



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 29, 2024

Re: **Synopses of Regulations received from 7/3/2024 through 8/28/2024**

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.

GC:KPK:KVL/bal

cc: Sally Robb
Jeremy Baker

Elections, State Board of

Proposed Regulations

DLS Control No. 24-063

Board of Elections: Records Management:

Copies of Registration Lists: COMAR 33.03.02.01, .03, and .05

Voter Registration: Voter Registration Applications: COMAR 33.05.02.02

Early Voting: Early Voting Activities: COMAR 33.17.06.05

According to the board, the regulations alter the application deadlines for certain voter registration lists and alter requirements and notifications for certain voter registration applications.

Agriculture, Department of

Emergency Regulations

DLS Control No. 24-066

Department of Agriculture: Soil and Water Conservation:

Food Processing Residuals Utilization Program: COMAR 15.20.13.02 – .28

According to the department, the regulations establish the Food Processing Residuals Utilization Program within the Maryland Department of Agriculture (MDA) in accordance with Chapters 531 and 532 of 2024. Specifically, the regulations establish standards and requirements for the transportation, storage, and land application of “food processing residuals” (FPRs), a soil conditioner derived from the processing of agricultural commodities such as poultry.

Proposed Regulation

DLS Control No. 24-067

Department of Agriculture: Soil and Water Conservation:

Agricultural Operation Nutrient Management Plan Requirements:

COMAR 15.20.07.02

According to the department, the purpose of this action is to place certain additional requirements on the land-application of food processing residuals (FPRs). First, the action divides the Spring application time period into: (1) an Early Spring period (March 1–April 15); and (2) Spring period (April 16–June 30). For the Early Spring period, a farm operator may only inject FPRs into a growing crop that was planted the previous Fall or an established hayfield. For Spring (April 16–June 30), Summer (July 1–September 9), and the Fall period between September 10 and October 31, a farm operator who injects FPRs shall ensure that 95% soil coverage is obtained. In addition, hayfields and pastures are no longer exempt from FPRs requirements. For the Fall period between November 1 and December 15, a farm operator may only apply FPRs into a harvestable crop or cover crop planted no later than October 15.

Housing and Community Development, Department of

Proposed Regulations

DLS Control No. 24-064

Department of Housing and Community Development:

Tenant's Exclusive Negotiation Period and Right of First Refusal:

Procedure: COMAR 05.22.01.01 – .07

According to the department, these regulations implement provisions from Chapter 124 of 2024 that establish a tenant's right of first refusal (and an exclusive negotiation period) prior to the sale of certain residential property.

Department of Human Services

Proposed Regulations

DLS Control No. 24-082

Department of Human Services: Social Services Administration:

LDSS Foster Home Requirements:

COMAR 07.02.25.00 – .07, .07-1, .08 – .24, and .9999

According to the department, the purpose of this action is to establish the licensing requirements, rights, and responsibilities of resource parents and local departments; ensure that local departments place children with resource parents who will provide children in out-of-home care with safe, nurturing, and trauma-informed environments where their connections with family are supported and maintained; provide a structured framework for resource parents to collaborate in parenting children in out-of-home care, offer mentorship to the children's parents or guardians, and actively participate in the reunification and permanency planning process.

Proposed Regulations

DLS Control No. 24-083

Department of Human Services: Social Services Administration:

KINSHIP Care Program Standards: COMAR 07.02.09.01 – .13

According to the department, the purpose of this action is to establish new regulations regarding the licensure of kinship caregivers. The regulations are based on a federal rule that gives all Title IV-E child welfare agencies the option to use kin-specific foster care licensing or approval standards and encourages them to limit those standards to federal safety requirements.

The primary purposes of these regulations are to: prioritize and support the placement of children with relatives, kin, or other individuals close to a child in care or the child's family; establish a standard to license and compensate kinship caregivers for children in care; establish a standard that local departments place children with kinship caregivers who will provide children in out-of-home care with safe, nurturing, and trauma-informed environments where their

connections with family are supported and maintained; reduce placement disruptions through well-supported kinship care; and provide a structured framework for kinship caregivers to collaborate in parenting the child in care, offering mentorship to the child's parents or guardians, and actively participating in the reunification and permanency planning process.

Natural Resources, Department of

Proposed Regulation

DLS Control No. 24-077

Department of Natural Resources: Fisheries Service:

General: COMAR 08.02.01.09

According to the department, this regulation establishes the bridge located on Old Post Road as the dividing line between tidal and nontidal waters in Swan Creek.

