

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

**GENERAL INDUSTRY SAFETY AND HEALTH STANDARD OCCUPATIONAL
HEALTH STANDARDS**

Filed with the secretary of state on

These rules become effective immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, and 2011-4, MCL 330.3101, 445.2001, 445.2011, 445.2025, and 445.2030)

R 325.59001 of the Michigan Administrative Code is amended, and R 325.59005, R 325.59010, R 325.59012, and R 325.59015 are rescinded, as follows:

~~OH~~ PART 590. SILICA IN GENERAL INDUSTRY

R 325.59001 **Scope, application, adoption, and availability of standards.** ~~Scope.~~

Rule 59001. (1) This standard applies to all occupational exposures to respirable crystalline silica, except as follows:

(a) Construction work as covered by ~~Occupational~~ **Construction Safety and Health Standard Part 690. "Silica in Construction."**

(b) Agricultural operations covered under Occupational Health Standard Part 700 "Agriculture."

(c) Exposures that result from the processing of sorptive clays.

(2) This standard does not apply where the employer has objective data demonstrating that employee exposure to respirable crystalline silica will remain below 25 micrograms per cubic meter of air ($25 \mu\text{g}/\text{m}^3$) as an 8-hour time-weighted average (TWA) under any foreseeable conditions.

(3) This standard does not apply if the employer complies with **Construction Safety and Health Standard Part 690. "Silica in Construction" and:** ~~any of the following:~~

~~(a) Occupational Health Standard Part 690 "Silica in Construction."~~

(a) ~~(b)~~ The task performed is indistinguishable from a construction task listed on Table 1 in 1926.1153(c) of **Construction Safety and Occupational Health Standard Part 690. "Silica in Construction;" and**

(b) ~~(c)~~ The task will not be performed regularly in the same environment and conditions.

(4) **The following federal Occupational Safety and Health Administration (OSHA) regulations are adopted by reference in these rules:**

May 24, 2019

(a) 29 CFR 1910.1053 “Respirable crystalline silica,” as amended March 25, 2016.

(b) 29 CFR 1910.1053, appendix A “Methods of Sample Analysis,” as amended March 25, 2016.

(c) 29 CFR 1910.1053, appendix B “Medical Surveillance Guidelines,” as amended March 25, 2016.

(5) A reference to 29 CFR 1910.94 means Occupational Health Standard Part 520. “Ventilation Control.”

(6) A reference to 29 CFR 1910.134 means Occupational Health Standard Part 451. “Respiratory Protection.”

(7) A reference to 29 CFR 1910.1020, means General Industry and Construction Safety and Health Standard Part 470. “Employee Medical Records and Trade Secrets.”

(8) A reference to 29 CFR 1910.1200 means Occupational Health Standard Part 430. “Hazard Communication.”

(9) The adopted federal regulations have the same force and effect as a rule promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(10) The OSHA regulations adopted in these rules are available from the United States Department of Labor, Occupational Safety and Health Administration website, www.osha.gov, at no charge, as of the time of adoption of these rules.

(11) The regulations adopted in these rules are available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(12) The regulations adopted in these rules may be obtained from the publisher or the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus \$20.00 for shipping and handling.

(13) The following Michigan Occupational Safety and Health Administration (MIOSHA) standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at the following website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Occupational Health Standard Part 430. “Hazard Communication,” R 325.77001 to R 325.77004.

(b) Occupational Health Standard Part 451. “Respiratory Protection,” R 325.60051 to R 325.60052.

(c) General Industry and Construction Safety and Health Standard Part 470. “Employee Medical Records and Trade Secrets,” R 325.3451 to R 325.3476.

(d) Occupational Health Standard Part 520. “Ventilation Control,” R 325.52001 to R 325.52012.

R 325.59005 **Rescinded.** Dates:

~~Rule 59005. (1) All obligations of this standard commence on June 23, 2018, except as provided for in 1910.1053(1)(3) and (4).~~

~~–(2) Hydraulic fracturing operations in the oil and gas industry are as follows:~~

~~–(a) All obligations of this standard, except obligations for medical surveillance in 1910.1053(i)(1)(i) and engineering controls in 1910.1053(f)(1) of this standard, commence June 23, 2018.~~

~~–(b) Obligations for engineering controls in 1910.1053(f)(1) of this standard commence June 23, 2021.~~

~~–(c) Obligations for medical surveillance in 1910.1053(i)(1)(i) commence in accordance with 1910.1053(l)(4) of this standard.~~

~~–(3) The medical surveillance obligations in 1910.053(i)(1)(i) commence on June 23, 2018, for employees who will be occupationally exposed to respirable crystalline silica above the permissible exposure limit (PEL) for 30 or more days per year. Those obligations commence June 23, 2020 for employees who will be occupationally exposed to respirable crystalline silica at or above the action level for 30 or more days per year.~~

R 325.59010 Rescinded. Adoption of standards.

