



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  
Kathleen P. Kennedy, AELR Committee Counsel  
Kelvin V. Lucas, AELR Committee Counsel

**Date:** August 14, 2023

**Re:** **Synopses of Regulations received from 7/13/2023 through 8/13/2023**

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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  
Jeremy Baker

## **State Board of Elections**

### **Proposed Regulations**

#### **DLS Control No. 23-169**

**Board of Elections: Campaign Financing: Prohibitions:** COMAR 33.13.10.05

**Administrative Accounts:** COMAR 33.13.13.06

According to the board, the purpose of this action is to: prevent any circumventions of the contribution limit and surplus funds requirements for pro-rata return of contributions; and allow for administrative account funds to be used for fundraising activities exclusively for the administrative account.

### **Proposed Regulations**

#### **DLS Control No. 23-177**

**Board of Elections: Provisional Voting:**

**Provisional Voting Documents and Supplies:** COMAR 33.16.02.01

**Special Elections by Mail: Issuance and Return:** COMAR 33.21.03.02

According to the board, the proposed action repeals a reference that is now repealed and clarifies that, if a special election is conducted by mail, the same day registration and address change process will be available to voters during the early voting period for the special election.

### **Proposed Regulation**

#### **DLS Control No. 23-178**

**Board of Elections: Definitions: General Provisions:**

**Administrative Complaint Procedure:** COMAR 33.01.05.06

According to the board, the purpose of the proposed action is to allow a hearing to be conducted either in person or virtually and allows the complainant to request – for good cause – another date, time, or method for the hearing.

## **Department of Agriculture**

### **Proposed Regulations**

#### **DLS Control No. 23-190**

**Department of Agriculture: Office of the Secretary:**

**Food Donation Pilot Program:** COMAR 15.01.12.01 – .04

According to the department, the purpose of this action is to amend the chapter's name and existing regulations to reflect the following recent statutory changes to the program: (1) Repealing certain termination provisions for a tax credit against the State income tax for fresh farm and organic fresh farm food donations; and (2) Altering the amounts of the tax credit from 50% to 100% of the value of an eligible food donation and from 75% to 100% of the value of the donated certified organic produce a qualified farm is eligible to receive under certain circumstances.

## **Department of Natural Resources**

### **Proposed Regulation**

#### **DLS Control No. 23-174**

**Department of Natural Resources: Fisheries Service: Oysters: COMAR 08.02.04.17**

According to the department, the purpose of this action is to declassify a portion of the Public Shellfish Fishery Area (PSFA) 156. The proposed change would declassify an approximately 7.3-acre portion of PSFA 156 located in Smith Creek, St. Mary's County. The declassification would modify the boundary of the PSFA by removing certain areas along the western shoreline adjacent to and south of the existing shellfish aquaculture lease SM 805 in order to issue a submerged land lease. The total requested lease area is 3.6 acres, of which 2.2 acres fall within PSFA 156. The remaining 5.1 acres to be declassified consists of the required 150-foot buffer between the lease and the PSFA.

### **Proposed Regulations**

#### **DLS Control No. 23-186**

**Department of Natural Resources: Fisheries Service:**

**Soft-Shell Clams: COMAR 08.02.02.01 – .12**

**Oysters: COMAR 08.02.04.03 and .16**

**Hard-Shell Clams: COMAR 08.02.07.01 – .04**

**Shellfish - General: COMAR 08.02.08.02, .07, .09, .11, and .12**

According to the department, broadly, these regulations make changes for the oyster and clam (soft-shell and hard-shell) regulations that will ensure compliance with the National Shellfish Sanitation Program's Model Ordinance and ensure a safe product for consumers. The proposed action also removes rules from regulation that are already required by statute and reorganizes several chapters and regulations for clarity and accuracy.

### **Emergency Regulation**

#### **DLS Control No. 23-193**

**Department of Natural Resources: Fisheries Service: Crabs: COMAR 08.02.03.01**

According to the department, these regulations define the term "lug" and authorize the use of lugs for the storage of commercially harvested mature female hard shell blue crabs.

**Proposed Regulation**

**DLS Control No. 23-197**

**Department of Natural Resources: Forest and Parks:**

**Licensed Forest Products Operator: COMAR 08.07.08.08**

According to the department, for the purpose of assisting Maryland manufacturers and distributors of firewood meet the regulatory requirements imposed by other states. The proposed regulations would establish a Voluntary Firewood Heat Treatment Certification Program administered by the Department of Natural Resources to certify Forest Products Operators who export firewood to other states are properly applying heat treatments in accordance with specific standards acceptable to those other states.

