

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
		Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/10/2012

2. COMAR Codification

Title Subtitle Chapter Regulation

12 04 07 01 - .11

3. Name of Promulgating Authority

Department of Public Safety and Correctional Services

4. Name of Regulations Coordinator Telephone Number
George H Hall 410 339 5073

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5. Name of Person to Call About this Document Telephone No.
Thomas C. Smith 410 875 3605

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6. Check applicable items:
 New Regulations
 Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: .
 Repeal of Existing Regulations
 Recodification
 Incorporation by Reference of Documents Requiring DSD Approval
 Reproposal of Substantively Different Text:
: Md. R
(vol.) (issue) (page nos) (date)
Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Stuart M. Nathan, Assistant Attorney General, (telephone #410 585 3070) on June 26, 2012. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Gary D. Maynard

Title

Secretary

Telephone No.

410 339 5000

Date

June 27, 2012

Title 12
DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES

Subtitle 04 POLICE TRAINING COMMISSION

12.04.07 Police Auxiliary and Reserve Volunteer Program

Authority: Correctional Services Article, §2-109; Public Safety Article, §3-208(a); Tax
— General Article, §10-208; Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Public Safety and Correctional Services proposes to , in cooperation with the Police Training Commission proposes to create new Regulations .01 - .11 under new Chapter .07 Police Auxiliary and Reserve Volunteer Program under COMAR 12.04 Police Training Commission.

This action was considered by the Police Training Commission at a public meeting on April 17, 2012.

Statement of Purpose

The purpose of this action is to (1) Establish a Police Training Commission (Commission) definition for active status for use to determine a participant's eligibility for applying a subtraction modification to Maryland Income tax for participation in a police auxiliary or reserve volunteer program (program) under Tax — General Article, §10-208(1)(2)(iii)1, Annotated Code of Maryland;

(2) Codify procedures for a law enforcement agency to apply for Commission approval of the law enforcement agency's program to qualify as an eligible program under Tax — General Article, §10-208(1)(2)(iii)1, Annotated Code of Maryland; and

(3) Codify law enforcement administrative record-keeping, reporting, and notification requirements in support of a program participant's application of Maryland Income tax subtraction modification based on program participation under Tax — General Article, §§10-208(1)(3) and (5), Annotated Code of Maryland .

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Thomas C. Smith, Director Policy and Process Review, Maryland Police and Correctional Training Commission, 6852 4th Street Sykeville, MD 21784, or call 410 875 3605, or email to tcsmith@dpsc.state.md.us, or fax to 410 875 3584. Comments will be accepted through September 9, 2012. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2013

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

This action has no economic impact as it only codifies uniform administrative procedures necessary to support to requirements under Tax — General Article, §10-208(l) Annotated Code of Maryland that have been substantially in place since 1997.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations affect State and local government only.

G. Small Business Worksheet:

Attached Document:

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 04 POLICE TRAINING COMMISSION

12.04.07 Police Auxiliary and Reserve Volunteer Program

Authority: *Correctional Services Article, §2-109; Public Safety Article, §3-208(a); Tax — General Article, §10-208; Annotated Code of Maryland*

.01 Purpose.

A. This chapter establishes minimum requirements and a process for Commission approval of a law enforcement agency's police auxiliary or reserve volunteer program for the purposes of the police auxiliary or reserve volunteer subtraction modification under Tax – General Article, §10-208(l), Annotated Code of Maryland.

B. This chapter details uniform record-keeping and reporting requirements for a law enforcement agency with a Commission-approved police auxiliary or reserve volunteer program for the purpose of the police auxiliary or reserve volunteer subtraction modification under Tax – General Article, §10-208(l), Annotated Code of Maryland.

C. This chapter establishes active status requirements for an individual participating in a law enforcement agency's Commission-approved police auxiliary or reserve volunteer program for the purpose of the police auxiliary or reserve volunteer subtraction modification under Tax – General Article, §10-208(l), Annotated Code of Maryland.

