

MARYLAND REGISTER

## Proposed Action on Regulations

### Comparison to Federal Standards Submission and Response

Name: Kimberly S Ward  
Agency: Department of Labor, Licensing, and Regulation  
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State: MD  
Zip: 21202  
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In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 09.12.31.J-1

Corresponding Federal Standard:

29 CFR part 1910.1024

Discussion/Justification:

Maryland Occupational Safety and Health (MOSH) operates under the authority of federal Occupational Safety and Health (OSHA). MOSH is required to adopt and enforce, at a minimum, the same safety and health requirements that OSHA enforces. This standard was issued by OSHA January 9, 2017 and subsequently amended to modify certain requirements and effective dates. The last amendment for general industry contained under 29 CFR part 1910 was September 30, 2019 and this rule is now considered final and fully in effect for OSHA so MOSH must adopt similar, or more stringent, requirements. This action adopts the same requirements as OSHA without additional or more stringent requirements.

TO BE COMPLETED BY DBED

-Agree

-Disagree

Comments:

Name:

Date:

\_ -Submit to Governor's Office

Governor's Office Response

Comments:

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: 7/17/2020

2. COMAR Codification

Title Subtitle Chapter Regulation

09 12 31 J-1

3. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

4. Name of Regulations Coordinator Telephone Number  
Kimberly S Ward 410-230-6123

Mailing Address

500 N. Calvert Street

City            State      Zip Code  
Baltimore      MD            21202

Email  
kimberlys.ward@maryland.gov

5. Name of Person to Call About this Document      Telephone No.  
Mischelle F Vanreusel                                      4107672225

Email Address  
mischelle.vanreusel@maryland.gov

6. Check applicable items:

- New Regulations

Amendments to Existing Regulations

    Date when existing text was downloaded from COMAR online: June 15, 2020.

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 General Provisions Article, §3-302(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 Jean H. Baker, Assistant Attorney General, (telephone #410 230-6135) on June 16, 2020. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Matthew S. Helminiak

Title

Commissioner of Labor and Industry

Telephone No.

410 767-4037

Date

June 16, 2020

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.31 Maryland Occupational Safety and Health Act ó Incorporation by Reference of Federal Standards.

Authority: Labor and Employment Article, §§2-106(b)(5), 5-309(a)(1), and 5-312(b), Annotated Code of Maryland

Notice of Proposed Action

□

The Commissioner of Labor and Industry proposes to add Regulation J-1. under COMAR 09.12.31 Maryland Occupational Safety and Health Act— Incorporation by Reference of Federal Standards.

This action was considered at an open meeting held on July 26, 2019, notice of which was posted on the Department's website, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to adopt through incorporation by reference the federal standard 29 CFR 1910.1024 Beryllium, as amended. This rule was issued to prevent chronic beryllium disease and lung cancer in workers by limiting their exposure to beryllium and beryllium compounds in general industry. This rule establishes a new, lower permissible exposure limit (PEL) for beryllium of 0.2 µg/m<sup>3</sup>, averaged over 8-hours and a new short-term exposure limit for beryllium of 2.0 µg/m<sup>3</sup>, over a 15-minute sampling period. This rule also requires employers to use engineering and work practice controls (such as ventilation or enclosure) to limit worker exposure to beryllium; provide respirators when controls cannot adequately limit exposure; limit worker access to high-exposure areas; develop a written exposure control plan; and train workers on beryllium hazards. Finally, this rule requires employers to make available medical exams to monitor exposed workers and provides medical removal protection to workers identified with a beryllium-related disease. These updated requirements will apply to employers whose workers are exposed to beryllium through operations such as beryllium metal and ceramic production, non-ferrous foundries, and fabrication of beryllium alloy products.

#### Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

#### 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 Mischelle F. Vanreusel, Regulatory and Grants Coordinator, 1100 North Eutaw Street, Room 600, Baltimore, MD 21201, or call 410-767-2225, or email to [Mischelle.vanreusel@maryland.gov](mailto:Mischelle.vanreusel@maryland.gov), or fax to 410-767-2986. Comments will be accepted through August 17, 2020. A public hearing has not been scheduled.

#### Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2021

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:

federal and special (workers' compensation)

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:

The updated federal requirements for employers in industries that expose employees to beryllium or beryllium compounds was outdated. OSHA reported most employers were already following lower exposure levels published in consensus standards. Additionally, these new requirements have been in effect nationally through OSHA for over 3 years with amended modification to implementation dates and clarification of engineering controls. There are no known employers who utilize beryllium who are not already complying with the requirements issued in 2017. These standards were developed federally with affected industries over several years and essentially codified common industry practice.

