IN THE MATTER OF:	*	BEFORE THE SECRETARY OF THE MARYLAND DEPARTMENT OF AGRICULTURE
THE PETITION OF LANNY HARTMANN TO REPEAL EVSE FEE UNDER COMAR 15.03.08.05Q	*	

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Citing State Gov't Art., § 10-123, Mr. Lanny Hartmann, in a letter dated October 24, 2025, petitioned the Maryland Department of Agriculture (MDA) to "repeal COMAR 15.03.08.05Q ('Electric Vehicle Supply Equipment - $150 per port') or, in the alternative, to amend this regulation to "$0 pending full economic impact review." In his petition, Mr. Hartmann states that repeal is warranted because: (1) "the $150 fee is arbitrary and was adopted without meaningful stakeholder input"; and (2) the Department "incorrectly claimed that "[t]he proposed action has no economic impact,' ignoring pass-through costs to drivers and station closures when operators remove equipment rather than comply with the new fees, reporting, and inspection burdens." Finally, Mr. Hartmann states that MDA "did not properly notify the public of the proposed changes" because the link of the regulation that it posted on its webpage "incorrectly went to a completely unrelated document."

For reasons noted more fully below, I am denying Mr. Hartmann's petition.

Section 10-123 of the State Government Article, the authority that Mr. Hartmann cites in support of his petition, provides:

> (a) An interested person may submit to a unit a petition for the adoption of a regulation.
> (b) Within 60 days after the petition is submitted, the unit shall:
> (1) in writing, deny the petition and state the reasons for the denial; or
> (2) initiate the procedures for adoption of the regulation.

Let me note at the outset that, from a procedural standpoint, I have considered Mr. Hartmann's petition because the repeal of a regulation is, by definition, a regulation. See State Gov't Art., § 10-101(g), which defines the term "regulation" to mean:

> a statement or an amendment or <u>repeal</u> of a statement that: (i) has general application; (ii) has future effect; and (iii) is adopted by a unit to: ... carry out a law that the unit administers...."

(Emphasis supplied.) In petitioning MDA to repeal COMAR 15.03.08.05Q, Mr. Hartmann is petitioning MDA to repeal a statement that has general application, has future effect, and would be adopted to carry out a law that the Department administers. In short, Mr. Hartmann is petitioning "for the adoption of a regulation."

However, for the following reasons, while I have determined that Mr. Hartmann's petition should be considered, I have also determined that his petition should be denied and that procedures for

the adoption of a regulation should not be initiated. First, Mr. Hartmann's two primary claims for repealing COMAR 15.03.08.05Q are erroneous; namely, that: (1) the $150 fee per port to register electrical vehicle service equipment set forth in this regulation "is arbitrary"; and (2) MDA "incorrectly" claimed that "the proposed action has no economic impact."

While MDA in certain instances has the statutory authority to set fees by regulation for services it provides, the department, in this instance, did not actually set the fee that Mr. Hartmann is challenging. Rather, the legislature, in enacting the Budget Reconciliation and Financing Act (BRFA) of 2025, set this fee. In other words, MDA's action to amend COMAR 15.03.08.05 to include the $150 per port fee simply mirrored the fee already set forth in the BRFA of 2025. For this reason, MDA was not acting arbitrarily. It was following the law; and, in adopting the $150 per port fee in COMAR 15.03.08.05Q, the same fee set in the BRFA of 2025, this regulation had no further economic impact beyond the BRFA of 2025. In other words, the adoption of this regulation had no economic impact.

Finally, I have determined that Mr. Hartmann's claim that COMAR 15.03.08.05Q should be repealed because the link that MDA provided failed to show the text of the proposed regulation is also without merit. While the link's failure to show the text of the proposed regulation was unfortunate, this does not invalidate or otherwise affect the adoption of COMAR 15.03.08.05Q.

Under State Gov't Art., § 10-112.1, an agency – such as MDA – is directed to publish the text of a proposed regulation on its website. More specifically, subsection (a) of this statute provides;

> Whenever a unit publishes a proposed regulation in the [Maryland] Register in accordance with § 10-112 of this subtitle, the unit shall publish the text of the proposed regulation on the unit's website no later than 3 business days after the date that the proposed action is published in the Register.

However, as provided in subsection (d) of this same statute, "[t]he failure of a unit to publish the text of a regulation in a timely manner . . . may not invalidate or otherwise affect the adoption of the regulation." (Emphasis supplied.) Let me further note that while the Proposed Action amending COMAR 15.03.08.05Q may not have appeared on MDA's website, it did appear in the Maryland Register; and that the publication of the Proposed Action in the Register effectively gave the public and Mr. Hartmann notice of this action.

For the forgoing reasons, Mr. Hartmann's petition is denied.

October 29, 2025

Kevin Atticks
Secretary of Agriculture