D. This chapter permits the continued application of previous law enforcement agency police auxiliary or reserve volunteer program participation for which the individual received the subtraction modification under Tax – General Article, §10-208(l), Annotated Code of Maryland, to meet cumulative participation requirements necessary to qualify as a police auxiliary or reserve volunteer.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Active status" means an individual's approved service that:

(a) Is provided in support of a law enforcement agency's Commission-approved police auxiliary or reserve volunteer program; and

(b) Totals a minimum of 144 hours of service provided in support of a law enforcement agency's Commission-approved police auxiliary or reserve volunteer program during a taxable year.

(2) "Commission" means the Police Training Commission or a representative authorized to act on behalf of the Commission.

(3) "Comptroller" has the meaning stated in Tax General Article, §10-101, Annotated Code of Maryland.

(4) "Deputy Director" means the Deputy Director of the Police and Correctional Training Commissions.

(5) "Law enforcement agency (agency)" has the meaning stated in Public Safety Article, §3-201, Annotated Code of Maryland.

(6) Police Auxiliary or Reserve Volunteer Program.

(a) "Police auxiliary or reserve volunteer program (program)" means an agency's ongoing activity that uses individuals approved by the agency to assist the agency to perform administrative or technical tasks, or other services on behalf of the agency to support the agency's duties or mission.

(b) "Police auxiliary or reserve volunteer program (program)" may include an agency's on-going activity that otherwise meets requirements under §B(6)(a) of this regulation, but does not include the term auxiliary, reserve, or volunteer in the activity's title.

(7) "Taxable year" has the meaning stated in Tax – General Article, §10-101, Annotated Code of Maryland.

.03 Minimum Requirements for Commission Approval of a Program.

A. For the purpose of permitting an individual who participates in an agency's program to apply for the subtraction modification under Tax – General Article, 10-208, Annotated Code of Maryland, an agency's program is required to be approved by the Commission.

B. Commission approval of an agency's program, at a minimum, requires:

(1) The program to comply with the definition of a police auxiliary or reserve volunteer program in Regulation .02 of this chapter;

(2) The program to be incorporated in the agency's rules and regulations;

(3) The program to be supervised by a permanent agency employee;

(4) An individual to successfully complete a related orientation or training program before the agency may approve the individual to participate in the program;

(5) The agency to maintain a list of individuals approved to participate in the program;

(6) That an individual is not compensated, except reimbursement for nominal expenses and meals, for participation in the program; and

(7) The agency to maintain information concerning program approval and an individual's program participation necessary to support reporting requirements under Tax – General Article, §§10-208(l)(3) and (5), Annotated Code of Maryland, and Regulation .07 of this chapter.

.04 Application for Commission Approval and Renewal of Approval of an Agency Program.

A. An agency applying for Commission approval of a program for the purpose of the subtraction modification under Tax – General Article, 10-208(l), Annotated Code of Maryland, shall:

(1) Apply to the Commission using a form or in a format approved by the Commission;

(2) Submit the application to the Deputy Director; and

(3) Provide with the application:

(a) A copy of the agency's rules or regulations into which the program is incorporated; and

(b) Other information that the Commission or the Deputy Director may require.

B. Approval — Application for Commission Approval of an Agency Program.

(1) Upon receipt of an application under §A of this regulation, the Deputy Director, on behalf of the Commission, shall approve a program if the:

(a) Application is completed according to Commission requirements;

(b) Application contains sufficient information supporting that the program meets Commission requirements under this chapter and requirements under Tax – General Article, §10-208(l), Annotated Code of Maryland; and

(c) Program complies with other requirements of this chapter and State law or regulation.

(2) Following approval of an application, the Deputy Director shall:

(a) Establish a date when the program's approval expires, which shall be a maximum of four years from the date the program was approved; and

(b) Within ten days of approval, provide written notice of the date the program was approved and approval expiration date to the:

(i) Agency that submitted the application; and

(ii) Comptroller.

C. Denial — Application for Commission Approval of an Agency Program.

(1) Upon receipt of an application under §A of this regulation, the Deputy Director, on behalf of the Commission, shall deny approval of a program if the:

(a) Application is incomplete or improperly completed; or

(b) Program does not:

(i) Meet the requirements of this chapter or requirements under Tax – General Article, §10-208(l), Annotated Code of Maryland for a police auxiliary or reserve volunteer program; or

(ii) Otherwise comply with the requirements of this chapter or State law or regulation.

