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: November 7, 2025

Re: Synopses of Regulations received from 10/24/2025 through 11/6/2025

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
Matthew Jackson

Budget and Management, Department of

Proposed Regulation
DLS Control No. 25-261
Department of Budget and Management: Personnel Services and Benefits:
Leave: COMAR 17.04.11.31

According to the department, the purpose of this action is to comply with House Bill 1503, which (1) repeals the existing paid parental leave program for Executive Branch employees; (2) establishes new paid family and medical leave (PFML) benefits for Executive Branch employees that generally mirror the benefits available under the Family and Medical Leave Insurance (FAMLI) Program; and (3) requires the Secretary of Budget and Management or the governing body of a public institution of higher education to adopt regulations governing PFML benefits, which include conditions and procedures for requesting and approving PFML to the extent that the regulations do not conflict with the bill. The bill applies to all State employees, including temporary employees, in the Executive Branch. The bill takes effect July 1, 2026.

Natural Resources, Department of

Proposed Regulations
DLS Control No. 25-248
Department of Natural Resources: Boating:
Certificate of Boat Number: COMAR 08.04.03.05 – .08

According to the department, the purpose of this action is to establish the ability for the Department to deny an application for a certificate of number or revoke a previously issued certificate of number. The Department has the ability to deny applications or revoke licenses in other contexts, such as hunting and fishing licenses. By creating the ability to deny or revoke a certificate of number for a vessel, the Department will be aligning these abilities in its various regulatory contexts. If the Department denies an application for a certificate of number or revokes a previously issued certificate of number, the Department will follow the same procedures it currently follows in the hunting and fishing license context. This means that the Department will provide notice to the individual of the Departmental action through a Notice of Agency Action, and the individual will have an opportunity to request a hearing on the matter with the Office of Administrative Hearings. The Department would then have to show an Administrative Law Judge that its actions were appropriate and lawful. If the Administrative Law Judge agreed that the action was appropriate and lawful, the Department would be able to either deny the application or revoke the previously issued certificate of number. If the individual instead were to show the Administrative Law Judge that the Department was incorrect in its action, the Department would then issue the certificate of number.

Proposed Regulations
DLS Control No. 25-249
Department of Natural Resources: Fisheries Service:
Fishing in Nontidal Waters: COMAR 08.02.11.01 and .03

According to the department, the purpose of this action is to modify trout fishing areas on Beaver Creek in Washington County and to eliminate the catch-and-return bass area on the North Branch of the Potomac River.

Proposed Regulation
DLS Control No. 25-260
Department of Natural Resources: Boating–Speed Limits and Operation of Vessels:
Potomac River: COMAR 08.18.21.05

According to the department, the purpose of this action is to establish a minimum wake speed zone on the Potomac River at Westmoreland State Park. Westmoreland State Park is located on the Virginia side of the river and is a popular area for water activities. The proposed action creates a minimum wake speed zone that is approximately 800 yards in length, extends 100 yards from shore, and is effective at all times during the boating season (April 15 through October 15). The zone begins at the park's boat ramp and encompasses the day use beach area.

Planning, Department of

Proposed Regulations
DLS Control No. 25-258
Department of Planning: Historical and Cultural Programs:
Heritage Structure Rehabilitation Tax Credit Certifications:
COMAR 34.04.07.02, .03, and .05

According to the department, the purpose of this action is to conform the Historic Revitalization Tax Credit regulations to legislation enacted during the 2022 session. That legislation made three adjustments to the tax credit program. First, it increased the maximum available baseline for the competitive commercial tax credit (i.e., before certain enhancements are considered) from $3 million to $5 million. Second, it created a "Small Commercial Project Trust Account" within the Historic Revitalization Tax Credit Reserve Fund and funded the trust account to a level sufficient to offset revenue losses occurring from small commercial tax credit claims (as the reserve fund for competitive commercial projects does). Finally, the legislation phased out through 2024 the separate funding caps for projects involving agricultural and post-World War II structures. Instead, the consideration of those projects would be merged into the more general small commercial tax credit awards. The proposed amendments will reflect all three of these changes to the statute and make other, minor adjustments.

<u>Environment, Department of the</u>

Proposed Regulations
DLS Control No. 25-256
Department of the Environment: Air Quality:
Permits, Approvals, and Registration: COMAR 26.11.02.19
Building Energy Performance Standards:
Benchmarking and Reporting: COMAR 26.28.02.02

According to the department, the purpose of this action is to update permit and reporting fees per legislation recently passed in the 2025 session. The Maryland Department of the Environment (MDE or the Department) proposes to increase the emissions-based rate fee for our Air and Radiation Administration’s Operating Permits and remove an expired maximum $500,000 annual cap on permit to operate fees for any source as well as add an annual reporting fee under the Subtitle Building Energy Performance Standards (BEPS).

