



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: Georgeanne Carter, AELR Committee Counsel
John J. Joyce, AELR Committee Counsel
Kathleen P. Kennedy, AELR Committee Counsel

Date: November 26, 2021

Re: **Synopses of Regulations received from 11/15/2021 through 11/25/2021**

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: Sally Robb
Alexandra M. Hughes

Elections, State Board of

Proposed Regulations

DLS Control No. 21-204

Board of Elections:

Absentee Ballots:

Applications: COMAR 33.11.02.05

Issuance and Return: COMAR 33.11.03.06

According to the board, the purpose of this action is to formalize procedures implemented for the 2020 elections and update and correct other provisions, including:

- clarifying when a returned absentee ballot application does not need to be date stamped;
- clarifying when a returned absentee ballot must be date stamped; and
- clarifying that a voter can return an absentee ballot at a ballot drop box, the requirements of the design of a drop box, and the procedures for the retrieval of ballots and election material from the drop box by the local board of elections.

Proposed Regulations

DLS Control No. 21-210

Board of Elections:

Definitions; General Provisions:

Definitions: COMAR 33.01.01.01

Absentee Ballots: Applications: COMAR 33.11.02.03

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

- clarify the definitions of the terms “Absentee ballot,” “Mail-in Ballot,” and “Mail-in Voting;” and
- clarify the requirements for an absent uniformed services voter or an overseas voter who does not have a Maryland driver’s license or MVA identification card number to request an absentee ballot and receive it electronically.

Proposed Regulations

DLS Control No. 21-211

Board of Elections:

Definitions; General Provisions:

Definitions: COMAR 33.01.01.01

Absentee Ballots: Definitions; General Provisions: COMAR 33.11.01.04

Early Voting: Early Voting Centers: COMAR 33.17.02.02

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

- correct a reference to a subsection in a paragraph from a prior reenumeration of subsections;
- update the documents acceptable to determine proof of residency;
- determine the considerations for a Ballot Drop Box location, the requirements for a Ballot Drop Box location, and the approval process for a Ballot Drop Box location; and
- determine the considerations for an Early Voting Center, and update the placement of requirements for an Early Voting Center within the regulation.

Comptroller of the Treasury

Proposed Regulation

DLS Control No. 21-202

Comptroller of the Treasury:

Income Tax:

Individual: COMAR 03.04.02.17

According to the office, the purpose of this action is to adopt a new regulation which provides guidance to individuals regarding the subtraction allowed for contributions to a first-time homebuyer savings account as well as penalties associated with withdrawal of funds for purposes other than eligible costs.

Proposed Regulations

DLS Control No. 21-203

Comptroller of the Treasury:

Income Tax:

Individual: COMAR 03.04.02.16

Corporations: COMAR 03.04.03.11

According to the office, the purpose of this action is to adopt new regulations which provide guidance to individuals and corporations regarding the subtraction allowed for donations of diapers

or hygiene products to qualified charitable entities. Additionally, the regulations include the criteria and procedures for registration as a qualified charitable entity.

Agriculture, Department of

Emergency/Proposed Regulations

DLS Control No. 21-221

Department of Agriculture:

Office of the Secretary:

Certified Local Farm Enterprise Program: COMAR 15.01.19.01 through 10

According to the department, the Maryland Department of Agriculture (MDA) is requesting Emergency Action to implement H.B. 1488 (2020 Regular Session of the Maryland General Assembly), which created the Certified Local Farm Enterprise Program. Under the program, State agencies (including public universities) shall structure their procurement procedures for food to try to achieve an overall goal of 20 percent of the unit's total dollar value of all such procurement contracts made directly or indirectly from Certified Local Farm Enterprises. To be certified, a local farm operation must meet the requirements of the State's Nutrient Management Law (Title 8, Subtitle 3 of the Maryland Agriculture Article). MDA has been working with, and has received feedback from, State Agencies that will be impacted by the program. It has also developed a Central Directory, listing the local farm enterprises that the program may utilize. MDA would like to begin implementing the Program immediately.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 21-212

Department of Natural Resources:

Fisheries Service:

Fish: COMAR 08.02.05.02

According to the department, the purpose of this action is to adjust the commercial hook-and-line fishing line in the Susquehanna River. Currently, the line is at the mouth of Deer Creek. The action moves the line for this gear type to the tip of Rowland Island. The current line would remain for all other gear types. It will also make the rules for hook-and-line use the same between recreational and commercial users. Commercial licensees using hook-and-line gear will also be able to harvest other species such as invasive flathead catfish and snakeheads. Additionally, the action updates references within the regulation and to other regulations that are no longer accurate.