(2) Within ten days of denying approval of an application, the Deputy Director shall provide to the agency that submitted the application for approval a written notice stating the reason for denying approval of the application.

(3) If an application submitted by an agency for Commission approval of a program is denied, the agency may:

(a) Re-submit an application for Commission approval of the program if the agency corrects the deficiencies that the Deputy Director identified justifying denial of the application for Commission program approval; or

(b) Appeal the Deputy Director's denial of the application for Commission approval of a program to the Commission as established under Regulation .05 of this chapter.

D. Renewal of Commission Approval of an Agency Program.

(1) Not less than 60 days before an agency's program approval expires, the agency shall submit a Commission-approved renewal application form to the Deputy Director if the agency seeks to renew Commission approval of the program.

(2) Upon receipt of an application under §D(1) of this regulation, the Deputy Director shall review the agency's application for renewal of Commission approval of a program for a maximum of four years from the date of renewal and shall:

(a) On behalf of the Commission, renew Commission approval of the program if the program meets requirements for original approval established under §B(1) of this regulation; or

(b) Deny renewal of Commission-approval of the program as established under §C(1) of this regulation.

(3) Within ten days of approving or denying an application for renewal of a Commission-approved program, the Deputy Director shall provide to the agency that submitted the renewal application and the Comptroller a written notice stating that the renewal application was:

(a) Approved and include program renewal expiration date that may not exceed four years from the date of Commission approval; or

(b) Denied and include the reason the application for program renewal was denied.

(4) If an agency's application for renewal of Commission approval is denied by the Deputy Director, the agency may:

(a) Re-submit an application for renewal of Commission approval of the program if the agency corrects the deficiencies that the Deputy Director identified justifying denial of the application for renewal of Commission approval; or

(b) Appeal the Deputy Director's denial of the application for renewal of Commission approval to the Commission as established under Regulation .05 of this chapter.

.05 Appeal to the Commission of Denial of Approval by the Deputy Director.

A. An agency may appeal to the Commission a denial by the Deputy Director of an application for Commission approval or renewal of Commission approval of the agency's program.

B. An agency appealing a denial by the Deputy Director of an application for Commission approval or renewal of Commission approval of the agency's program shall:

(1) Submit the appeal in writing to the Executive Director of the Police and Correctional Training Commissions (Executive Director) in a format or on a form approved by the Commission; and

(2) Include in the written appeal, the basis for the agency's appeal of the denial by the Deputy Director.

C. Upon receipt of an appeal under §B of this regulation, the Executive Director shall schedule the appeal to be considered by the Commission at the next Commission meeting that is scheduled at least 30 days after the date that the appeal was received by the Executive Director.

D. At the time the agency's appeal is heard by the Commission, the Commission:

(1) Shall permit the Deputy Director to testify and present information related to the denial;

(2) Shall permit a representative from the agency making the appeal to testify and present information related to the agency's basis for the appeal; and

(3) May permit other individuals to testify or present information that the Commission determines relevant to the appeal.

E. Following testimony and presentation of information under §D of this regulation, the Commission, by a majority vote of the members present at the meeting, may:

(1) Sustain the denial by the Deputy Director;

(2) Grant the agency's appeal unconditionally; or

(3) Grant the agency's appeal with conditions.

F. Within ten days following the Commission's decision under §E of this regulation, the Executive Director, or a designee, shall provide the agency filing the appeal and the Deputy Director written notice of the Commission's decision.

(1) If the Commission sustains the denial by the Deputy Director, the notice shall include the Commission's reason for sustaining the denial.

(2) If the Commission grants the appeal without conditions, the notice shall include:

(a) A statement of Commission approval of the program or renewal of Commission approval; and

(b) The date of expiration of Commission approval or renewal of Commission approval that may not exceed four years from the date of Commission approval of the application.

(3) If the Commission grants the appeal with conditions, the notice shall include:

(a) A statement of Commission approval of the program or renewal of Commission approval;

(b) If applicable, an explanation of the conditions with which the agency shall comply to continue Commission approval of the program or renewal of Commission approval; and

(c) The date of expiration of Commission approval or renewal of Commission approval that may not exceed four years from the date of Commission approval of the application.

