

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

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Labor and Economic Opportunity

2. Bureau:

MIOSHA

3. Promulgation type:

MCL 24.244 (2)

4. Title of proposed rule set:

Part 92. Hazard Communication

5. Rule numbers or rule set range of numbers:

R 408.19201 to R 408.19204

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.

MIOSHA Construction Safety Standard Part 42, Hazard Communication gives direction to employers and employees on the storage, transportation, and use of hazardous chemicals to comply with federal requirements.

OSHA is amending the Hazard Communication Standard (HCS) to conform to the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals (GHS), primarily Revision 7 (Rev. 7), address issues that arose during the implementation of the 2012 update to the HCS and provide better alignment with other U.S. agencies and international trading partners, while enhancing the effectiveness of the standard. Consistent with Executive Order 13563 and the Regulatory Flexibility Act, which call for assessment and, where appropriate, modification and improvement of existing rules, OSHA has reviewed the existing HCS. The agency has determined that the revisions in this final rule will enhance the effectiveness of the HCS by ensuring employees are appropriately apprised of the chemical hazards to which they may be exposed, thus reducing the incidence of chemical-related occupational illnesses and injuries. The modifications to the standard include revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for small containers, new provisions related to trade secrets, technical amendments related to the contents of safety data sheets (SDSs), and related revisions to definitions of terms used in the standard.

MIOSHA is amending these rules to be at least as effective as OSHA's (which is within the U.S. Department of Labor) recently revised standard, "Hazard Communication", 29 CFR § 1910.1200.

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

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

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

MCL 408.1014, MCL 408.1016, MCL 408.1069 and Executive Reorganization 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.

The Williams-Steiger Occupational Safety and Health Act of 1970 requires that MIOSHA promulgate standards that are "at least as effective as" those promulgated under Section 6 of the Act. Promulgation authority is mandated by MCL 408.1014(5) requiring MIOSHA to, within 10 working days, begin the processing of an administrative rule that is substantially similar to the federal occupational safety and health standard promulgated under the federal Occupational Safety and Health Act of 1970, Public Law 91-596.

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 rules are being promulgated under MCL 24.244 to be as effective as OSHA. Therefore, the state standards adopted by these rules are duplicative with the federal standards. The rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state or regional level.

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

MIOSHA is not aware of any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda that contains the subject matter of the rules.

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

No, the rules are not listed on the department's annual regulatory plan.

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?

MCL 24.244 (2)

A. Explain why the rules are being promulgated under 24.244.

R 408.19202 adopts by reference the Federal OSHA standard on Hazard Communication for construction. The rule is being revised to adopt by reference the revised OSHA standard to be as effective as the Federal regulation. Consequently, this rule revision is being promulgated under APA Section 44(2).

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.