

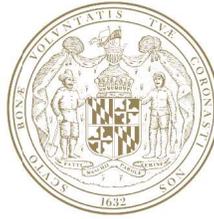
# Administrative, Executive, and Legislative Review

2024 Interim

State Government Article, Section 2-506(b)

Joint Committee on Administrative, Executive, and Legislative Review

December 16, 2024



MARYLAND GENERAL ASSEMBLY  
JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

December 16, 2024

The Honorable Bill Ferguson, Co-Chair  
The Honorable Adrienne A. Jones, Co-Chair  
Members of the Legislative Policy Committee

Dear President Ferguson, Speaker Jones, and Members:

The following report of the Joint Committee on Administrative, Executive, and Legislative Review (AELR) for 2024 is submitted in accordance with § 2-506(b) of the State Government Article. AELR has several statutory review functions relating to the activities of the Executive Branch. The joint committee's primary role is to review regulations issued by State administrative agencies.

### Statistical Overview

The overall number of regulations submitted saw a substantial decrease in 2024 versus 2023. As of December 10, 2024, AELR had received 13 regulations submitted by executive agencies in 2024 for emergency approval and 187 regulations proposed for adoption within normal timeframes, for a total of 200 regulations. In 2023, AELR received 34 emergency regulations and 326 proposed regulations for a total of 354 regulations. The reason for the substantial drop in regulations submitted in 2024 is unclear. However, there was a bump in submissions in 2023 due to prior challenges with the new ELF system, which is the online database agencies use to submit and track regulations through the promulgation process. The new ELF system has been an ongoing issue and is discussed in more detail below.

AELR has compiled statistics since 1993 on the number of regulations received from each agency. The Maryland Department of Health has historically been the most prolific agency in

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submitting regulations, and in 2024 again submitted the most regulations (28 regulations, of which 3 were emergency regulations). In 2024, the Department of Natural Resources (DNR) submitted 24 regulations, and the Maryland Department of Labor submitted 17 regulations, one of which was an emergency regulation. Also in 2024, the State Board of Education submitted 15 regulations, of which one was an emergency regulation; the Maryland Department of Transportation submitted 11 regulations; and the State Board of Elections submitted 10 regulations.

## **Major Regulatory Issues**

Typically, AELR meets infrequently, if at all. However, in 2024, there were five hearings held in response to requests from AELR members to discuss emergency regulations. Below is a brief description of some of the more notable emergency regulations for which hearings were held in 2024, and the outcome of the hearings.

### **Maryland Department of Natural Resources**

#### **Emergency Regulation 23-312E**

**Fisheries Service: Striped Bass:** COMAR 08.02.15.08, .09, and .12

On November 28, 2023, DNR submitted emergency regulations that created an in-season closure period for the striped bass recreational and charter boat fishery and defined the term “target” for the purpose of provisions prohibiting individuals from targeting striped bass at certain times. AELR held a hearing on the regulations on February 2, 2024, which continued on February 9, 2024. The regulations were ultimately approved and went into effect on February 9, 2024.

### **Maryland Cannabis Administration**

#### **Emergency Regulation**

**DLS Control No. 24-019E**

**Maryland Cannabis Administration:** COMAR 10.62 and COMAR 14.17

On March 11, 2024, the Maryland Cannabis Administration (MCA) submitted emergency regulations that amended previous emergency regulations adopted by MCA in July 2023 (See DLS Control No. 23-121E) in accordance with Chapters 254 and 255 of 2023. Broadly speaking, the regulations repealed the medical cannabis regulations under COMAR 10.62, combined medical and adult-use cannabis regulations under new COMAR 14.17, and established a comprehensive regulatory framework for the State’s adult-use cannabis market and the conversion and issuance of cannabis licenses in the State. AELR held a hearing on the regulations on June 7, 2024 and voted to approve emergency status for the regulations. The regulations were in effect from June 7, 2024 to August 31, 2024. Associated proposed permanent regulations went into effect July 22, 2024.

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**Maryland Department of Agriculture**

**Emergency Regulation**

**DLS Control No. 24-066E**

**Soil and Water Conservation:**

**Food Processing Residuals Utilization Program: COMAR 15.20.13.01-.28**

**Emergency Regulation**

**DLS Control No. 24-067E**

**Soil and Water Conservation:**

**Agricultural Operation Nutrient Management Plan Requirements: COMAR 15.20.07.02**

Collectively, these two sets of emergency regulations submitted by the Maryland Department of Agriculture (MDA) in July 2024: (1) established the Food Processing Residuals Utilization Program within MDA, in accordance with Chapters 531 and 532 of 2024; and (2) updated the Maryland Nutrient Management Manual to incorporate by reference Supplement No. 10 (March 2024). Supplement No. 10 establishes standards for storing and land applying food processing residuals, including limiting the number of food processing residual applications that a person may make per season per field at an agricultural operation. AELR held a hearing on both sets of emergency regulations on September 9, 2024 and, in response to AELR feedback at the hearing, the agency decided to withdraw and resubmit the regulations. MDA resubmitted updated emergency regulations in September 2024 (See DLS Control Nos. 24-114E and 24-115E) and AELR approved emergency status for both sets of emergency regulations effective October 16, 2024.

## **Supervisory Responsibilities under the State Documents Law**

As part of its supervisory responsibilities under the “State Documents Law” (Title 7, Subtitle 2 of the State Government Article), AELR continued to monitor significant developments concerning publications of the Division of State Documents (DSD), a unit within the Office of the Secretary of State. DSD publishes the *Maryland Register* and COMAR. One item of note is the ongoing update to DSD’s ELF system, which is the online interface that agencies use to electronically file regulations.

Due to a system upgrade, DSD took the previous ELF system offline in September 2022 and replaced it with a new system, referred to as “ELF 2.0.” Despite efforts by DSD and the Department of Information Technology, issues with the functionality and usability of ELF 2.0 have continued throughout 2023 and 2024.

Chapters 349 and 350 of 2023 were enacted in response to issues raised by the conversion to ELF 2.0. The Acts make various changes to the laws regarding the publishing of the *Maryland Register*, the submission and review of proposed and emergency regulations by State agencies, and the development and functionality of the electronic filing system. The Acts also required DSD to report to AELR by December 31, 2023, on the status of the development and deployment of

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ELF 2.0. In that report, DSD noted that ELF 2.0 “continues to fail many functions that delay agency regulations, on occasion fails to send adequate notices to the AELR Committee and causes [DSD] serious problems with our publication responsibilities.” Ultimately DSD concluded that there is support to establish a new database for COMAR and the *Maryland Register*, and that DSD intends to move to promptly secure their regulatory system.

## Existing Agency Operations and Regulations

Under § 2-506(b) of the State Government Article, AELR is required to comment on any legislative action that is needed to change or reverse a regulation of a unit of the Executive Branch. AELR has generally been satisfied with the continued cooperation it receives from the Executive Branch regarding their regulation submissions. However, as discussed above, there have been ongoing issues regarding the electronic filing system used to submit regulations to DSD and, by extension, the Department of Legislative Services (DLS). DLS will continue to monitor the situation and may recommend additional legislative actions depending on how the issue evolves.

AELR wishes to note its appreciation for the continued cooperation of the Executive Branch and its various agencies in making the process of legislative review of regulations successful.

Sincerely,



Mary Washington  
Senate Chair



Samuel I. Rosenberg  
House Chair (Presiding)

MW:SIR/KPK/GC/KVL/bal

cc: Sally Robb  
Matthew Jackson  
Victoria L. Gruber  
Ryan Bishop