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: December 10, 2021

Re: Synopses of Regulations received from 11/26/2021 through 12/9/2021

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 M. Robb
    Alexandra M. Hughes
Comptroller of the Treasury

Proposed Regulations
DLS Control No. 21-234
Comptroller of the Treasury:
Office of the Comptroller:
General Regulations: COMAR 03.01.01.01 and .04
Tax Payments – Immediately Available Funds: COMAR 03.01.02.05

According to the office, the purpose of this action is to clarify the situations in which the time limit for producing records may be extended, to update hearings and appeals regulations to include hearings conducted by telephone or video, and to update form references for accuracy.

Proposed Regulation
DLS Control No. 21-235
Comptroller of the Treasury:
Central Payroll Bureau:
General Regulations: COMAR 03.07.01.02

According to the office, the purpose of this action is to require organizations requesting employee payroll deductions of organization dues through electronic means to include control totals and a statement certifying that the organization retains the original employee authorization and to accurately identify the payroll systems to which the regulation applies.

Proposed Regulation
DLS Control No. 21-236
Comptroller of the Treasury:
Tire Recycling Fee:
General Regulations: COMAR 03.08.01.01

According to the office, the purpose of this action is to update the statutory reference for the definition of motor vehicle.

Agriculture, Department of

Proposed Regulation
DLS Control No. 21-230
Department of Agriculture:
Office of the Secretary:
Cost-Sharing – Water Pollution Control Program: COMAR 15.01.05.10

According to the department, the purpose of this action is to increase the “not-to-exceed” payment from $50,000 to $75,000 that may be made to a person applying to receive funds under
the State’s Cost-Sharing Program for the following type projects to prevent or control agriculturally-related nonpoint source pollution: that being, a single project not covered by a pooling agreement.

**Natural Resources, Department of**

- **Proposed Regulation**
- **DLS Control No. 21-228**
- **Department of Natural Resources:**
- **Fisheries Service:**
- **Gear:** COMAR 08.02.25.07

According to the department, § 4-711 of the Natural Resources Article

**Environment, Department of the**

- **Proposed Regulations**
- **DLS Control No. 21-223**
- **Department of the Environment:**
- **Water Pollution:**
- **Water Quality:** COMAR 26.08.02.02-1, 03-2, 03-3, 04, 04-1, 04-2, 04-3, 07, and 08

According to the department, the purpose of this action is to amend existing regulations under COMAR 26.08.02. Federal regulations at 40 CFR Section 131.20 require that states review and revise their water quality standards. This review process is known as the Triennial Review. This action fulfills Maryland’s Triennial Review requirement.

**Transportation, Department of**

- **Proposed Regulation**
- **DLS Control No. 21-227**
- **Department of Transportation:**
- **State Highway Administration:**
- **Joint Trenching of Broadband:** COMAR 11.04.18.01 through .03

According to the department, the purpose of this action is to establish minimum requirements and procedures for joint trenching of broadband for the Department of Transportation and certain local governments. HB 1328 was passed by the Maryland General Assembly on 04/09/2021 and became effective 07/01/2021. HB 1328 outlines a framework for “joint trenching” of broadband-related infrastructure on MDOT or certain local government projects and requires MDOT to establish regulations for the permitting process and applicable fees for both MDOT and local governments.
Criminal Sentencing Policy, Commission on

Proposed Regulation
DLS Control No. 21-240
Independent Agencies:
Commission on Criminal Sentencing Policy:
General Regulations: COMAR 14.22.01.11

According to the commission, the purpose of this action is to indicate modifications to the recommended sentencing ranges provided in the sentencing matrix for drug offenses and the sentencing matrix for property offenses in Regulation .11 under COMAR 14.22.01 General Regulations. The revised ranges more accurately reflect actual sentences.

