



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

Date: March 12, 2021

Re: **Synopses of Regulations received from 2/19/2021 through 3/11/2021**

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: Jake Weissmann
Alexandra M. Hughes

Critical Area Commission for the Chesapeake and Atlantic Coastal Bays

Proposed Regulations

DLS Control No. 21-017

Critical Area Commission for the Chesapeake and Atlantic Coastal Bays:

Criteria For Local Critical Area Program Development:

General Provisions: COMAR 27.01.01.01

Agriculture: COMAR 27.01.06.01, .02, and .03

Habitat Protection Areas in the Critical Area: COMAR 27.01.09.01-6

Development in the Critical Area Resulting From State and Local Agency Programs: General Provisions: COMAR 27.02.01.01

General Approval of State and Local Agency Programs Which Result in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions: COMAR 27.02.03.01

State Agency Actions Resulting in Development on State-Owned Lands:
COMAR 27.02.05.07 and .09

Project Applications: Notification of Project Applications: COMAR 27.03.01.01

According to the commission, the purpose of this action is to modernize the drafting style, update, and where necessary, delete certain outdated provisions. The amendments generally affect the agricultural regulations where these regulations are located throughout COMAR, Title 27. The proposal does not include any additional regulatory requirements of the affected regulated community.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 21-004

Department of Natural Resources:

Boating—Speed Limits and Operation of Vessels:

Potomac River: COMAR 08.18.21.07

According to the department, the purpose of this action is to establish a 6-knot speed limit in the Potomac River for the area surrounding the construction site of the Maryland Transportation Authority's Harry W. Nice/Thomas "Mac" Middleton Bridge Replacement Design-Build Project. The project involves construction of a new bridge and demolition of the existing Governor Harry W. Nice Memorial/Senator Thomas "Mac" Middleton Bridge. The construction of the new bridge is scheduled to be completed by 2023 and the demolition of the old bridge is scheduled to be completed by December 31, 2024. The regulation will be effective through December 31, 2024.

Proposed Regulation

DLS Control No. 21-016

Department of Natural Resources:

Fisheries Service:

Fish: COMAR 08.02.05.03

According to the department, the purpose of this action is to establish rules for fishing spot, as required to to keep Maryland in compliance with the Atlantic States Marine Fisheries Commission. For the recreational fishery, the creel and possession limit established under the regulation is 50 spot per person per day. There is no closed season for the recreational fishery. The regulation also (1) establishes the commercial season for catching spot, which is April 10 through November 24; (2) limits the number of people allowed on a charter trip by defining a “fishing party”; and (3) establishes related limits for each trip for licensees providing fishing guide services. Finally, the regulation establishes rules to establish or modify catch limits, size limits, and seasons for spot by public notice in order to implement the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Spot.

Public Safety and Correctional Services, Department of

Proposed Regulations

DLS Control No. 21-018

Department of Public Safety and Correctional Services:

Correctional Training Commission:

General Regulations: COMAR 12.10.01.01 and .22

According to the department, the purpose of this action is to amend COMAR 12.10.01.01–Definitions and 12.10.01.22–Prior Substance Abuse by Applicants for Certification in order to align current hiring practice with existing Maryland law. Over the last decade, the Maryland General Assembly has passed laws to implement the Natalie M. LaPrade Medical Cannabis Commission and a successful medical cannabis industry. The General Assembly has also passed laws to decriminalize the use of small amounts of cannabis. In line with this change is public policy, the Correctional Training Commission (CTC) and the Department of Public Safety and Correctional Services (Department) seek to amend hiring practices so that individuals applying to become mandated employees within a correctional system are not automatically disqualified by past use of a controlled dangerous substance or current lawful use of a prescribed medication. This amendment to COMAR reduces the applicant’s eligibility timeframe for civilly unlawful use of cannabis and cannabinoids from three years to one year. The benefits of this change include: Compliance with Maryland’s statutory and regulatory law; making an estimated additional 35 to 40 percent of applicants eligible for hire to mandated positions—applicants who otherwise have no other disqualifying attributes; and a more thoughtful approach by corrections employers to the investigative and evaluation process of potential employees.

Maryland Department of Health

Proposed Regulation

DLS Control No. 21-014

Maryland Department of Health:

Maryland Health Care Commission: COMAR 10.24.21.01

According to the department, the purpose of this action is to repeal the acute psychiatric services portion of COMAR 10.24.07 State Health Plan: Overview, Psychiatric Services, and Emergency Medical Services and move to a new chapter, COMAR 10.24.21 State Health Plan for Facilities and Services: Acute Psychiatric Services, that focuses solely on acute psychiatric services.