Proposed Regulation

DLS Control No. 21-213

Department of Natural Resources:

Fisheries Service:

Shellfish – General: COMAR 08.02.08.08

According to the department, this regulation creates a shrimp fishery in the state waters of Maryland, and the framework to develop a pilot program for the commercial shrimp fishery to test new and developing fishing methods in the fishery. Chapter 119 (Senate Bill 343) of 2021, allowed the department to adopt regulations pertaining to the shrimp fishery and to develop a pilot program for the commercial shrimp fishery. The regulation allows commercial harvesters the ability to use gear which they are currently licensed to use to commercially harvest shrimp. Commercially-licensed harvesters will also be able to obtain a free shrimp permit that allows the use of the gear currently allowed under their license to commercially harvest shrimp. The pilot program will be developed similarly to other pilot programs the department has instituted under Code of Maryland Regulations (COMAR) 08.02.01.10.

Proposed Regulation

DLS Control No. 21-214

Department of Natural Resources:

Fisheries Service:

Crabs: COMAR 08.02.03.07

According to the department, the purpose of this action is to clarify the crab pot line at the mouth of St. Jerome Creek in St. Mary's County and to remove duplicative language that currently exists in the regulation.

Public Safety and Correctional Services, Department of

Proposed Regulations

DLS Control No. 21-217

Department of Public Safety and Correctional Services:

Police Training Commission:

Instructor Training and Certification: COMAR 12.04.06.01 and .12

According to the department, the purpose of this action is to amend regulations within Chapter 06– Instructor Training and Certification to require additional training for instructors who provide training to police officers attempting to qualify with and be authorized to use firearms equipped with a new technology identified by manufacturers as a “Red Dot” sighting system. Instruction, training hours, and rounds of fire completed with a firearm equipped with a red dot sighting system will be included in the established instructor training hours and rounds of fire needed for an instructor's authorization to provide training on the use of a firearm equipped with a red dot sighting system and traditional iron sight system.

State Police, Department of

Proposed Regulation

DLS Control No. 21-215

Department of State Police:

Licensing and Permits:

Special Police Commission: COMAR 29.04.02.

According to the department, the purpose of this action is to amend the current regulations to reflect Chapter 426 of 2020 and update training standard requirements for PTSC. Additionally, payment methods are amended to allow for the Licensing Division to accept online payments and to clarify initial and renewal application requirements.

Maryland Department of Health

Proposed Regulations

DLS Control No. 21-219

Maryland Department of Health:

Medical Care Programs:

Medical Assistance Eligibility: COMAR 10.09.24.02 and .03

According to the department, the purpose of this action is to clarify the eligibility criteria for adults with dependent children who are eligible for Medicaid under § 1902(a)(10)(A)(i)(VIII) of the Social Security Act. Additionally, the proposed action extends the postpartum period for pregnant women from 60 days to 12 months, in accordance with Ch. 470 of 2021 and federal regulations.

Proposed Regulation

DLS Control No. 21-220

Maryland Department of Health:

Medical Care Programs:

General Medical Assistance Provider Participation Criteria: COMAR 10.09.36.03-2

According to the department, the purpose of this action is to codify policies for the usage of the department's data management system (known as LTSSMaryland) and Electronic Visit Verification (EVV) systems, which are used to provide and bill for services furnished to Medicaid participants, and to meet the requirements of the 21st Century Cures Act. Specifically, this proposal:

- defines certain terms related to the data management system and EVV usage;
- codifies the Program's authority to establish system use and training requirements;

- identifies provider training requirements for billing and system use; and
- clarifies the terms under which the Department does not authorize provider payment recorded via EVV.