G. Within ten days of the date of receipt of a written notice under §F of this regulation, the Deputy Director, or a designee, shall provide written notice including the information under §F(3) of this regulation to the Comptroller.

H. A decision on an agency's appeal of a denial of Commission approval of an agency's program or renewal of Commission approval of an agency program is final.

.06 Reporting Changes to a Program.

A. An agency with a Commission-approved program shall report to the Deputy Director changes to the information submitted as part of the original application for Commission approval or the most recent application for renewal of Commission approval of the program.

B. The agency shall report changes under §A of this regulation within 30 days after the effective date of the changes.

C. The Deputy Director shall notify the Comptroller of changes reported under §B of this regulation.

.07 Required Police Auxiliary or Reserve Volunteer Program Record Keeping and Reporting.

A. An agency that has a Commission-approved program, shall:

(1) Maintain records for each calendar year that includes information on each individual participating in the agency's Commission-approved program as required under Tax – General Article, §10-208(l)(3)(i), Annotated Code of Maryland.

(2) Information required to be maintained under §A(1) of this regulation shall, at a minimum, include:

(a) The individual's full name;

(b) The individual's Social Security Number;

(c) The total hours of service worked by the individual for the agency's Commission-approved program that itemizes service hours worked for each month; and

(d) Other information the Commission or the Comptroller may require.

B. Report to be Provided to Active Status Individuals.

(1) As required under Tax – General Article; §10-208(l)(3)(ii), Annotated Code of Maryland, on or before February 15 of each year, an agency that has a Commission-approved program shall provide a written report to each individual who the agency determines meets active status requirements in the agency's Commission-approved program between January 1 and December 31 of the preceding year.

(2) The report under §B of this regulation shall:

- (a) *Be in a format approved by the Commission;*
 - (b) *Identify the individual to whom the report pertains by using the information maintained under §A(2) of this regulation;*
 - (c) *Include information for only the identified individual; and*
 - (d) *Include a certification signed by an authorized official of the agency stating that the identified individual is qualified to apply for the subtraction modification established under Tax – General Article, §10-208(l), Annotated Code of Maryland on the basis that the individual has between January 1 and December 31 of the preceding year:*
 - (i) *Participated in a Commission-approved program;*
 - (ii) *Met requirements of Tax – General Article, §10-208(l)(2), Annotated Code of Maryland, to be considered a qualifying police auxiliary or reserve volunteer; and*
 - (iii) *Met minimum requirements for active status as defined under Regulation .02 of this chapter.*
- C. Agency’s Annual Report to the Commission and Comptroller.*
- (1) *On or before October 1 each year, an agency maintaining information under §A of this regulation shall submit a report to the:*
 - (a) *Commission, on behalf of the Department of Public Safety and Correctional Services; and*
 - (b) *Comptroller.*
 - (2) *The report under §C of this regulation shall:*
 - (a) *Be in a format approved by the Commission;*
 - (b) *Include a statement signed by an authorized official of the agency certifying that the information provided is correct;*
 - (c) *Provide the information that the agency maintains under §A(2) of this regulation for the period of January 1 through December 31 of the preceding year for each individual who the agency determined:*
 - (i) *Qualified to apply for the subtraction modification established under Tax – General Article, §10-208(l), Annotated Code of Maryland; and*
 - (ii) *Met minimum requirements for active status as defined under Regulation .02 of this chapter, but was not qualified to apply for the subtraction modification under Tax – General Article, §10-208(l), Annotated Code of Maryland.*

.08 Individual Eligibility to Apply for Income Tax Subtraction Modification.

A. An individual is eligible to apply for the income tax subtraction modification established in Tax – General Article, §10-208(l)(1), Annotated Code of Maryland if the individual meets requirements under §§A(1) and (2) of this regulation.

(1) Prior Service Requirement. The individual:

(a) Shall meet requirements under Tax – General Article, §10-208(l)(2)(iv), Annotated Code of Maryland for prior service.

(b) Is presumed to meet requirements under §A(1) of this regulation if the individual has applied for and received the subtraction modification established under Tax – General Article, §10-208(l) during any of the previous ten calendar years by December 31 of the taxable year for which the individual is applying for the subtraction modification.