Environment, Department of the

Proposed Regulations

DLS Control No. 24-080

Department of the Environment: Building Energy Performance Standards:

Definitions and Documents Incorporated by Reference: COMAR 26.28.01.01 – .03

Benchmarking and Reporting: COMAR 26.28.02.01 – .05

Performance Standards and Compliance Demonstration: COMAR 26.28.03.01 – .02

Alternative Compliance and Special Provisions: COMAR 26.28.04.01 – .03

According to the department, the purpose of this action is to create the Maryland Building Energy Performance Standards (BEPS) as required by the Climate Solutions Now Act (CSNA) of 2022. See, in relevant part, Title 2, Subtitle 16 of the Environment Article, Annotated Code of Maryland. The goal is to reduce direct greenhouse gas (GHG) emissions and improve overall energy efficiency from Maryland's building sector for certain buildings that are 35,000 square feet or larger. The regulation requires covered building owners to measure and report data to the Maryland Department of the Environment (MDE). The regulation further requires that covered building owners meet specific net direct GHG emissions. The regulation also contains record keeping and reporting requirements for electric and gas companies and district energy providers. This action has one document for Incorporation by Reference, under COMAR 26.28.01.03, the Maryland Department of the Environment Technical Memorandum (TM) 24-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards", July 2024.

Proposed Regulation

DLS Control No. 24-088

Department of the Environment: Air Quality:

Advanced Clean Trucks Program: COMAR 26.11.43.04

According to the department, the purpose of this action is to extend the lead-time manufacturers are eligible to earn credits under this program by an additional year. The amendment appears in Regulation .04 titled Applicability and Exemptions under COMAR 26.11.43 Advanced Clean Trucks Program. The Advanced Clean Trucks Program will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan (SIP).

Transportation, Department of

Proposed Regulation

DLS Control No. 24-078

Department of Transportation: Maryland Aviation Administration:

Baltimore/Washington International Thurgood Marshall Airport:

COMAR 11.03.01.09

According to the department, this repropoed regulation reduces fees from a previously proposed regulation that authorizes the Maryland Aviation Administration to charge fees for replacing lost or stolen identification badges, and for employee identification badges that are not returned to the administration following the end of an individual's employment, as specified.

Proposed Regulation

DLS Control No. 24-087

Department of Transportation:

Motor Vehicle Administration – Administrative Procedures:

Ignition Interlock Program: COMAR 11.11.13.03

According to the department, the purpose of this action is to clarify the requirement of the date by which an individual is given credit for installation of an ignition interlock pursuant to Chapter 715 (H.B. 105), Acts of 2024.

Criminal Sentencing Policy, Commission on

Proposed Regulations

DLS Control No. 24-073

Independent Agencies: Commission on Criminal Sentencing Policy:

General Regulations: COMAR 14.22.01.12 and .14

Criminal Offenses and Seriousness Categories: COMAR 14.22.02.01 and .02

According to the commission, the purpose of this action is to modify Regulations .12 and .14 under COMAR 14.22.01 General Regulations to specify how the mandatory consecutive sentence offense rule works in combination with two or more seriousness category I or II offenses and the multiple victims stacking rule. The mandatory consecutive sentence rule provides that the upper limit of the guidelines range for an offense with a mandatory consecutive sentence shall stack with the upper limit of the guidelines range for its underlying offense. To avoid the excessive stacking of guidelines ranges in scenarios where multiple rules may apply, the proposed action specifies the following: (1) the mandatory consecutive sentence rule does not apply when there is more than one seriousness category I or II offense in the same criminal event; and (2) when the multiple victims stacking rule and mandatory consecutive sentence rule apply to the same criminal event, the overall upper guidelines limit shall be calculated based on the one rule that results in the greatest upper guidelines limit.

Additionally, the purpose of this action is to modify Regulations .01 and .02 under COMAR 14.22.02 Criminal Offenses and Seriousness Categories to reflect (1) new and revised penalties from the 2024 Legislative Session; (2) one previously unclassified offense (Receive proceeds from CDS offense, subsequent); (3) revised seriousness categories for two offenses (Receive proceeds from CDS offense, 1st offense; Malfeasance, misconduct in office); and (4) minor edits to the table.