This action will not be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan (SIP).

Per the Federal Clean Air Act (CAA) of 1989, facilities with significant sources of air pollution or those that have the potential to cause harm, based on the nature of their emissions, are required to obtain an operating permit. MDE has collected emissions-based fees from sources having a federal or a state operating permit, and these fees have been deposited into the Maryland Clean Air Fund (”the Fund” or “CAF”) since that time. The Fund is a special revenue fund that began receiving receipts from penalties on July 1, 1988, and later from emission-based operating permit fees. The Fund's revenues are for activities under Title 2 of the Environment Article related to identifying, mitigating, monitoring, reducing, and regulating air pollution in Maryland, including program development of these activities. Historically, MDE’s overall clean air programs were funded through a mixture of funding sources: the Clean Air Fund, federal grants, reimbursable funds from the Maryland Department of Transportation and the Maryland Department of Natural Resources, and general funds.

COMAR 26.11.02.19 establishes annual fees for pollution sources that are required to obtain a federal Title V - Part 70 Operating Permit or an Air Quality State Permit to Operate. The annual fee consists of a base fee plus an emissions-based fee for each ton of regulated emissions from the source. State Permit to Operate sources include asphalt plants, academic institutions, crematories, and aggregate operations. Title V - Part 70 Operating Permit sources are the largest air pollution sources in the State. These sources include power plants, cement plants, chemical plants, and federal facilities. In addition to large emission sources, certain smaller, environmentally significant sources are required to obtain Title V - Part 70 Operating Permits (e.g. incinerators and landfills).

Per the Climate Solutions Now Act (CSNA) of 2022, Maryland, specifically the Department, is required to establish BEPS for covered buildings to achieve zero net direct greenhouse gas emissions and energy use intensity standards by 2040. On May 25, 2025, House

Bill 49 was enacted under the Environmental Article II, § 17(c) of the Maryland Constitution. Among other alterations to the BEPS program that will be enacted via future rulemakings after extensive study, House Bill 49 requires MDE to update COMAR 26.28 to include a $100 annual reporting fee for a building subject to BEPS. This fee is indexed to the consumer price index and as such adjusted for inflation each year. The fee covers the administrative costs of implementing the BEPS program.

On May 13, 2025, Governor Moore signed Senate Bill 250 or the Department of the Environment - Fees, Penalties, Funding, and Regulation Act enacting into law an increase of the emissions-based fee from not exceeding $50.00 per ton to not exceeding $200.00 per ton and removing a $2M cap on carrying over unused funds in the Clean Air Fund at the end of each fiscal year. Effective June 1, 2025, the emissions-based fee rate has increased to $200.00 per ton and may be adjusted in the future to reflect changes in the Consumer Price Index (CPI). For information purposes, the CPI adjustment increase applied on January 1, 2025 was 3.2 percent. The Act also removes an expired maximum $500,000 annual cap on permit to operate fees for any source. Additionally, the Act locks in the Clean Air Funds by adding the following under the Environmental Article § 2–107(c)(4) "MONEY DEPOSITED INTO THE FUND IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND MAY NOT REVERT TO THE GENERAL FUND OF THE STATE." This supports the activities of the Department and solidifies the funding for the Clean Air Act programs.

Following these legislative changes, MDE needs to amend regulation COMAR 26.11.02.19 and COMAR 26.28.02.02 to align with the adopted laws.

Air pollution sources located throughout the State that are required to maintain a federal Title V - Part 70 Operating Permit or a State Permit to Operate will be affected. There are currently 108 Title V - Part 70 Operating Permit sources and 368 State Permit to Operate sources regulated by the MDE Air and Radiation Administration. Buildings covered by BEPS, generally those 35,000 square feet or larger in the State of Maryland, will need to file a report and pay the $100 per year per building.

The proposed amendments to COMAR 26.11.02.19 provide for emission rate fees to be calculated at $200.00 per ton and to remove an outdated cap applied to facilities until 2009. Implementation effective dates are set to meet the legislative requirements. The emission fee shall be adjusted annually beginning in 2027 per the Consumer Price Index (as calculated per §B(5) of COMAR 26.11.02.19).

The proposed amendments to COMAR 26.28.02.02 require each building that is 35,000 square feet or larger and subject to BEPS to pay the Department a $100 fee, starting in 2026. The fee is due June 1 of each year. Buildings will need to do this in addition to the existing requirements to submit their annual benchmarking report to be in compliance with the regulation. This fee is adjusted by the Consumer Price Index each year.

