

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

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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:

General Industry and Construction Safety and Health Part 505. Coronavirus-19 (COVID-19)

5. Rule numbers or rule set range of numbers:

R 408.1 to R 408.29

6. Estimated time frame:

6 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.

These rules are promulgated by the Director of the Michigan Department of Labor and Economic Opportunity to establish requirements for employers to control and prevent novel coronavirus disease (COVID-19) among employees. At present the Michigan Occupational Safety and Health Administration (MIOSHA) has no permanent rules specific to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) exposure. SARS-CoV-2 is easily transmitted through the air from person-to-person through respiratory aerosols.

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

The director of the department has the specific promulgation authority for the rules.

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

Sections 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 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.

No

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.

These permanent rules do not conflict with or duplicate other similar permanent rules, compliance requirements, or other standards adopted at the state, regional, or federal level. MIOSHA currently has temporary emergency rules covering these hazards.

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

Federal Occupational Safety and Health Administration (OSHA) and the Center for Disease Control and Prevention (CDC) have COVID-19 guidelines that will be reviewed during this rule promulgation process.

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

No.

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.

These permanent rules may exceed MIOSHA's temporary emergency rules on the subject.

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

No, MIOSHA has not received any recommendations from the public regarding the permanent rules.

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.

MIOSHA's current temporary emergency rules were issued October 14, 2020.

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