Proposed Regulations

DLS Control No. 24-071

Independent Agencies: Maryland Health Benefit Exchange:

Small Business Health Options Program: COMAR 14.35.18.03 and .04

According to the exchange, these regulations (1) reduce the minimum employee participation rate required for Small Business Health Options Program (SHOP) Exchange participation and (2) reduce the maximum waiting period an employer may implement before a qualified employee may receive coverage under a plan purchased on the exchange.

Proposed Regulation

DLS Control No. 24-090

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 clarify when Cooperative Use Space is excluded from the State-Rated Capacity calculation.

Maryland Department of Health

Proposed Regulation

DLS Control No. 24-068

Maryland Department of Health: Health Services Cost Review Commission:

Uniform Accounting and Reporting System for Hospitals and Related Institutions:

COMAR 10.37.01.03

According to the department, this regulation alters requirements related to the Annual Nonprofit Hospital Community Benefits Report that nonprofit hospitals must submit to the Health Services Cost Review Commission.

Proposed Regulation

DLS Control No. 24-081

Maryland Department of Health: Health Services Cost Review Commission:

Uniform Accounting and Reporting System for Hospitals and Related Institutions:

COMAR 10.37.01.02

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

Labor, Maryland Department of

Proposed Regulations

DLS Control No. 24-084

Maryland Department of Labor: Board of Professional Land Surveyors:

Educational Equivalency Requirements: COMAR 09.13.07.02 and .04

According to the department, the purpose of this action is to specify the work experience, or combination of work experience and education, the Board will accept from applicants who seek eligibility to sit for the examination for licensure as a professional land surveyor, and to also correct a reference to the incorrect chapter of the Board's regulations.

Proposed Regulation

DLS Control No. 24-085

Maryland Department of Labor:

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

Temporary Permits and Reciprocity: COMAR 09.19.08.02

According to the department, the purpose of this action is to remove obsolete and incorrect language pertaining the criteria for reciprocal licensing of real estate appraisers.

Proposed Regulations

DLS Control No. 24-086

Maryland Department of Labor:

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

Code of Ethics: COMAR 09.36.06.01

Continuing Professional Competency: COMAR 09.36.08.02

According to the department, the purpose of this action is to establish: (1) certain requirements concerning a licensed home inspector's responsibilities to the public under the Home Inspector Code of Ethics; and (2) clarify and establish requirements for home inspector continuing professional competency education required for license renewal. In addition, at this time, the Maryland Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors is withdrawing the amendments to Regulation .02 under COMAR 09.36.08 Continuing Professional Competency that were proposed in 50:25 M.d R. 1093 (December 15, 2023).

Higher Education Commission, Maryland

Proposed Regulations

DLS Control No. 24-075

Maryland Higher Education Commission: Financial Aid:

Maryland Community College Promise Scholarships: COMAR 13B.08.21.01 – .22

According to the commission, the purpose of this action is to replace the existing Promise Scholarship Program regulations with new regulations reflecting the requirements of Ch. 634 of the Acts of 2023 and other amendments to Title 18, Subtitle 36, Annotated Code of Maryland, made in 2020, 2021, and 2024. The new regulations reflect the legislature's decentralization of the program, wherein the Maryland Higher Education Commission, rather than making scholarship awards directly to students, allocates funds to the State's 16 community colleges, who are now responsible for making awards to students.

The new regulations: (1) delineate the division of responsibilities between the Commission and the community colleges in administration of the scholarship; (2) clarify student eligibility requirements, including the types of programs or courses in which students may be enrolled;

(3) differentiate between eligibility requirements for students in credit-bearing programs and courses and students in non-credit programs and registered apprenticeships; (4) as required by the authorizing legislation, set forth income eligibility verification procedures for community colleges; (5) set forth procedures for the Commission to annually allocate funds to each community college; and (6) include reporting, reconciliation, and audit requirements.

Proposed Regulation

DLS Control No. 24-076

Maryland Higher Education Commission: Academic Regulations:

Academic Programs - Degree-Granting Institutions: COMAR 13B.02.03.28

According to the commission, the purpose of this action is to modify the process of Commission review of decisions of the Secretary of Higher Education regarding academic program proposals. This action implements all review meeting related requirements contained in Ch. 963 of the Acts of 2024, namely that review meetings must: (1) be conducted in open session, including discussions and any formal action taken by the Commission; (2) allow each institution to have at least 10 minutes to present to the Commission, without interruption; and (3) require that any Commission decision resulting from the Review Meeting be approved by a majority of the members then serving on the Commission.

