

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 09

MARYLAND DEPARTMENT OF LABOR

Subtitle 12 DIVISION OF LABOR AND INDUSTRY

09.12.32 Heat Stress Standards

Authority: Labor and Employment Article, §§2-106(b)(5) and 5-1201(b),
Annotated Code of Maryland

Notice of Proposed Action

[22-190-P]

The Commissioner of Labor and Industry proposes to adopt new Regulations **.01— .06** under a new chapter, **COMAR 09.12.32 Heat Stress Standards**. This action was considered at an open meeting of the Maryland Occupational Safety and Health Advisory Board held on August 23, 2022, 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 establish minimum requirements for employers to protect employees from heat-related illness caused by heat stress as required by Ch. 308 (H.B. 722), Acts of 2020.

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 Mischelle F. Vanreusel, Acting Deputy Commissioner, 10946 Golden West Drive, Suite 160, Hunt Valley, MD 21031, or call 410-767-2225, or email to dli.regulations+HS@maryland.gov, or fax to 410-767-2986. Comments will be accepted through November 7, 2022. A public hearing has not been scheduled

.01 Purpose.

The purpose of this chapter is to establish minimum requirements for employers to protect employees from heat-related illness caused by heat stress.

.02 Scope.

A. This standard applies whenever an employee of an employer is reasonably anticipated to be exposed to heat-related illness while performing job duties where:

(1) The heat index reaches or exceeds 88 degrees Fahrenheit; and

(2) Where the presence of external influencing factors increases the potential for serious heat-related illness.

B. The following workplaces and operations are exempt from the requirements of this standard:

(1) Incidental heat exposures where an employee is not required to perform work activities for more than 15 minutes in any 60-minute period; or

(2) Emergency operations that are directly involved in the protection of life or property, or the restoration of essential services, such as evacuation, rescue, medical, structural firefighting, law enforcement, utilities, and communications, when employees are engaged in those emergency operations.

.03 Definitions.

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

B. Terms Defined.

(1) "Acclimatization" means temporary adaptation of the body to work in the heat that occurs gradually when a person is exposed to it.

(2) "External influencing factors" mean workplace conditions that contribute to the net heat load on the body, such as:

- (a) Radiant heat sources;
- (b) Conductive heat sources;
- (c) Movement of air;
- (d) Severity and duration of workloads; and
- (e) Protective clothing and equipment worn by an employee.

(3) "Heat index" means the apparent temperature, a measure of what the temperature feels like to the human body when relative humidity is combined with the air temperature.

(4) "Heat-related illness" has the meaning stated in Labor and Employment Article, §5-1201(a)(2), Annotated Code of Maryland.

(5) "Heat stress" has the meaning stated in Labor and Employment Article, §5-1201(a)(3), Annotated Code of Maryland.

(6) "Personal risk factors for heat-related illness" means factors that affect the retention of water by the body and other physiological responses to heat, including, without limitation, a person's:

- (a) Age;
- (b) Degree of acclimatization;
- (c) Health;
- (d) Consumption of water;
- (e) Consumption of alcohol;
- (f) Consumption of caffeine; and
- (g) Use of prescription medications.

(7) "Potable drinking water" has the meaning stated in 29 CFR §1910.141(a)(2).

(8) "Shade" means blockage of direct sunlight.

.04 Heat-Related Illness Prevention and Management Program.

The employer shall establish and implement a heat-related illness prevention and management program which includes provisions for all of the following:

A. Potable drinking water, including:

- (1) How water will be provided as close as practicable to the work area;
- (2) How water will be provided where water is not plumbed or otherwise continuously available; and
- (3) How water will be maintained suitably cool;

B. Recovery and rest breaks where employees are exhibiting signs of heat-related illness;

C. Shade or other means of equivalent cooling;

D. Monitoring of employees for heat-related illness;

E. Monitoring of acclimatization of employees:

- (1) For the first 14 days of their employment;
- (2) When returning to work after an absence; and
- (3) When appropriate to each employee, based on personal risk factors for heat-related illness;

F. Identification of work processes and external factors that increase the likelihood of heat-related illness, including but not limited to:

- (1) Increased metabolic workloads;
- (2) Radiant and conductive heat sources;
- (3) Increased humidity;
- (4) Decreased air movement; and
- (5) Wearing of protective equipment;

G. Training of employees and management; and

H. Procedures for responding to an emergency.

.05 Training.

A. The employer shall provide training on the following topics to all supervisory and nonsupervisory employees covered under the scope of this chapter in both a language and vocabulary that the employee can understand:

- (1) Working conditions that create the possibility that heat-related illness could occur;

- (2) Personal risk factors for heat-related illness;
- (3) Importance of frequent consumption of water;
- (4) Importance of acclimatization;
- (5) Different types of heat-related illness and the common signs and symptoms of heat-related illness;

(6) Importance to an employee of immediately reporting to the employer, directly or through a supervisor for the employer, signs or symptoms of heat-related illness in the employee or in a coworker; and

(7) Employer procedures for responding to symptoms of possible heat-related illness, including how medical services will be provided if necessary.

B. Before assigning a supervisor to supervise employees working in conditions covered in this chapter, an employer shall provide the supervisor with training on the procedures which the supervisor is to follow to implement the applicable provisions of this chapter.

.06 Emergency Response Procedures.

The employer shall implement emergency response procedures that include:

A. Ensuring effective communication at the worksite to enable an employee to contact a supervisor or emergency medical services if needed;

B. Responding to signs and to symptoms of possible heat-related illness or heat stress;

C. Monitoring of employees exhibiting signs of heat-related illness or heat stress; and

D. Contacting emergency medical services and, if necessary, transporting employees to a location accessible to an emergency medical provider.

MATTHEW S. HELMINIAK
Commissioner of Labor and Industry

Title 14
INDEPENDENT AGENCIES
Subtitle 23 ALCOHOL AND TOBACCO
COMMISSION

Notice of Proposed Action
[22-185-P]

The Executive Director of the Alcohol and Tobacco Commission, under a new subtitle, **Subtitle 23 Alcohol and Tobacco Commission**, proposes to:

(1) Amend and recodify existing Regulations **.03, .04, .11—.13, .15—.20, .22, and .05** under **COMAR 03.02.01 Alcoholic Beverages** to be Regulations **.02, .03, .07—.09, .11—.16, .18, and .19** under a new chapter, **COMAR 14.23.01 Alcoholic Beverages**, respectively; recodify existing Regulations **.06, .07, .09, .14, and .21** under **COMAR 03.02.01** to be Regulations **.04, .05, .06, .10, and .17** under **COMAR 14.23.01**, respectively; and adopt new Regulation **.01** under **COMAR 14.23.01**;

(2) Amend and recodify existing Regulations **.02, .07, and .08** under **COMAR 03.02.03 Maryland Cigarette Sales Below Cost Act** to be Regulations **.03, .08, and .09** under a new chapter, **COMAR 14.23.02 Maryland Cigarette Sales Below Cost Act**, respectively; recodify existing Regulations **.01 and .03—.06** under **COMAR 03.02.03** to be Regulations **.02 and .04—.07** under **COMAR 14.23.02**, respectively; and adopt new Regulation **.01** under **COMAR 14.23.02**;