Maryland Department of Health

Proposed Regulation
DLS Control No. 21-224
Maryland Department of Health:
Human Immunodeficiency Virus (HIV) Infection and Acquired Immunodeficiency Syndrome (AIDS):
Urgent Maryland AIDS Drug Assistance Program: COMAR 10.18.10.01 through .09

According to the department, the purpose of this action is to align COMAR with recent US Health Resources and Services Administration (HRSA) recommendations regarding the application of Ryan White HIV/AIDS Programs (RWHAP) Part B funds to Maryland AIDS Drug Assistance Program (MADAP) clients that are ultimately determined to be ineligible or terminated from the program prior to confirmation of eligibility.

Emergency Regulations
DLS Control No. 21-232
Maryland Department of Health:
Developmental Disabilities:
Fee Payment System for Licensed Residential and Day Programs:
COMAR 10.22.17.02 and .10

According to the department, the purpose of this emergency action is to permit flexibilities in the minimum service hours for Day Habilitation services provided and billed for, consistent with DDA’s Appendix K, temporarily amending requirements in DDA’s Medicaid Waiver programs during the public health emergency. This emergency action is being requested because the Maryland Department of Health wants to allow Day Habilitation providers to provide and bill for services to individuals.
Labor, Maryland Department of

Proposed Regulations
DLS Control No. 21-238
Maryland Department of Labor:
  Racing Commission:
  Harness Racing: COMAR 09.10.02.60
  Harness Racing: COMAR 09.10.02.62

According to the department, the purpose of this action is to amend regulations to comply with the pari-mutuel tote system program in distributing a wagering pool when there is not a wager that has selected a winning combination.

Proposed Regulations
DLS Control No. 21-239
Maryland Department of Labor:
  Racing Commission:
  Thoroughbred Rules: COMAR 09.10.01.86
  Thoroughbred Rules: COMAR 09.10.01.91

According to the department, the purpose of this action is to amend regulations to comply with the pari-mutuel tote system program in distributing a wagering pool when there is not a wager that has selected a winning combination.

Higher Education Commission, Maryland

Proposed Regulations
DLS Control No. 21-218
Maryland Higher Education Commission:
  Financial Aid:
    Workforce Development Sequence Scholarship:
      COMAR 13B.08.23.01, .02, .05 through .09, and .11

According to the commission, the purpose of this action is to align eligibility requirements with Ch. 96 and Ch. 97, 2021 Laws of Maryland, add a date certain by which community colleges must be notified of their annual allocation, delete unnecessary references to MHEC’s CC2 Report, and delete obsolete provisions.
Insurance Administration, Maryland

Proposed Regulation
DLS Control No. 21-231
Maryland Insurance Administration:
Life Insurance and Annuities:
Suitability in Annuity Transactions: COMAR 31.09.12.01 through .13

According to the administration, the purpose of this action is to repeal current Regulations .01 through .11 under COMAR 31.09.12 Suitability in Annuity Transactions and adopt new Regulations .01 through .13 under COMAR 31.09.12 Suitability in Annuity Transactions to conform to recent changes to the National Association of Insurance Commissioners (NAIC) Suitability in Annuity Transactions Model Regulation #275 which were approved by the NAIC in February 2020. Model #275 sets forth standards and procedures for recommending annuity products to consumers to ensure their insurance and financial objectives are appropriately addressed.

Lottery and Gaming Control Agency, Maryland State

Emergency/Proposed Regulations
DLS Control No. 21-225
Maryland State Lottery and Gaming Control Agency:
General Provisions:
Voluntary Exclusion and Responsible Gaming: COMAR 36.01.03.01 through .08
Fantasy Competition: Online Fantasy Competition Claim Procedures: COMAR 36.09.01.01 and .02
Registration: COMAR 36.09.02.01 through .04
General Standards and Prohibitions: COMAR 36.09.03.01 through .07
Financial Standards: COMAR 36.09.04.01 through .06
Responsible Gaming: COMAR 36.09.05.01 through .03

According to the agency, these regulations incorporate sports wagering and fantasy competitions into current regulations related to the State Lottery and Gaming Control Commission’s Voluntary Exclusion List. In addition, the regulations provide generally for the registration, regulation, and taxation of fantasy competition operators.
Education, State Board of

