

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Labor, Licensing, and Regulation
(DLS Control No. 16-217)**

Overview and Legal and Fiscal Impact

The regulations repeal existing State occupational safety and health standards relating to confined spaces in construction.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Labor, Licensing, and Regulation:

Division of Labor and Industry: Maryland Occupational Safety and Health Standard for Confined Spaces: COMAR 09.12.35.01-.05

Legal Analysis

Background

On May 4, 2015, the federal Occupational Safety and Health Administration adopted and published in the federal register new standards relating to confined spaces in construction. Accordingly, the Division of Labor and Industry in the Department of Labor, Licensing, and Regulation proposed adopting the new federal standards through incorporation by reference, notice of which was published in the Maryland Register on January 22, 2016. The Commissioner of Labor and Industry intends to formally adopt the federal standards when the review period for this regulation has ended, thereby enabling the actions to take effect simultaneously.

Summary of Regulations

The regulations repeal in its entirety COMAR 09.12.35, Maryland Occupational Safety and Health Standard for Confined Spaces. The department intends to adopt the corresponding federal standards through a separate action.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-106(b)(4) and 5-312 of the Labor and Employment Article as statutory authority for the regulations. Section 2-106(b)(4) authorizes the Commissioner of Labor and Industry to adopt regulations to carry out the Maryland Occupational Safety and Health Act, found under Title 5 of the Labor and Employment Article. Section 5-312 requires the commissioner to initiate the process for publishing and issuing a proposed regulation within 45 days after the commissioner decides to adopt the regulation.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations repeal Maryland's Occupational Safety and Health Standard for Confined Spaces regulations. The department advises that the regulations have no impact on State or local governments because a previous proposed regulation incorporates by reference new federal protections for employees working in confined spaces in construction. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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