COMAR 26.11.02.19 is an emissions-based fee schedule for sources with a federal Title V - Part 70 Operating Permit or State Permit to Operate. This amendment does not affect emissions but rather determines a fee based on actual emissions emitted. This amendment does not directly affect the emissions from BEPS-covered buildings. However, the fee will support the implementation of the BEPS program, which has substantial projected emissions reductions.

MDE is required by the EPA to collect sufficient fees to fund all reasonable Title V federal operating permit program costs (See 40 CFR §70.9). There is no corresponding federal requirement relating to emission-based fees for State Permits to Operate. There is no corresponding federal requirement relating to the annual reporting fee for BEPS.

Proposed Regulations
DLS Control No. 25-257
Department of the Environment: Maryland CO2 Budget Trading Program:
General Administrative Provisions: COMAR 26.09.01.03 and .04
Applicability, Determining Compliance, and Allowance Distribution:
COMAR 26.09.02.03, .07, .10, and .11
Offset Projects: COMAR 26.09.03.02 – .07 and .09
Auctions: COMAR 26.09.04.03 and .06

According to the department, the purpose of this action is to amend the Maryland CO2 Budget Trading Program. RGGI is comprised of ten states in the Northeast and Mid-Atlantic regions and is composed of individual CO2 Budget Trading Programs in each RGGI participating state. These states adopted market-based carbon dioxide (CO2) cap-and-invest programs designed to reduce emissions of CO2, a greenhouse gas, from fossil fuel-fired electricity generators with a nameplate capacity of 25 megawatts or greater. Each participating state's CO2 Budget Trading Program is based on the RGGI Model Rule, which was developed to provide guidance to states as they implemented the RGGI program. RGGI participating states have concluded a third Program Review, which is a comprehensive evaluation of program successes, program impacts, the potential for additional reductions, and imports and emissions leakage.

Amendments to the RGGI Model Rule were developed by the RGGI state staff as part of the third Program Review and a consensus agreement was reached in 2025. This effort was supported by an extensive regional stakeholder process that engaged the regulated community, environmental non-profits, and other organizations with technical expertise in the design of cap-and-invest programs.

Maryland's CO2 Budget Trading Program is being amended to incorporate changes to the RGGI Model Rule. A summary of the amendments to the RGGI Program, as outlined in the RGGI Model Rule, are discussed below.

Amendments to the regulations will implement the policy changes to the cap and stability mechanisms from the Program Review, remove offsets, eliminate obsolete accounting mechanisms for industrial sources and long-term contracts, and address miscellaneous clerical changes. There is no corresponding federal standard to this proposed action.

CO_2 budget sources subject to the requirements of the Maryland CO_2 Budget Trading Program will be affected.

Compliance requirements for CO_2 budget sources subject to the Maryland CO_2 Budget Trading Program will remain the same.

The changes to the size and structure of the regional cap and allowance apportionments will result in emissions reductions. The regional emissions cap in 2027 will be equal to 69,806,919 tons and will decline by an average of 8,538,789 tons per year, which is approximately 10.5 percent of the 2025 budget, thereafter through 2033. Then, from 2034 through 2037 the cap will decline by 2,386,204 tons of CO_2 annually, which is approximately 3 percent of the 2025 budget. Subsequent years are set to match the 2037 emissions cap.

Maryland Department of Health

Proposed Regulations
DLS Control No. 25-245
Maryland Department of Health: Procedures:
Petitions for Adoption, Amendment, or Repeal of Regulations:
COMAR 10.01.07.01, .02, and .04 – .10

According to the department, the purpose of this action is to provide clarifying changes and technical updates to regulations governing Petitions for Adoption, Amendment, or Repeal of Regulations submitted to the Maryland Department of Health. Review of these regulations were conducted in accordance with the Regulatory Review and Evaluation Act. Comprehensive updates to this chapter have not been completed since 1993.

Proposed Regulations
DLS Control No. 25-246
Maryland Department of Health: Hospitals:
Acute General Hospitals and Special Hospitals:
COMAR 10.07.01.02, .08, .09, .28, and .30

According to the department, the purpose of this action is to update incorporation by reference materials for COMAR 10.07.01. This action will update the references in Regulations .02 and .30 to be in compliance with Guidelines for Design and Construction of Hospitals published by The Facilities Guidelines Institute (2022 Edition). This proposed action will address concerns brought forth by the regulated hospital and hospital construction industry. The current incorporation utilizes the 2014 edition. This change will update the IBR to the 2022 edition, providing clarity to the hospital and hospital construction industry. Additionally, Regulations .08, .09, and .28, are being updated to reference the current Joint Commission Hospital Accreditation Standards. The current incorporation utilizes the 2009 Joint Commission Accreditation Standards.

