



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
Georgianne Carter, AELR Committee Counsel

Date: September 17, 2021

Re: **Synopses of Regulations received from 9/3/2021 through 9/16/2021**

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

Critical Area Commission for the Chesapeake and Atlantic Coastal Bays

Proposed Regulations

DLS Control No. 21-115

Critical Area Commission for the Chesapeake and Atlantic Coastal Bays:

Criteria For Local Critical Area Program Development:

General Provisions: COMAR 27.01.01.01

Water Dependent Facilities:

COMAR 27.01.03.01, .01-1, .02, .03, .04,.05,.06,.07,.08,.09, and .10

Habitat Protection Areas in the Critical Area: COMAR 27.01.09.01, and .01-2

Directives for Updating Critical Area Maps: COMAR 27.01.11.04

Nonwater-Dependent Projects: COMAR 27.01.13.01

Development in the Critical Area Resulting From State and Local Agency

Programs: General Provisions: COMAR 27.02.01.01

State Agency Actions Resulting in Development on State-Owned Lands:

COMAR 27.02.05.04,.04-1,.04-2,.04-3,.09, and .12

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 certain provisions, and where necessary, delete certain provisions. The amendments generally affect the water-dependent facility 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 Regulations

DLS Control No. 21-116

Department of Natural Resources:

Office of the Secretary:

Advisory Committees: COMAR 08.01.01.02

Boating: **Maryland Boat Act Advisory Committee:** COMAR 08.04.02.01

According to the department, the purpose of this action is to update the regulations for the Maryland Boat Act Advisory Committee. The Maryland Boat Act Advisory Committee is one of several advisory bodies for the department. A recent review of regulations discovered that the regulations for this committee have not been updated since 1991. The proposed action relocates the regulation to the appropriate chapter in COMAR, corrects references to statute, removes duplicative wording, and makes the requirements consistent with other departmental advisory bodies.

Proposed Regulation

DLS Control No. 21-120

Department of Natural Resources:

Fisheries Service:

Fishing in Nontidal Waters: COMAR 08.02.11.03

According to the department, the purpose of this action is to amend Regulation .03 under COMAR 08.02.11 Fishing in Nontidal Waters. This action replaces the special regulations on certain impoundments with statewide regulations by eliminating the black bass catch and return regulations for Wheatley Lake, removing the designation of “Trophy Largemouth Bass and Smallmouth Bass Fishing Area” from four areas, and eliminating the Limited Harvest regulation entirely. The action also renames the areas currently designated as “Trophy Largemouth Bass and Smallmouth Bass Fishing Areas” to “Largemouth and Smallmouth Bass Slot Length Limit Fishing Areas.”

Environment, Department of the

Proposed Regulation

DLS Control No. 21-113

Department of the Environment:

Hazardous Substances Response Plan:

Voluntary Cleanup Program: COMAR 26.14.03.01 through .07

According to the department, the purpose of this action is to establish criteria for determining whether a Voluntary Cleanup Program (VCP) applicant has certified their intention to use an eligible property to generate clean or renewable energy, qualifying the applicant for a VCP application fee waiver. The Maryland Department of the Environment (MDE) administers VCP to provide State oversight for the voluntary investigation and cleanup of properties known or perceived to be contaminated (i.e., an eligible property) to facilitate their redevelopment and reuse. The proposed action implements Chapter 544, Acts of 2020, which requires MDE to: 1) waive VCP application fees for an applicant that certifies their intent to use the eligible property to generate clean or renewable energy, and 2) adopt regulations that establish the criteria for determining whether a VCP applicant has certified their intent to use the eligible property to generate clean or renewable energy.

Criminal Sentencing Policy, Commission on

Proposed Regulation

DLS Control No. 21-124

Independent Agencies:

Commission on Criminal Sentencing Policy:

Criminal Offenses and Seriousness Categories: COMAR 14.22.02.02

According to the commission, the purpose of this action is to indicate modifications to the table of seriousness categories (guidelines offense table) in Regulation .02 under COMAR 14.22.02 Criminal Offenses and Seriousness Categories. The proposed revisions reflect the classification of one previously unclassified offense and the reclassification of one previously classified offense.