Proposed Regulation

DLS Control No. 21-015

Maryland Department of Health:

Maryland Health Care Commission:

State Health Plan: Overview, Psychiatric Services, and Emergency Medical Services: COMAR 10.24.07.01

According to the department, the purpose of this action is to repeal the Acute Psychiatric Services portion of the State Health Plan Chapter for Facilities and Services (COMAR 10.24.07) and replace and recodify Acute Psychiatric Services in a new chapter, COMAR 10.24.21, that focuses solely on acute psychiatric services; and to delete regulations regarding emergency medical services. The amended COMAR 10.24.07 is devoted exclusively to residential treatment centers.

Labor, Maryland Department of

Proposed Regulation

DLS Control No. 21-008

Maryland Department of Labor:

Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors – Real Estate Appraisers:

Code of Ethics: COMAR 09.19.05.01

According to the department, the purpose of this action is to establish by regulation the commission's adoption of the Uniform Standards of Appraisal Practice, which is the generally recognized ethical and performance standards for the appraisal profession in the United States, created by The Appraisal Foundation.

Higher Education Commission, Maryland

Proposed Regulations

DLS Control No. 21-013

Maryland Higher Education Commission:

Financial Aid:

Howard P. Rawlings Educational Excellence Awards:

COMAR 13B.08.10.02, .03, .06, .08, and .10 - .15

Institutional Audit Requirements for Educational Excellence Awards:

COMAR 13B.08.19.04 and .06

According to the commission, the purpose of this action is to remove the term “alternate application”, add a definition for the Maryland State Financial Aid Application, replace references to the “alternate application”, and related references, with the newly defined term, clarify the selection process for recipients, and add new appeal criteria for certain applicants. Additionally, pursuant to Ch. 485, Acts of 2019, the action adds a process for institutions of higher education to verify the eligibility of applicants for the Guaranteed Access Grant and adds provisions to revise institutional audit requirements accordingly.

Insurance Administration, Maryland

Proposed Regulations

DLS Control No. 21-012

Maryland Insurance Administration:

Assets, Liabilities, Reserves, and Investments of Insurers:

Credit for Reinsurance: COMAR 31.05.08.24 and .28

According to the administration, the purpose of this action is to amend Regulation .24 and adopt Regulation .28 under COMAR 31.05.08 Credit for Reinsurance. During the 2020 legislative session, House Bill 189 and Senate Bill 167 were passed as Chapter 100 Acts of 2020, which implements the NAIC Credit for Reinsurance Model Law. These regulations implement the Credit for Reinsurance Model Regulations NAIC model 786. These regulations are an accreditation standard for the Maryland Insurance Administration.

Public Service Commission

Proposed Regulations

DLS Control No. 21-005

Public Service Commission:

Service Supplied by Gas Companies:

Work Approval: COMAR 20.55.10.01, .02, .03, and .04

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

- Promulgate regulations to improve gas safety by implementing new work approval requirements as a result of a gas safety accident on September 13, 2018 in Merrimack Valley in Massachusetts resulting in one fatality, numerous injuries, and damage to 131 structures. The National Transportation Safety Board (NTSB) developed a recommendation for licensed professional engineer approval and stamping of natural gas infrastructure work to reduce the likelihood of accidents occurring. Maryland currently provides utilities licensed professional engineer exemptions for a variety of different types of work through a provision in the Business Occupations and Professions Article (“BPA”) §14-301(b)(2), Maryland Annotated Code.
- Identify types of work that presents a material risk of high consequence to public safety that requires licensed professional engineer approval and allows for other types of natural gas infrastructure project work to be approved by relevant qualified personnel.
- Require these work approval requirements, including training, qualification, and requalification requirements into utility written operations and maintenance procedures.

Education, State Board of

Proposed Regulation

DLS Control No. 21-009

State Board of Education:

Specific Subjects:

Program in Science: COMAR 13A.04.09.01

According to the board, the purpose of this action is to align regulations with the Maryland Next Generation Science Standards.

Proposed Regulations

DLS Control No. 21-010

State Board of Education:

Specific Subjects:

Programs in Technology Education: COMAR 13A.04.01.01 and 02

According to the board, the purpose of this action is to revise graduation requirements for technology education to expand course options for students. The revised regulation will allow students to complete a computer science, engineering, or technology education course to graduate.

Proposed Regulations

DLS Control No. 21-011

State Board of Education:

General Instruction Programs:

Graduation Requirements for Public High Schools in Maryland:

COMAR 13A.03.02.02 through .04, .06 through.10, and .12

According to the board, the purpose of this action is to enhance the graduation requirements, adopt increased rigor, and move from stand-alone assessments to end-of- course assessments.

Proposed Regulation

DLS Control No. 21-019

State Board of Education:

Specific Subjects:

Program in Physical Education: COMAR 13A.04.13.01

According to the board, the purpose of this action is to emphasize the mandate to include all students in a standards-based physical education program and include a section that explains the responsibility of local school systems to ensure that students with disabilities have an equal opportunity to participate in physical education as mandated in State statute. The amendments also define standards-based instructional assessments for all students aligned to outcomes in the State Framework and the role of health-related fitness tests.