Proposed Regulations
DLS Control No. 21-229
State Board of Education:
Child and Family Day Care:
Child Care Subsidy Program: COMAR 13A.14.06.02 and .06
Family Child Care Central Repository:
Scope and Definitions: COMAR 13A.15.01.02
Registration Application and Maintenance: COMAR 13A.15.02.07
Child Care Centers: Scope and Definitions: COMAR 13A.16.01.02
Staff Requirements: COMAR 13A.16.06.03
Child Care–Letters of Compliance: Scope and Definitions: COMAR 13A.17.01.02
Staff Requirements: COMAR 13A.17.06.03
Large Family Child Care Homes: Scope and Definitions: COMAR 13A.18.01.02
Registration Application and Maintenance: COMAR 13A.18.02.07
Provider and Staff Requirements: COMAR 13A.18.06.03

According to the board, the purpose of this action is to align the regulations more closely with the requirements of the Child Care and Development Block Grant Act, as amended (42 U.S.C. 9858 et seq.), along with Section 418 of the Social Security Act (42 U.S.C. 618). The proposed amendments are consistent throughout all five subtitles of regulations.

Emergency Regulation
DLS Control No. 21-237
State Board of Education:
State School Administration:
Face Coverings in School Facilities: COMAR 13A.01.07.01 through .06

According to the board, the regulations are necessary to mitigate the spread of COVID-19 in Maryland public schools, prevent public school closures, and limit the number of students required to quarantine out of the classroom during the 2021-2022 school year due to COVID-19.

Procurement Regulations, State

Proposed Regulations
DLS Control No. 21-226
State Procurement Regulations:
Administrative and Civil Remedies:
Maryland State Board of Contract Appeals – Procedures For Appealing Contract Disputes: COMAR 21.10.06.14
Maryland State Board of Contract Appeals – Procedures for Appealing Protests: COMAR 21.10.07.03
According to the department, the purpose of this action is to bring COMAR into greater conformity with the mission of the Maryland State Board of Contract Appeals to be able to inexpensively and expeditiously resolve issues relating to Maryland procurement.

Proposed Regulations
DLS Control No. 21-233
State Procurement Regulations:
General Provisions:
Authority, Policies, and Purposes: COMAR 21.01.01.01 and .02
State Procurement Organization: Board of Public Works:
COMAR 21.02.01.04 and .08
Department of Transportation: COMAR 21.02.04.01
Specifications: General Policies: COMAR 21.04.01.04
Procurement Methods and Project Delivery Methods:
Procurement by Competitive Sealed Proposals: COMAR 21.05.03.02 and .03
Emergency and Expedited Procurements: COMAR 21.05.06.01 and .02
Master Contracting: COMAR 21.05.13.05 and .06
Contract Formation and Award: Cost or Price Requirements: COMAR 21.06.04.01
Bid and Contract Security/Bonds: COMAR 21.06.07.01
Inspection, Acceptance, Replacements, Revocation, and Rejection:
COMAR 21.06.08.01
Contract Terms and Conditions: Mandatory Contract Provisions - All Contracts
(except as provided under COMAR 21.05.07, 21.07.02, and 21.07.03):
COMAR 21.07.01.06, .12, and .16
Administrative and Civil Remedies: Protests: COMAR 21.10.02.03
Maryland State Board of Contract Appeals – General: COMAR 21.10.05.04 and .05
Maryland State Board of Contract Appeals – Procedures For Appealing Contract
Disputes: COMAR 21.10.06.14
Socioeconomics Policies: Minority Business Enterprise Policies:
COMAR 21.11.03.10 and .12
Contractor’s Affirmative Action Plan Review/Approval and Compliance
Monitoring Process – DOT: COMAR 21.11.04.01 and .03

According to the department, the purpose of this action is to revise regulations in COMAR Title 21 to implement recently-enacted legislation, update procurement requirements, and correct outdated or inconsistent terminology.