Labor, Maryland Department of

Proposed Regulation

DLS Control No. 21-216

Maryland Department of Labor:

Commissioner of Financial Regulation:

Foreclosure Procedures for Residential Property: COMAR 09.03.12.01 through .14

According to the department, the purpose of this action is to amend and recodify certain regulations within this chapter in order to achieve consistency; harmonize certain regulations that are inconsistent or contradictory as a result of recent changes to applicable provisions within the Maryland Annotated Code; update and generally improve existing requirements to reduce document exchange burdens between borrowers and lenders during the mediation process; update existing portions to reduce procedural gaps and uncertainties within the mediation process to improve the general effectiveness of the process and enhance consumer protections by increasing certainty and transparency; to promulgate new forms that explain certain processes and provide guidance within the mediation process; and update provisions regarding the Commissioner of Financial Regulation's authority to address violations of law or regulation over which the Commissioner has jurisdiction.

Public Service Commission

Proposed Regulation

DLS Control No. 21-205

Public Service Commission:

Community Solar Energy Generation Systems:

General: COMAR 20.62.01.02

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

- define "subscription coordinator" and its role in the community solar generation system pilot program and include "subscription coordinator" as one who may employ agents in the operation of the community solar generation system pilot program for the purpose of marketing and sales activities;
- clarify the definition of "landfill" as a type of brownfield; and

- define “clean fill site.”

Proposed Regulations

DLS Control No. 21-206

Public Service Commission:

Community Solar Energy Generation Systems:

Pilot Program Administration: COMAR 20.62.03.02 through .05, .08, and .09

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

- incorporate application requirements for a subscription coordinator with those of a subscriber organization;
- clarify means of Low and Moderate Income verification;
- strengthen information publicly available on each participating electric company’s website regarding current queue status of approved community solar projects;
- establish information to be provided to the commission and the Maryland Energy Administration by each subscriber organization on a quarterly basis;
- establish rules regarding colocation and adjacent parcels, including as these relate to clean fill sites and low and moderate income projects; and
- establish certain notification and operation requirements for subscription coordinators.

Proposed Regulations

DLS Control No. 21-207

Public Service Commission:

Community Solar Energy Generation Systems:

Consumer Protection: COMAR 20.62.05.01, .03 through .08, and .15 through .20

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

- incorporate the actions of a subscription coordinator and its agents into the consumer protections provided to customers of subscriber organizations;
- clarify that customers may grant authority to act on the customer’s behalf with regard to action governed by consumer protections;
- require a subscription coordinator to disclose to a subscriber, the subscription coordinator’s relationship with any person with whom a subscription coordinator executes a contract on behalf of a customer;

- provide that a contract between a customer and a subscription coordinator is subject to the commission's jurisdiction;
- preclude a subscription coordinator from charging a termination fee; and
- require a subscription coordinator to enroll customers in CSEGS contracts that guarantee financial savings to the subscriber.

Proposed Regulations

DLS Control No. 21-208

Public Service Commission:

Community Solar Energy Generation Systems:

Pilot Program: COMAR 20.62.02.01, .02, and .04

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

- require start dates for each remaining Program year of the Community Solar Energy Generation Systems ("CSEGS") Pilot Program that are within discreet periods and require those periods to be posted and included in the utilities' tariffs;
- require an electric company to accept specified additional capacity for projects serving the Small category if the full capacity has been reached in the LMI category;
- increase capacity in years five through seven of the Pilot including adding capacity located on clean fill sites and clarify the increased capacity as it applies to each electric company;
- create a CSEGS waitlist procedure; and
- create the obligation of each electric company to maintain and update an electronic portal or alternative for subscriber organization lists for reporting of subscriber lists and credit allocation.

Procurement Regulations, State

Proposed Regulations

DLS Control No. 21-209

State Procurement Regulations:

Administrative and Civil Remedies:

Maryland State Board of Contract Appeals – General:

COMAR 21.10.05.01, .02, and .04 through .15

Maryland State Board of Contract Appeals – Procedures For Appealing Contract

Disputes:

COMAR 21.10.06.01, .03, .04, .06, .08 through .15, .25, .17 through .24 and .31

Maryland State Board of Contract Appeals – Procedures for Appealing Protests:

COMAR 21.10.07.01 through .06

According to the department, the purpose of this action is to make permanent these changes which were approved by AELR on an emergency basis.