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

The updated federal requirements for employers in industries that expose employees to beryllium or beryllium compounds was outdated. OSHA reported most employers were already following lower exposure levels published in consensus standards. Additionally, these new requirements have been in effect nationally through OSHA for over 3 years with amended modification to implementation dates and clarification of engineering controls. There are no known small employers who utilize beryllium who are not already complying with the requirements issued in 2017. These standards were developed federally with affected industries over several years and essentially codified common industry practice.

G. Small Business Worksheet:

Attached Document:

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## **Title 09 MARYLAND DEPARTMENT OF LABOR**

### **Subtitle 12 DIVISION OF LABOR AND INDUSTRY**

**Chapter 31 Maryland Occupational Safety and Health Regulations .01—.09 —  
Repealed — See COMAR 09.12.20**

**Note: Documents incorporated by reference by MOSH will continue to be cited**

**under COMAR 09.12.31. A list of these documents follows the Administrative History.**

**Administrative History**

**Effective date: June 1, 1974**

Regulations .01—.07 amended effective January 13, 1978 (5:1 Md. R. 18)

Regulation .03B amended effective August 6, 1975 (2:17 Md. R. 1188)

Regulation .03D amended effective August 1, 1983 (10:15 Md. R. 1349)

Regulation .03H amended effective August 22, 1980 (7:17 Md. R. 1672)

Regulations .03I, .04G, .07A, C, D, E, J, L amended effective August 25, 1978 (5:17 Md. R. 1328)

Regulation .04B amended effective December 23, 1991 (18:25 Md. R. 2750)

Regulation .04G adopted effective August 6, 1975 (2:17 Md. R. 1188)

Regulation .04-1 adopted effective December 23, 1991 (18:25 Md. R. 2750)

Regulation .04-1 amended as an emergency provision effective November 25, 1992 (19:25 Md. R. 2196)

Regulation .04-1 amended effective April 26, 1993 (20:8 Md. R. 722)

Regulation .05C, D, E, G amended effective May 29, 1981 (8:11 Md. R. 973)

Regulation .05D amended effective November 9, 1981 (8:22 Md. R. 1784)

Regulation .05H—J adopted effective May 29, 1981 (8:11 Md. R. 973)

Regulation .06E and F adopted effective August 6, 1975 (2:17 Md. R. 1188)

Regulation .07F amended effective May 2, 1980 (7:9 Md. R. 847)

Regulation .07K adopted effective August 6, 1975 (2:17 Md. R. 1188)

Regulation .07M adopted effective May 29, 1981 (8:11 Md. R. 973)

Regulation .07N, O adopted effective August 1, 1983 (10:15 Md. R. 1350)

Regulation .08 adopted effective August 25, 1978 (5:17 Md. R. 1328)

Regulation .09 adopted effective May 29, 1981 (8:11 Md. R. 974)

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Regulations .01—.09 repealed effective July 5, 1993 (20:13 Md. R. 1048)

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## **Chapter 31 Maryland Occupational Safety and Health Act — Incorporation by Reference of Federal Standards.**

Authority: Labor and Employment Article, §§2-106(b)(4)] (5), 5-309(a)(1), and 5-312(b), Annotated Code of Maryland

### **A.—J. text unchanged**

**J-1. Beryllium.** All amendments and revisions to 29 CFR part 1910.1024 that appear in the Federal Register 82 FR2736, January 9, 2017, as amended.

**[J-1.] J-2. Bloodborne Pathogens.**

(1)—(4) text unchanged

**[J-2.] J-3. Butadie[n]ne.** All amendments and revisions to 29CFR §§1910.19(1), 1910.1000, and 1910.1051, including Appendices A—F; and 29 CFR 1926, Subpart Z and Appendix A, that appear in the Federal Register on November 4, 1996 (61 FR 56831—56856) are adopted by reference with the changes indicated at 24:4 Md. R. 298. Effective date: April 21, 1997 (24:8 Md. R. 616)

**[J-3.] J-4. Cadmium.**

(1)—(6) text unchanged

### **K.—ZZ-2. text unchanged**

**National Fire Protection Association.**

text unchanged

Matthew S. Helminiak  
Commissioner of Labor and Industry