**Department of the Environment**

**Proposed Regulations**

**DLS Control No. 23-191**

**Department of the Environment: Air Quality: COMAR 26.11.43.01 – .05**

According to the department, the purpose of this proposed action is to adopt regulations implementing California's Advanced Clean Trucks (ACT) regulation under COMAR 26.11.43. The regulations will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan (SIP).

**Department of Transportation**

**Proposed Regulation**

**DLS Control No. 23-192**

**Department of Transportation: State Highway Administration:**

**General Conditions for Movement of Oversize and Overweight Vehicles:**

COMAR 11.04.02.05

According to the department, the purpose of this proposed action is to amend COMAR 11.04.02.05 for the new Governor Harry W. Nice Memorial/Senator Thomas "Mac" Middleton Bridge to accommodate the movement of any oversize or overweight vehicle. COMAR changes are needed to remove the existing restrictions for oversize vehicles. It is important to note that oversize vehicles would still be required to utilize the Maryland One permitting system and comply with existing state law and COMAR for hauling permits with oversized loads.

**Interagency Commission on School Construction**

**Proposed Regulation**

**DLS Control No. 23-176**

**Independent Agencies: Interagency Commission on School Construction:**

**Administration of the Public School Construction Program: COMAR 14.39.02.05**

According to the agency, the purpose of this action is to amend the commission's regulations to update the State Cost Shares for fiscal years 2025 and 2026.

**Maryland Department of Health**

**Proposed Regulations**

**DLS Control No. 23-170**

**Maryland Department of Health: Medical Care Programs:**

**Employed Individuals with Disabilities: COMAR 10.09.41.03, .04, and .07**

According to the department, the purpose of this action is to expand the eligible population for the Employed Individuals with Disabilities (EID) Program by establishing less restrictive financial eligibility requirements and setting new premium levels for higher-income recipients.

**Proposed Regulation**

**DLS Control No. 23-173**

**Maryland Department of Health: Health Services Cost Review Commission:**

**Rate Application and Approval Procedures: COMAR 10.37.10.02**

According to the department, the purpose of the action is to update the Health Services Cost Review Commission's manual entitled "Accounting and Budget manual for Fiscal and Operation Management (August 1987)," which has been incorporated by reference.

**Proposed Regulations**

**DLS Control No. 23-175**

**Maryland Department of Health:**

**Board of Nursing – Electrology Practice Committee:**

**Instruments and Procedures: COMAR 10.53.08.05**

**Sterilization Procedures: COMAR 10.53.09.01 – .03**

According to the department, the purpose of this action is to bring the Maryland Board of Nursing's regulations in conformance with the American Electrology Association's Infection Prevention Standards (Rev. 01/2019), which are based upon recommendations by the Centers for Disease Control and Prevention and in conformance with the current standard of practice of electrologists.

**Proposed Regulation**

**DLS Control No. 23-188**

**Maryland Department of Health: Medical Care Programs:**

**Medical Assistance Eligibility: COMAR 10.09.24.03**

According to the department, the purpose of this action is to update the Former Foster Care Children definition in accordance with the SUPPORT for Patients and Communities Act of 2018.

**Proposed Regulations**

**DLS Control No. 23-189**

**Maryland Department of Health: Board of Environmental Health Specialists:**

**General Regulation: COMAR 10.60.01.03 and .05**

According to the department, the purpose of this action is to amend the educational and experience requirements for license applicants pursuant to Chapters 318 and 319, Acts of 2023.

**Proposed Regulations**

**DLS Control No. 23-195**

**Maryland Department of Health: Board of Massage Therapy Examiners:**

**General Regulations: COMAR 10.65.01.04 – .16**

**Fees: COMAR 10.65.07.01 – .04**

**Curriculum Approval: COMAR 10.65.11.01 – .10**

According to the department, the purpose of this action is to : (1) update and clarify certain definitions; (2) update application requirements; (3) establish the date after which initial registrations will be issued to practice as a registered massage practitioner pursuant to Chapters 329 and 330, Acts of 2023; (4) establish the date after which the option of being a registered massage practitioner will no longer be available pursuant to Chapters 705 and 706, Acts of 2022; (5) add language on conversion from a registrant to a licensee; (6) make clarifying changes to training requirements for licensees and registrants; (7) update the requirements for inactive status for licensees and registrants; (8) amend outdated fees; and (9) create a new chapter to standardize curriculum requirements.

