

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

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Health and Human Services

2. Bureau:

Public Health Administration

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Body Art Facilities

5. Rule numbers or rule set range of numbers:

R 333.13101 - R 333.13118

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.

This administrative rule set is new. There are no current body art administrative rules that provide guidance to those employed in or who own body art facilities and stakeholders involved in the body art facility process, including health inspectors, the courts, and law enforcement. In absence of these rules, the spread of disease by improper or illegal procedures performed by body art owners, operators and technicians is likely. At home, unregulated body artists do not follow proper infection control that hampers proper infection control and leads to the spread of infectious disease. As public health is of paramount concern, the rules will provide the necessary requirements to hold accountable those owners, operators, and technicians who wish to perform body art. The rules promote quality control and prevent the spread of infections and diseases, e.g., Hepatitis C, from occurring in this state. The rules also serve as enforcement to the major threat to the public by illegal tattooists offering at home services and procedures in unsanitary conditions.

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

Department Director

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

By authority conferred on the department of health and human services by section 2226, 2233, and 2235 of 1978 PA 368, MCL 333.2226, 333.2233, and 333.2235, section 13108 of 2010 PA 375, MCL 333.13108, and section 24 of 1974 PA 154, MCL 408.1024.

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

The rules are not mandated by any applicable constitutional or statutory provision.

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.

The proposed rules do not conflict or duplicate similar rules or other standards in this State, regionally, or federally. There is no federal requirement that mandates these rules.

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

The subject matter of the rules is contained in the Michigan Department of Health and Human Services' "Requirements for Body Art Facilities."; "Frequently Asked Questions" on body art procedures and facilities. "Body Art Aftercare Information and instructions"; "How to Get a License"; and "File a Complaint." All of this information can be found at <https://www.michigan.gov/mdhhs/doing-business/licensing/body-art> . Information also includes references to the CDC and MIOSHA standards.

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

The rules are listed on the department's annual regulatory plan as rules to be processed for the current year.

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.

Both the body art owners and the state and local health departments have requested rules to ensure all body art facilities are following the same standards for body art practices while ensuring the health and safety of clientele in these facilities. Further, an enforcement mechanism is needed in order to violate or shut down those "facilities" that do not follow the statute and subject the clientele to illness, infection, and the spread of that infection in the State.

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.

This is a new rule set.

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?

This is a new rule set. There is a need for the rules to not only ensuring the health and safety of clientele in these facilities, but to offer enforcement for those artists who do not follow the statute and administrative rules and subjecting clientele to illness, infection, and the spread of that infection in the State.

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

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.