; and
5. Grant violation and penalty discretion to the MD Labor Secretary or the Secretary’s designee.

Estimate of Economic Impact

I. Summary of Economic Impact. For businesses that have a permanent reduction in operations, they will be required to report to the Maryland Department of Labor or may be subject to a fine of up to \$10,000 per day. Assuming that businesses comply as required, there would be no economic impact from these regulations.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Business	(-)	Small
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D(1). Any business that that has a permanent reduction in operations will be required to report to the Maryland Department of Labor or may be subject to a fine of up to \$10,000 per day. Assuming that businesses comply as required, there would be no economic impact from these regulations.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows:

For small businesses that meet the size threshold for compliance under these regulations and that have a permanent reduction in operations, they will be required to report to the Maryland Department of Labor or may be subject to a fine of up to \$10,000 per day. Assuming that businesses comply as required, there would be no economic impact from these regulations.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Dylan McDonough, Senior Policy Analyst, Maryland Department of Labor Division of Workforce Development and Adult Learning, 100 South Charles St. (Tower I, Suite 2000) Baltimore, MD 21201, or call 410-767-1890, or email to dylan.mcdonough@maryland.gov. Comments will be accepted through May 18, 2025. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: **FY 25**

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

undefined

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

N/A

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

1a. The intended beneficiaries are businesses.

1c. Any business that meets the size-threshold requirements in the regulations may be impacted by the regulations. This may include small businesses. Businesses that have a permanent reduction in operations must report to the Maryland Department of Labor. If they are not in compliance, they may be subject to a fine of up to \$10,000 per day.

2a. Businesses may be adversely impacted due to the potential for penalties if they do not comply. However, if businesses are in compliance there are likely no adverse impacts.

2b. Businesses that comply with the regulations will be able to access employer services offered by the Department to support them during their reduction in operations.

3. There are no long-term impacts separate from the immediate impacts.

4.1 No impact on the cost of providing goods and services

4.2 No impact on the workforce

4.3 No impact on the cost of housing

4.4 No impact on the efficiency in production and marketing

4.5 No impact on capital investment, taxation, competition, or economic development

4.6 No impact on consumer choice

Title 09 MARYLAND DEPARTMENT OF LABOR

Subtitle 33 JOB SERVICE

Chapter 02 Economic Stabilization Act

Authority: Labor and Employment Article, §§11-301— [11-304]11-306, State Government Article, §10-206;

Annotated Code of Maryland

.01 Purpose.

The Economic Stabilization Act regulations provide [voluntary] *notice requirements and* guidelines for employers faced with a major reduction in the [work force] *workforce*.

.02 [Exceptions.] Exemptions.

[This law does not apply to reductions in operations if the reduction:

- A. Results solely from labor disputes;
- B. Occurs in a commercial, industrial, or agricultural enterprise operated by this State or its political subdivisions;
- C. Occurs at construction sites or other temporary work places;
- D. Results from seasonal factors that are determined to be customary in the industry; or
- E. Results when an employer files for bankruptcy under federal bankruptcy laws.] *This Act does not apply to reduction in operations as described in Labor & Employment Article § 11-302, Annotated Code of Maryland.*

.03 Definitions.

[A. "Employer" means a person, corporation, or other entity that employs at least 50 individuals and operates an industrial, commercial, or business enterprise in the State. "Employer" does not mean the State or its political subdivisions. "Employer" does not include any employer who has been doing business in the State for less than 1 year.

B. "Reduction in operations" means the:

- (1) Relocation of a part of an employer's operation from one work place to another site; or
- (2) Shutting down of a work place or a portion of the operations of a work place that reduces the number of employees by at least 25 percent or 15 employees, whichever is greater, over any 3-month period.

C. Work Place.

- (1) "Work place" means:
 - (a) A factory;
 - (b) A plant;
 - (c) An office; or
 - (d) Other facility where employees produce goods or provide services.
- (2) "Work place" does not mean a:
 - (a) Construction site; or
 - (b) Temporary work place.]

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

(1) *"Act" means Labor and Employment Article, § 11-301 et seq., Annotated Code of Maryland*

(2) *"Bulk Claims" means deploying Maryland Division of Unemployment Insurance to the employer's and employees' place of business to assist the employees in filing unemployment claims through the unemployment online claim filing system for incidents where 25 or more workers are laid off at one time.*

(3) *"Employee" as stated in Labor and Employment Article, § 11-301(b), Annotated Code of Maryland:*

(a) *means an individual who works for an employer for an hourly or salaried wage in a managerial and supervisory capacity; but*

(b) does not include individuals who work less than an average of 20 hours per week or have worked for an employer for less than 6 months in the immediately preceding 12 months.

(4) Employer.

- (a) "Employer" means a person, corporation, or other entity that:*
i) operates an industrial, commercial, or business enterprise; and,
ii) employs at least 50 employees; and,
iii) has been operating for at least one year; and
iv) is operating in the State of Maryland.

(b) "Employer" does not mean the State or its political subdivisions.

(5) "Permanent" has the meaning stated in Labor & Employment Article §11-301(d), Annotated Code of Maryland.

(6) "Reduction in operations" has the meaning stated in Labor & Employment Article §11-301(e), Annotated Code of Maryland.

(7) "Remote worker" refers to an employee, or multiple employees operating under the same EIN, with a permanent work arrangement under which they are scheduled to perform duties, responsibilities, and other authorized activities of such employee's position at an approved worksite other than the assigned agency worksite.