**Proposed Regulation**

**DLS Control No. 23-196**

**Maryland Department of Health: Board of Podiatric Medical Examiners:**

**Licensing and Continuing Education Requirements: COMAR 10.40.02.03**

According to the department, the purpose of this action is to provide an option to complete continuing education hours for license renewal online, in addition to in person.

**Proposed Regulations**

**DLS Control No. 23-198**

**Maryland Department of Health: Preventive Medicine:**

**Maryland HIV Prevention Case Management Program: COMAR 10.52.08.01 – .16**

According to the department, the purpose of this action is to define the Maryland AIDS Drug Assistance Program (MADAP) Fund and its purpose; set forth the responsibilities of the Maryland Department of Health with respect to the MADAP Fund; and establish eligibility criteria for receipt of HIV prevention and care services from the Fund. The regulations will fulfill the regulation requirements of Chapter 22 (S.B. 186), Acts of 2022, and align with the program's current practices and funding.

**Proposed Regulation**

**DLS Control No. 23-199**

**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 allow live-in caregivers to elect an exemption from the electronic visit verification (EVV) requirement.

**Maryland Department of Labor**

**Emergency/Proposed Regulations**

**DLS Control No. 23-180**

**Maryland Department of Labor: Board of Master Electricians:**

**Fees and Deadlines: COMAR 09.09.01.03**

**Continuing Education: COMAR 09.09.02.01**

According to the department, these regulations establish fees and continuing education requirements for State-licensed electricians on uninsured status. "Uninsured status" enables certain electricians to provide electrical services as established by Chapter 187 of 2023.

**Proposed Regulation**

**DLS Control No. 23-182**

**Maryland Department of Labor:**

**Commission of Real Estate Appraisers, Appraisal Management Companies, and**

**Home Inspectors – Home Inspectors:**

**Minimum Standards of Practice: COMAR 09.36.07.02**

According to the department, the purpose of this action is to clarify that the visual inspection required by the minimum standards of practice be conducted while the licensed home inspector who is responsible for preparing the report in accordance with Business Occupations and Professions Article, § 16-101(i), Annotated Code of Maryland is physically on-site at the property to be inspected.

**Proposed Regulations**

**DLS Control No. 23-183**

**Maryland Department of Labor: Commissioner of Financial Regulation:**

**Money Transmitters: COMAR 09.03.14.01 and .03 – .18**

According to the department, the purpose of this action is to continue the process of modernizing Maryland's Money Transmission regulatory system that started with the Legislature's adoption of Chapter 100 (S.B. 219), Acts of 2021, which updated Maryland's Money Transmission law (Financial Institutions Article, §21-401 et seq., Annotated Code of Maryland) by aligning Maryland's Money Transmission law with the nationwide standards embodied in the Money Transmitter Model Law issued by the Conference of State Bank Supervisors in 2021, which have been adopted, in full or partial form, by twenty-two states and are under consideration by others. This action enhances the Office of the Commissioner of Financial Regulation's (OCFR's) money transmission regulations by adding: (1) definitions for certain undefined terms used in money transmission and in Maryland's Money Transmission law; (2) a listing of activities that do not constitute money transmission for the purpose of obtaining a money transmitter's license; (3) a statement ensuring harmonization of Maryland Money Transmission law with applicable federal law, if any; (4) a description of the minimum information about an applicant required to be provided in an application for a money transmitter license; (5) a description of the information required to be provided about an applicant's control persons and key personnel in an application for a money transmitter license; (6) procedures for a money transmitter's use of a trade name; (7) Procedures for the processing of money transmitter licensing applications through a multistate licensing process; (8) a requirement for an applicant to establish, document, and maintain specified corporate governance structures based on their operational complexity and risk profile, including descriptions of internal and external audit and risk management requirements; (9) provisions for the suspension or revocation of a money transmitter's license; (10) procedures and standards applicable to an acquisition of or change in control in a money transmitter or of a money transmitter's key individual or control person; (11) a requirement to comply with applicable Bank Secrecy Act requirements and to file related reports; (12) provisions governing the conduct of business through authorized delegates; (13) a requirement for the timely transmission of money received for transmission; (14) provisions governing the circumstances requiring the refunding of money received for transmission; (15) rules governing the provision of receipts to money senders; (16) disclosures required of payroll processing services; and (17) prudential and financial responsibility standards to be met by money transmitters, including bonding requirements and a description of permissible investments.