Proposed Regulations
DLS Control No. 25-250
Maryland Department of Health: Board of Acupuncture:
Code of Ethics: COMAR 10.26.03.03 and .06
Rules of Procedure for Board Hearings: COMAR 10.26.04.02, .05, and .10

According to the department, the purpose of this action is to (1) remove obsolete language; (2) make clarifying changes; and (3) update sanctioning guidelines.

Proposed Regulations
DLS Control No. 25-251
Maryland Department of Health: Medical Care Programs:
Maryland Children's Health Program: COMAR 10.09.11.11
Medical Assistance Eligibility: COMAR 10.09.24.02, .07, and .12
Maryland Children's Health Program (MCHP) Premium:
COMAR 10.09.43.10 and .13

According to the department, the purpose of this action is to (1) establish an Express Lane Eligibility (ELE) program to streamline and expedite enrollment of eligible individuals in the Maryland Medicaid Assistance Program and MCHP in accordance with Ch. 282 (S.B. 26), Acts of 2023, Maryland Medical Assistance Program, Maryland Children's Health Program, and Social Services Programs — Eligibility and Enrollment and Workgroup on Low–Income Utility Assistance; (2) provide continuous eligibility for individuals under the age of 19 and enrolled in Medicaid or CHIP in accordance with the Consolidated Appropriations Act, 2023 (CAA); and (3) update the regulations to no longer disenroll children during their continuous eligibility period due to nonpayment of premiums under the MCHP Premium program, a continuation of the practice under the COVID-19 Public Health Emergency.

Proposed Regulations
DLS Control No. 25-252
Maryland Department of Health: Board of Pharmacy:
Examination for Licensure and Professional Experience Programs:
COMAR 10.34.02.02 and .03

According to the department, the purpose of this action is to (1) clarify and update examination requirements; and (2) clarify and update when applicants may take Exam II.

Proposed Regulations
DLS Control No. 25-253
Maryland Department of Health: Board of Massage Therapy Examiners:
General Regulations: COMAR 10.65.01.06, .07, and .09
Rules of Procedure for Board Hearings: COMAR 10.65.02.04 and .05
Code of Ethics: COMAR 10.65.03.02, .03, .05, and .06

According to the department, the purpose of this action is to (1) repeal the requirements for initial registrations pursuant to Chs. 705 and 706, Acts of 2022; (2) make clarifying changes; (3) add a definition and guidelines for sexual misconduct in the Code of Ethics; (4) add draping requirements during a massage; and (5) clarify written consent requirements.

Proposed Regulation
DLS Control No. 25-259
Maryland Department of Health: Medical Care Programs:
Home Health Services: COMAR 10.09.04.07

According to the department, the purpose of this action is to update the jurisdictional home health services payment rates to include a one-time, 2.7 percent increase of the current payment rates effective January 1, 2025. This increase is based on annual CMS Prospective Payment for home health services and in accordance with the State budget allowance.

Proposed Regulation
DLS Control No. 25-263
Maryland Department of Health: Medical Care Programs:
Home and Community-Based Services Waiver for Individuals with Brain Injury:
COMAR 10.09.46.12

According to the department, the purpose of this action is to update the Brain Injury Waiver services fee schedule in accordance with the FY25 State Budget.

<u>Education, State Board of</u>

Proposed Regulation
DLS Control No. 25-254
State Board of Education: Certification:
Teachers: COMAR 13A.12.02.03

According to the board, the purpose of this action is to expand the pathways to initial teacher licensure in both fine arts and secondary content areas. The proposed pathways require candidates to demonstrate subject matter expertise, complete pedagogical coursework, and pass a test of teaching ability.

Proposed Regulations
DLS Control No. 25-255
State Board of Education: Specific Subjects:
Program in Physical Education: COMAR 13A.04.13.01 and .02

According to the board, the purpose of this action is to align regulations with the new national physical education standards.

<u>Ethics Commission, State</u>

Proposed Regulations
DLS Control No. 25-262
State Ethics Commission: Financial Disclosure:
Disclosure Required by Members of Boards and Commissions:
COMAR 19A.03.01.03 and .04
Local Government Ethics Law:
Review Procedures: COMAR 19A.04.03.03
Board of Education Ethics Regulations:
Review Procedures: COMAR 19A.05.03.01

According to the commission, the purpose of this action is to update current regulations to reflect the changes to the Maryland Public Ethics Law with the passage of 2025 legislation HB230/SB 251 (CH 73/74) and SB 109 (CH 299). The proposed action updates the Model Laws for local governments and local boards of education to reflect these changes. Additionally, the purpose of this action is to clarify exemption review provisions related to financial disclosure for State board members and local governments.