(2) Taxable Year Requirement. For the taxable year for which the individual is applying for the subtraction modification, the individual shall meet requirements:

(a) Established under Tax – General Article §§10-208(a) and (l)(2)(i) through (iii)1, Annotated Code of Maryland; and

(b) For active status as defined in Regulation .02 of this chapter.

B. An individual applying for the subtraction modification established under Tax – General Article § 10-208(l), Annotated Code of Maryland, shall comply with procedures established by Comptroller for claiming the subtraction modification.

.09 Commission Audit Authority.

A. The Commission may audit records related to an agency’s Commission-approved program.

B. The purpose of a Commission audit is to ensure agency compliance with Commission requirements established under this chapter and authorized under Tax – General Article, §10-208(l), Annotated Code of Maryland.

.10 Revocation of Program Approval.

A. The Deputy Director may revoke Commission approval of an agency’s program if the agency does not:

- (1) *Submit to the Commission information as required by Regulation .06 of this chapter;*
- (2) *Maintain records or comply with reporting required by Regulation .07 this chapter;*
- (3) *Continue to meet minimum requirements for Commission approval; or*
- (4) *Comply with other provisions of this chapter.*

B. Before revoking Commission approval of an agency’s program, the Deputy Director shall:

- (1) *Notify the agency of the specific requirement with which the agency’s program does not comply; and*
- (2) *Provide the agency up to 30 days to bring the program into compliance.*

C. The Deputy Director shall notify the Comptroller if the Deputy Director revokes Commission approval of an agency's program.

D. An agency may appeal a decision by the Deputy Director to revoke Commission approval of the agency's program according to procedures established under Regulation .11 of this chapter.

.11 Appeal of Revocation of Commission Approval.

A. If the Deputy Director revokes Commission approval of an agency's program under Regulation .10 of this chapter, the agency may appeal to the Commission for reinstatement of Commission approval of the agency's program.

B. An agency appealing revocation by the Deputy Director of Commission approval of the agency's program shall:

(1) Submit the appeal in writing to the Executive Director of the Police and Correctional Training Commissions (Executive Director) in a format or on a form approved by the Commission; and

(2) Include in the written appeal, the basis for the agency's appeal of the revocation by the Deputy Director.

C. Upon receipt of an appeal under §B of this regulation, the Executive Director shall schedule the appeal to be considered by the Commission at the next Commission meeting that is scheduled at least 30 days after the date that the appeal was received by the Executive Director.

D. At the time the agency's appeal is heard by the Commission, the Commission:

(1) Shall permit the Deputy Director to testify and present information related to the revocation;

(2) Shall permit a representative from the agency making the appeal to testify and present information related to the agency's basis for the appeal; and

(3) May permit other individuals to testify or present information that the Commission determines relevant to the appeal.

E. Following testimony and presentation of information under §D of this regulation, the Commission, by a majority vote of the members present at the meeting, may:

(1) Sustain the revocation by the Deputy Director;

(2) Grant the agency's appeal and reinstate Commission approval unconditionally; or

(3) Grant the agency's appeal and reinstate Commission approval with conditions.

F. Within ten days following the Commission's decision under §E of this regulation, the Executive Director, or a designee, shall provide the agency filing the appeal and the Deputy Director written notice of the Commission's decision.

(1) If the Commission sustains the revocation by the Deputy Director, the notice shall include the Commission's reason for sustaining the Deputy Director's revocation.

(2) If the Commission reinstates Commission approval of the program without conditions, the notice shall include a statement as to the reinstatement of Commission approval.

(3) If the Commission reinstates Commission approval of the program with conditions, the notice shall include:

(a) A statement as to the reinstatement of Commission approval of the program; and

(b) An explanation of the conditions with which the agency shall comply to continue Commission approval of the program.

G. Within ten days of the date of receipt of a written notice under §F of this regulation, the Deputy Director, or a designee, shall provide written notice including the information under §F of this regulation to the Comptroller.

H. A decision on an agency's appeal of a revocation of Commission approval of an agency's program is final.

Gary D. Maynard

Secretary

Department of Public Safety and Correctional Services