**Proposed Regulation**

**DLS Control No. 23-184**

**Maryland Department of Labor: Commissioner of Financial Regulation:**

**Mortgage Lenders: COMAR 09.03.06.28**

According to the department, the purpose of this action is to modernize Maryland's Mortgage Lending regulatory system and allow the Office of Financial Regulation (OFR) to improve mortgage supervision. This action will align Maryland with processes for multistate supervision and enhances OFR's mortgage lending regulations by adding: (1) definitions for



certain undefined terms used in mortgage lending exam regulation; (2) procedures for considering the mortgage lending examinations from other supervisory authorities; (3) procedures for adopting the mortgage lending examinations from other supervisory authorities; (4) procedures for treatment of the mortgage lending examinations from other supervisory authorities.

### **State Board of Education**

#### **Proposed Regulations**

##### **DLS Control No. 23-171**

##### **State Board of Education: Students:**

##### **Student Behavior Interventions: COMAR 13A.08.04.01 – .07**

According to the board, the proposed amendments to regulations establish processes and procedures for the use of student behavior interventions for public agencies and nonpublic schools, as well as the collection of student behavior interventions data.

#### **Proposed Regulations**

##### **DLS Control No. 23-172**

##### **State Board of Education: Child Care Centers:**

##### **Staff Requirements: COMAR 13A.16.06.09-1**

##### **Large Family Child Care Homes: Provider and Staff Requirements: COMAR 13A.18.06.06-1**

According to the board, the purpose of the proposed new regulations is to provide an individual who is eligible for employment as a child care teacher for children ages three and older in a Maryland center or home for a probationary period of six months if the individual is applying for employment for the first time in Maryland and meets certain age, education, and training qualifications. The proposed new regulations further provide that a Maryland center or home must terminate or reassign to a nonteaching position any probationary teacher who fails to complete the requisite semester hours or training required during the six-month probationary period. The regulations do allow for a Maryland center or home to request an extension of time for a probationary employee to complete any of the training requirements upon a showing of good cause.

#### **Proposed Regulations**

##### **DLS Control No. 23-181**

##### **State Board of Education: Family Child Care Central Repository:**

##### **Registration Application and Maintenance: COMAR 13A.15.02.02**

##### **Child Care Centers: License Application and Maintenance: COMAR 13A.16.02.02**

##### **Child Care – Letters of Compliance: Letter of Compliance Application and Maintenance: COMAR 13A.17.02.02**

##### **Large Family Child Care Homes: Registration Application and Maintenance: COMAR 13A.18.02.02**

According to the board, the purpose of these amendments to regulations is to add clarifying language to ensure that the implementation of the licensing process includes obtaining an ITIN number from applicants, if they don't have a SSN.

**Proposed Regulations**

**DLS Control No. 23-187**

**State Board of Education:**

**State School Administration:**

**Nondiscrimination in Education:** COMAR 13A.01.07.01 – .07

According to the board, the purpose of these regulations is to prohibit unlawful discrimination and retaliation in education in Maryland public and nonpublic schools that receive State funds per enacted legislation amending Education Article § 2-303(b).

**Emergency Regulations**

**DLS Control No. 23-194**

**State Board of Education:**

**Family Child Care Central Repository: Scope and Definitions:**

COMAR 13A.15.01.02

**Home Environment and Equipment:** COMAR 13A.15.05.03

**Child Safety:** COMAR 13A.15.10.02

**Health:** COMAR 13A.15.11.04 – .06

**Child Care Centers: Scope and Definitions:** COMAR 13A.16.01.02

**Physical Plant and Equipment:** COMAR 13A.16.05.11

**Safety:** COMAR 13A.16.10.04

**Health:** COMAR 13A.16.11.04 – .06

**Child Care – Letters of Compliance: Scope and Definitions:** COMAR 13A.17.01.02

**Physical Plant and Equipment:** COMAR 13A.17.05.11

**Safety:** COMAR 13A.17.10.04

**Health:** COMAR 13A.17.11.04 – .06

**Large Family Child Care Homes: Scope and Definitions:** COMAR 13A.18.01.02

**Home Environment and Equipment:** COMAR 13A.18.05.11

**Safety:** COMAR 13A.18.10.04

**Health:** COMAR 13A.18.11.04 – .06

According to the board, the regulations make identical changes to regulations concerning family child care homes, large family child care homes, and child care centers related to the guidelines and restrictions concerning the use, storage, and accessibility of cannabis. The regulations also require bio contaminants and biohazards to be disposed of in a clean and sanitary manner in family child care homes, large family child care homes, and child care centers.