(8) "Secretary" means the Secretary of the Maryland Department of Labor.

(9) "Telework" refers to a worksite flexibility agreement for the purpose of allowing employee(s) to perform their duties, responsibilities, and other authorized activities of such employee's position from an approved alternative worksite other than the employee's official duty station.

(10) Workplace.

(a) "Workplace" has the meaning stated in Labor & Employment Article §11-301(f), Annotated Code of Maryland.

(b) "Workplace" means the official duty station or agency worksite for telework employees within the State of Maryland;

(c) "Workplace" means the entire State of Maryland is considered a single workplace for any remote worker or collection thereof per employer.

.04 Notice

At least 60 calendar days prior to initiating a reduction in operations, an employer shall provide written notice as required by Labor and Employment Article, §11-305, Annotated Code of Maryland.

[.04] .05 [Voluntary] Guidelines for Employers Anticipating a Permanent Reduction in [Work Force] Operations.

A. Employers facing a reduction in operations [should:

(1) Meet]*shall use their best efforts to meet* with employee representatives regarding concessions or alternatives, or both, to closure in order to save the place and save jobs;

[(2) Notify all impacted employees if a reduction in operation is required:

- (a)** At least 90 days before the termination date; and
(b) By written notice to each employee.]

B. Termination Phase-In.

(1) (text unchanged)

(2) If collective bargaining agreements are in force, then the employer shall implement the provisions of [the] each agreement as the agreement pertains to termination and seniority.

C. Post Termination Benefits.

(1) (text unchanged)

(2) Employers should consider offering laid-off employees the following benefits:

(a) (text unchanged)

(i) For at least [6] *six* months following termination, or

(ii) (text unchanged)

(b)-(c) (text unchanged)

D. (text unchanged)

[.05] .06 Assistance from the Maryland Department of Labor.

A. Employers may contact the Assistant Secretary for the Division of [Employment and Training] *Workforce Development and Adult Learning*.

B. The Secretary [of the Maryland Department of Labor] shall:

(1)-(2) (text unchanged)

(3) Contact all employers in the State who appear to be faced with or planning a permanent reduction in operations. [This contact] *Contact* shall be:

[(a) Made by telephone;]

[(b)a] Confidential, as described in General Provisions Article § 4-335, Annotated Code of Maryland;

[(c)b] Directed to the chief executive of the business, or *designee*; and

[(d)c] For the purpose of offering:

(i)-(ii) (text unchanged)

C. If the employer approves, the Maryland Department of Labor [shall contact the Department of Housing and Community Development to provide whatever assistance is deemed appropriate.] *may contact other partner organizations to provide whatever assistance and resources are deemed appropriate.*

[.06] .07 Mechanisms to Start Assistance Programs from the Maryland Department of Labor.

A. Employers may contact the Assistant Secretary for the Division of [Employment and Training] *Workforce Development and Adult Learning*.

B. The Secretary [of the Maryland Department of Labor] shall:

(1) – (2) (text unchanged)

(3) Contact all employers in the State who appear to be faced with or planning a permanent reduction in operations. [This contact] *Contact* shall be:

[(a) Made by telephone;]

[(b)a] Confidential, as described in General Provisions Article § 4-335, Annotated Code of Maryland;

[(c)b] Directed to the chief executive of the business, or *designee*; and

[(d)c] For the purpose of offering:

(i) -(ii) (text unchanged)

C. If the employer approves, the Maryland Department of Labor [shall contact the Department of Housing and Community Development to provide whatever assistance is deemed appropriate.] *may contact other partner organizations to provide whatever assistance and resources are deemed appropriate.*

.08 Order Compelling Compliance

A. *Issuance.*

(1) *If, after investigation, the Secretary, or the Secretary's designee, believes an employer has violated Labor and Employment Article, §11-305, Annotated Code of Maryland, or a regulation adopted pursuant to this Act, the Secretary shall, with reasonable promptness, issue an order compelling compliance.*

(2) *An order shall:*

(a) *Be in writing;*

(b) *Describe with specificity the nature of the alleged violation;*

(c) *State the penalty, if any, that the Secretary proposes to assess under Labor and Employment Article, §11-306, Annotated Code of Maryland;*

(d) *Inform a party of the requirements of §B(2) of this Regulation.*

B. Enforcement.

(1) *A party to whom an order is issued may file with the Secretary or the Secretary's designee a written notice of contest to the proposed penalty.*

(2) *Notice shall be:*

(a) *In writing; and*

(b) *Postmarked within 15 business days of the date of the order.*

(3) *If a party does not file proper notice of contest, any proposed penalty becomes final upon the expiration of 15 business days following the party's receipt of the order.*

(4) *If a party files a notice of contest in accordance with this regulation, the Secretary or the Secretary's designee, shall delegate the hearing to the Office of Administrative Hearings.*

(5) *A contested hearing shall be governed by COMAR 09.01.03.*

09. Penalties.

A. Scope. This regulation applies to the assessment of civil penalties by the Secretary or the Secretary's designee under Labor and Employment Article, §11-306, Annotated Code of Maryland, in all cases arising from a violation of Labor and Employment Article, §11-305, Annotated Code of Maryland conducted on and after the effective date of this regulation.

B. In assessing a penalty for a violation of the law, a regulation, or an order, the Secretary or the Secretary's designee shall consider the factors listed in Labor and Employment Article, §11-306, Annotated Code of Maryland.