~~–Rule 59010. (1) The following federal occupational safety and health administration (OSHA) regulations are adopted by reference in these rules:~~

~~–(a) 29 C.F.R. §1910.1053 “Respirable Crystalline Silica,” paragraphs (c) to (k), effective June 23, 2016.~~

~~–(b) Appendix A “Methods of Sample Analysis,” effective June 23, 2016.~~

~~–(c) Appendix B “Medical Surveillance Guidelines,” effective June 23, 2016.~~

~~–(2) As used in these rules, “29 CFR 1910.94” means Occupational Health Standard Part 520 Ventilation Control for General Industry.~~

~~–(3) As used in these rules, “29 CFR 1910.134” means Occupational Health Standard Part 451 Respiratory Protection.~~

~~–(4) As used in these rules, “29 CFR 1910.1020” means Occupational Health Standard Part 470 Employee Medical Records and Trade Secrets.~~

~~–(5) As used in these rules, “29 CFR 1910.1200” means Occupational Health Standard Part 430 Hazard Communication.~~

~~–(6) As used in these rules, “29 CFR 1926.1053” means Occupational Health Standard Part 690 Silica in Construction.~~

~~–(7) As used in these rules, 1910.1053(a) means R 325.59001 Scope.~~

~~–(8) As used in these rules, 1910.1053(b) means R 325.59015 Definitions.~~

~~–(9) As used in these rules, 1910.1053(l) means R 325.59005 Dates.~~

~~–(10) The federal regulation adopted in this rule has the same force and effect as a rule promulgated pursuant to the provisions of the Michigan occupational safety and health act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094.~~

R 325.59012 Rescinded. Adopted and referenced standards.

~~–Rule 59012. (1) The OSHA standard and appendices that are adopted in these rules are available from the United States Department of Labor, Occupational Safety and Health Administration website: www.osha.gov, at no charge, as of the time of adoption of these rules.~~

~~–(2) The standard adopted in these rules is available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143.~~

~~–(3) The standard adopted in these rules may be obtained from the publisher or may be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services~~

Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus \$20.00 for shipping and handling.

~~–(4) The following Michigan occupational safety and health administrative (MIOSHA) standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143; or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.~~

~~–(a) Occupational Health Standard Part 430 “Hazard Communication,” R 325.77001 to R 325.77003.~~

~~–(b) Occupational Health Standard Part 451 “Respiratory Protection,” R 325.60051 and R 325.60052.~~

~~–(c) Occupational Health Standard Part 470 “Employee Medical Records and Trade Secrets,” R 325.3451 to R 325.3476.~~

~~–(d) Occupational Health Standard Part 520 “Ventilation Control for General Industry,” R 325.62001 to R 325.62006.~~

~~–(e) Occupational Health Standard Part 690 “Silica in Construction.” R 325.69001 to R 325.69015.~~

R 325.59015 Rescinded. Definitions.

Rule 59015. (1) “Action level” means a concentration of airborne respirable crystalline silica of $25 \mu\text{g}/\text{m}^3$, calculated as an 8-hour TWA.

~~–(2) “Assistant secretary” means the director of the department of licensing and regulatory affairs or his or her designated representative.~~

~~–(3) “Director” means the director of the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, or designee.~~

~~–(4) “Competent person” means an individual who is capable of identifying existing and foreseeable respirable crystalline silica hazards in the workplace and who has authorization to take prompt corrective measures to eliminate or minimize them. The competent person must have the knowledge and ability necessary to fulfill the responsibilities set forth in paragraph (g) of 1926.1153.~~

~~–(5) “Employee exposure” means the exposure to airborne respirable crystalline silica that would occur if the employee were not using a respirator.~~

~~–(6) “High efficiency particulate air (HEPA) filter” means a filter that is at least 99.97 percent efficient in removing mono-dispersed particles of 0.3 micrometers in diameter.~~

~~–(7) “Objective data” means information, such as air monitoring data from industry-wide surveys or calculations based on the composition of a substance, demonstrating employee exposure to respirable crystalline silica associated with a particular product or material or a specific process, task, or activity. The data must reflect workplace conditions closely resembling or with a higher exposure potential than the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.~~

~~–(8) “Physician or other licensed health care professional (PLHCP)” means an individual whose legally permitted scope of practice, such as license, registration, or certification, allows him or her to independently provide or be delegated the responsibility to provide some or all of the particular health care services required by 1926.1153(i).~~

~~–(9) “Respirable crystalline silica” means quartz, cristobalite, and/or tridymite contained in airborne particles that are determined to be respirable by a sampling device designed to meet the characteristics for respirable particle size selective samplers specified in the International Organization for Standardization (ISO) 7708:1995: Air Quality—Particle Size Fraction Definitions for Health Related Sampling.~~

~~–(10) “Specialist” means an American Board Certified Specialist in Pulmonary Disease or an American Board Certified Specialist in Occupational Medicine.~~

~~–(11) “This section” means this respirable crystalline silica standard, 29 CFR 1910.1053 (or Occupational Safety Health Standard Part 590 Silica in General Industry).~~