Maryland Department of Health

Proposed Regulations

DLS Control No. 21-121

Maryland Department of Health:

Medical Care Programs:

Hospital Services: COMAR 10.09.06.02, .03, and .09

According to the department, the purpose of this action is to update the definitions listed in the regulations and amend the required licensing body. Additionally, it effectuates the 3.5 percent rate increase for adult residential substance use disorder providers provided in the Fiscal Year (FY) 2022 budget and preserves the rates in effect for the first half of FY 2021.

Proposed Regulation

DLS Control No. 21-122

Maryland Department of Health:

Medical Care Programs:

Early and Periodic Screening, Diagnosis, and Treatment:

Nursing Services for Individuals Younger than 21 Years Old: COMAR 10.09.53.07

According to the department, the purpose of this action is to incorporate provider reimbursement rates for nursing services covered under this chapter.

Proposed Regulations

DLS Control No. 21-125

Maryland Department of Health:

Medical Care Programs:

Community-Based Substance Use Disorder Services:

COMAR 10.09.80.01, .03, .05, .06, and .08

According to the department, the purpose of this action is to update licensing information, add a combination of service rule requirement for substance use disorder providers who bill for laboratory services, and implement a 4 percent rate increase for community-based substance use disorder services, in accordance with the State budget for Fiscal Year 2021.

Proposed Regulation

DLS Control No. 21-131

Maryland Department of Health:

Medical Care Programs:

Establishment, Operation, and Authority for Making Capitated Payments for Dual Eligibles Enrolled in Medicare Advantage Plans: COMAR 10.09.78.01 through .09

According to the department, the purpose of this action is to establish coverage, requirements, and reimbursement procedures for entities who enroll in Maryland Medicaid to provide home visiting services for pregnant and postpartum individuals as well as other members identified as participating in home visiting services.

Insurance Administration, Maryland

Proposed Regulation

DLS Control No. 21-117

Maryland Insurance Administration:

Health Insurance - General:

Mental Health Benefits and Substance Use Disorder Benefits – Reports on

Nonquantitative Treatment Limitations and Data: COMAR 31.10.51.01 through .08

According to the administration, the purpose of this action is to adopt Regulations .01 through .08 under COMAR 31.10.51 Mental Health Benefits and Substance Use Disorder Benefits - Reports on Nonquantitative Treatment Limitations and Data. Ch. 212 of 2020 implemented § 15-144 of the Insurance Article. The purpose of this act was to ensure uniform definitions and methodology for the reporting requirements established under the statute.

Office of the Attorney General

Proposed Regulations

DLS Control No. 21-114

Office of the Attorney General:

General Regulations:

Public Information Act Requests: COMAR 02.06.01.01 through .17

Correction or Amendment of Public Records: COMAR 02.06.02.01 through .11

According to the office, the purpose of this action is to update COMAR 02.06.01 Public Information Act Requests to reflect current requirements under Title 4 of the General Provisions Article. The amendments also specify that an applicant may file an action for judicial enforcement without pursuing dispute resolution through the Public Access Ombudsman or Public Information Act Compliance Board. Lastly, this action creates a new Regulation .17 to define “sociological information” in this chapter for the first time. As to COMAR 02.06.02, Correction or Amendment of Public Records, the purpose of this action is to update that chapter to reflect current citations to the General Provisions Article, as opposed to the State Government Article where the Public Information Act was previously codified. The only other change is that requests for administrative review under this chapter are to be directed only to the Attorney General, not the Deputy Attorney General.

Education, State Board of

Proposed Regulations

DLS Control No. 21-118

State Board of Education:

School Personnel:

Child Sexual Abuse and Sexual Misconduct History: COMAR 13A.07.14.02 and .03

According to the board, the purpose of this action is to align the regulations with changes made to statute, Education Article, § 6.113.2, Annotated Code of Maryland, during the 2021 legislative session.

Proposed Regulations

DLS Control No. 21-119

State Board of Education:

Supporting Programs:

Interscholastic Athletics in the State: COMAR 13A.06.03.03 and .04

According to the board, the purpose of this action is to address the number of all-star contests students are eligible to compete in and provide additional scheduling flexibility within the season limitations for wrestling.