

(1) AN APPARATUS VIOLATES A HEALTH AND SAFETY STANDARD ADOPTED UNDER THIS TITLE; AND

(2) THERE IS A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS PHYSICAL HARM TO AN INDIVIDUAL OR DAMAGE TO PROPERTY COULD RESULT FROM CONTINUED USE OF THE APPARATUS.

(C) POSTING; USE PROHIBITED.

(1) A COPY OF A NOTICE UNDER SUBSECTION (B) OF THIS SECTION:

(I) SHALL BE ATTACHED TO THE APPARATUS; AND

(II) MAY NOT BE REMOVED UNTIL THE APPARATUS IS MADE SAFE AND EACH REQUIRED SAFEGUARD IS PROVIDED.

(2) EXCEPT FOR USE THAT IS NECESSARY TO REPAIR THE APPARATUS AND TO PROVIDE ANY REQUIRED SAFEGUARDS, THE APPARATUS MAY NOT BE USED WHILE A NOTICE UNDER THIS SECTION IS POSTED ON THE APPARATUS.

(3) ONLY THE COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER MAY REMOVE THE NOTICE.

(D) JUDICIAL REVIEW.

(1) ANY PERSON AGGRIEVED BY A DECISION OF THE COMMISSIONER UNDER THIS SECTION MAY APPEAL TO A COURT OF COMPETENT JURISDICTION IN ACCORDANCE WITH THE MARYLAND RULES.

(2) AN ACTION UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE COURT OF COMPETENT JURISDICTION WHERE THE APPARATUS IS LOCATED.

(3) IN A PROCEEDING UNDER THIS SUBSECTION, A COURT MAY NOT STAY AN ORDER OF THE COMMISSIONER UNLESS:

(I) THE COURT GIVES THE COMMISSIONER NOTICE AND AN OPPORTUNITY FOR A HEARING; AND

(II) THE AGGRIEVED PERSON POSTS SECURITY.

(4) THE COURT SHALL EXPEDITE THE HEARING OF ANY ACTION BROUGHT UNDER THIS SUBSECTION.

REVISOR'S NOTE: Chapter 8, Acts of 1998, which enacted the Public Utility Companies Article, also enacted this section.

Subsection (a) of this section is new language added to avoid repetition of the words "machinery, apparatus, devices, or equipment".

Subsections (b) through (d) of this section are new language derived without substantive change from former Art. 89, § 88.

Subsection (b) of this section is revised in the active voice to clarify that the Commissioner is responsible for giving written notice to a railroad