

DHMH's Regulation Promulgation Process (4 - 6 months*)
(Office of Regulation and Policy Coordination - December, 2015) [Information in brackets is authority for action]

Unit Decides to Promulgate Regulations

- (Varies) (1) Unit submits Notice of Regulations Development [NORD (pink)] form to their Assistant Attorney General (AAG) and Deputy Secretary (DS) before submitting to DHMH Regulations Coordinator (RC),
- (2) RC acknowledges approval of NORD form and gives unit a Tentative Schedule
- (3) Unit writes the proposal, maybe with help of a committee or work group, depending on Unit's policy or requirements of law.
- (4) Unit submits drafts to AAG and interested parties for input and informal comments; may also submit email version to RC for comments,

***Unit Submits Proposal for Internal Sign Offs**

- (2 weeks) (1) Proposal reviewed (clarification or changes may be requested) and, once approved, signed off by:
- (a) Affected parties within the Department,
- (b) The Unit's Director, and
- (c) The Unit's Deputy Secretary;
- (2) Approved proposal is submitted electronically to RC and yellow signature sheet is forwarded to RC.

Unit Submits Proposal and Background Information (blue) Form to DHMH Regulations Coordinator (RC)

- (2 - 4 weeks) (1) Reviews regulations;
- (2) May return them for corrections;
- (3) Submits:
- (a) Electronically to Affected Units within the Department, the Governor's Office and DHMH Office of Governmental Affairs for comments;
- (b) To Budget Management Office for approval of Estimate of Economic Impact;
- (c) To AAG for legal sufficiency [State Government Article, §10-107(b), Annotated Code of Maryland]; and
- (d) For Secretary's approval.

Proposal has Corresponding Federal Standards? [Executive Order 01.01.1996.03]

- (5-10 days) (1) Yes, but proposal is not more stringent:
- (a) Submit proposal to Department of Commerce (DOC)
- (b) DOC will review and respond within 10 days whether or not they agree with the analysis:
- (i) If they agree, DHMH may forward proposal to AELR; or
- (ii) If they disagree, DOC will forward proposal to the Governor's Office for approval.
- (15+ days) (2) Yes, and the proposal is more stringent:
- (a) Submit proposal to DOC;
- (b) DOC will review and respond to the Dept., then forward to the Governor's Office for final determination;
- (c) Governor's Office will advise the Department whether we may proceed or not.
- (0 days) (3) No: Proceed to next step.

RC Electronically Submits Proposal to AELR Committee; If proposal has an impact on environmental hazards affecting the health of children, to the Children's Environmental Health and Protection Advisory Council [SGA, §10-110(b)]. If proposal has an impact on individuals with disabilities, to the Department of Disabilities [HSA, §7-113(c)]

(15 days)

RC Electronically Submits Proposal to Division of State Documents for Publication in the Maryland Register [SGA, §10-112(a)]

(15 days)

Notice and Text Published

30-day Comment Period Required [SGA, §10-111(a)(3)]

- (45 days) (1) If comments are received, the Unit:
- (a) Responds in writing to the comment; and
- (b) At end of comment period, recommends in a memo to RC, specific language changes and/or recommends proposal be:
- (i) Adopted as printed;
- (ii) Adopted with non-substantive changes;
- (iii) Reproposed with substantive changes; or
- (iv) Withdrawn.
- (2) If no comments are received, and no changes requested by the Unit, RC submits Notice of Final Action adopting the proposal (unless Unit indicates otherwise) to:
- (a) Unit for sign off through their Deputy Secretary;
- (b) AAG for legal approval; and
- (c) Secretary.

AELR can decide to delay and/or oppose adoption [SGA, §10-111(a)(2); SGA, §10-111.1]

- (varies) (1) If the AELR puts a "hold" on a proposal and **DELAYS** a regulation, the Department, at the sole discretion of the Secretary, may notify AELR in writing of its intention to adopt and provide AELR with a further period of review that ends the later of:
- (a) 30 days after the Department's written notice is provided; or
- (b) 105th day following the initial publication of the regulation in the Maryland Register
- (2) The Department **may not** adopt a proposal that has been put on hold by the AELR until:
- (a) The Department receives a written release from the AELR; or
- (b) The process and timeframes outlined in (1) above have been met.
- (3) AELR may hold a hearing and, if majority votes to **OPPOSE** the adoption of the regulations, notice of opposition is submitted in writing to the Governor and to the Department.
- (a) Department may:
- (i) Withdraw or Modify the proposed regulation; or
- (ii) Appeal the AELR's opposition to the Governor.
- (b) If appealed, the Governor may instruct the Department to withdraw, modify, or adopt as proposed the regulation.

Adoption Possible: Regulations Coordinator Electronically Submits Final Notice to Division of State Documents for Publication in the Maryland Register

(9 days) [SGA, §10-114)]

Notice Published

Effective [SGA, §10-117(a)]

(10 days after publication of Final Notice or later – NOTE: For regulations adopted under HGA, §21-140 (Food, Drug and Cosmetic Act) effective date may not be earlier than 90 days after proposal is published.)