

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

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Lansing, MI 48909
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REQUEST FOR RULEMAKING (RFR)

1. Department:

Labor and Economic Opportunity

2. Bureau:

MIOSHA

3. Promulgation type:

Full Process

4. Title of proposed rule set:

MIOSHA Safety and Health Standard Part 4. Board Procedures

5. Rule numbers or rule set range of numbers:

R 408.21401 to R 408.21447

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

MIOSHA Safety and Health Standard Part 4. Procedures. The Board of Health and Safety Compliance and Appeals procedures gives direction to employers and employees on governing proceedings in contested cases before the board.

MIOSHA is updating the rules to include the following:

- Correcting “board or a hearing officer” to “board”
- Rescinding unnecessary rules
- Adding language and modifying timelines for filing exceptions and responses

MIOSHA is updating the rules to remove duplicate provisions now contained in the uniform hearing rules R 792.10101 to R 792.11903. MIOSHA is also updating the rules to make them consistent with existing practices as authorized by the board.

In addition, minor editorial and formatting changes are being made throughout the rule set.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 408.1046(5) gives the board the specific promulgation authority for these rules.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

The Williams-Steiger Occupational Safety and Health Act of 1970 requires MIOSHA to promulgate standards that are at least effective as those promulgated under Section 6 of the Act; Section 46 of 1974 PA 154, and Section 33 of 1969 PA 306, MCL 408.1046 and 24.233 of the Michigan Compiled Laws. Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Michigan Occupational Safety and Health Act of 1974 PA 154, MCL 408.1046(5).

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

MIOSHA is updating the rules to remove duplicate provisions now contained in the uniform hearing rules R 792.10101 to R 792.11903.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The general subject matter of the appeals process is discussed in MIOSHA's field operation manual. Agency instruction MIOSHA-COM-04-2R3, Appeal and Settlement Processes for MIOSHA Enforcement Divisions, also addresses this subject.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The rules do not incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

Last amendment of the existing rule set was evaluated June 6, 2000.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No