This action also makes additional changes to the Review Meeting process, including: (1) Making alterations to the timeline of the Review Meeting process to allow easier scheduling, get materials to Commissioners earlier, and give the institutions equal time to submit written materials; (2) simplifying the meeting presentations by changing the role of the Secretary from presenting to providing necessary information, providing for all involved institutions to have equal speaking time of 15 minutes each, and removing “rebuttal” presentations; (3) requiring that the President of the institution present the institution’s position to the Commission, with assistance from the Provost if desired; (4) requiring that presentations focus on the key points of the institution’s position as set forth in the written materials submitted and refer to the relevant COMAR provisions in making their arguments; and (5) adding decision-making procedures for the Commissioners to ensure clarity and transparency.

Public Service Commission

Proposed Regulations

DLS Control No. 24-069

Public Service Commission: Service Supplied by Electric Companies: Small Generator Interconnection Standards:

COMAR 20.50.09.02, .06, .07, .09, .10, and .12 – .14

According to the commission, these regulations address standards for small generator interconnection customers. Among other things, the regulations establish new requirements for flexible interconnection options; impose restrictions and controls on inadvertent exports; require utilities to establish hosting capacity policies and submit upgrade plans to the Public Service Commission for approval; and establish a new cost allocation methodology for primary and secondary voltage interconnection customers.

Proposed Regulations

DLS Control No. 24-070

Public Service Commission: CYBERSECURITY:

General: COMAR 20.06.01.01 – .09

According to the commission, these regulations implement Chapter 499 of 2023 by establishing various cybersecurity standards and requirements for specific public service companies.

Proposed Regulations

DLS Control No. 24-072

Public Service Commission: CYBERSECURITY:

Compliance: COMAR 20.06.02.01 – .05

According to the commission, the Public Service Commission proposes to adopt new Regulations .01, .02, .03, .04, and .05 under a new chapter COMAR 20.06.02 Compliance. The purpose of this action is to (1) establish requirements associated with Notices of Probable Violation of the regulations described in chapter 01 of this subtitle under Regulation 01; (2) establish requirements for public service companies to execute a consent order jointly with the Commission for a violation of the regulations described in chapter 01 of this subtitle under Regulation .02; (3) establish requirements for issuing civil penalties to public service companies for a violation of the regulations described in chapter 01 of this subtitle under Regulation .03; (4) establish conditions under which the Commission may issue a stay of enforcement for a violation of the regulations described in chapter 01 of this subtitle under Regulation .04; and (5) establish confidentiality requirements associated with the regulations in this subtitle.

Education, State Board of

Proposed Regulations

DLS Control No. 24-074

State Board of Education: Special Instructional Programs:

Programs for Homeless Children: COMAR 13A.05.09.01 – .04 and .07

According to the board, the purpose of this action is to update and align regulations with the federal McKinney-Vento Act as amended by the Every Student Succeeds Act (ESSA).

Proposed Regulations

DLS Control No. 24-091

State Board of Education: School Personnel:

Incentive Program for Certification by the National Board for Professional

Teaching Standards: COMAR 13A.07.08.01, .04, .07, and .08

According to the board, the purpose of this action is to align regulations with statute as part of the Blueprint for Maryland's Future

Proposed Regulations

DLS Control No. 24-092

State Board of Education: School Personnel:

Programs for Professionally Certified Personnel: COMAR 13A.07.06.02 and .08

According to the board, the purpose of this action is to align regulations with statute which was changed during the 2023 and 2024 legislative sessions.

Procurement Regulations, State

Proposed Regulation

DLS Control No. 24-079

State Procurement Regulations: Socioeconomics Policies:

Minority Business Enterprise Policies: COMAR 21.11.03.16

According to the department, the purpose of this action is to remove the undue burden MBEAC presents to business owners. The current process significantly delays certification determinations for business owners and impacts a firm's ability to participate in procurement opportunities.

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Proposed Regulations

DLS Control No. 24-089

State Procurement Regulations: Administrative and Civil Remedies:

Maryland State Board of Contract Appeals – General: COMAR 21.10.05.02 and .06

Maryland State Board of Contract Appeals – Procedures For Appealing Contract Disputes: COMAR 21.10.06.12

According to the department, the purpose of this action is to efficiently and expeditiously improve the appeals process.