

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 (1)

4. Title of proposed rule set:

Part 505, Coronavirus Disease 2019 (COVID-19) for Healthcare

5. Rule numbers or rule set range of numbers:

R 408.1 - R 408.2

6. Estimated time frame:

3 months

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STEVEN MASON BLDG

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

These rules were 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 in the healthcare industry who have exposure to persons confirmed or suspected to have COVID-19.

These rules were previously adopted, to be as effective as the federal Occupational Safety and Health Administration (OSHA) standard 29 CFR Subpart U, "COVID-19 Emergency Temporary Standard"; 29 CFR 1910.502, "Healthcare"; 29 CFR 1910.504, "Mini Respiratory Protection Program"; 29 CFR 1910.505, "Severability"; and 29 CFR 1910.509, "Incorporation by Reference."

Per R 408.2 the United States Department of Labor, Occupational Safety and Health Administration has since withdrawn those standards, except for 29 CFR 1910.502(q)(2)(ii), 29 CFR 1910.502 (q)(3)(ii) - (iv), and 29 CFR 1910.502(r). Since the standards have been withdrawn, R 408.1 and R 408.2 are being rescinded.

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.).

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 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.

The rules are mandated by the United States Department of Labor, Occupational Safety and Health Administration (OSHA), 29 CFR 1902 Subpart B, "Criteria for State Plans." Other than the rules moving to MIOSHA Administrative Standard Part 11, Recording and Reporting, the standards adopted in R 408.1 to R 408.2 have been withdrawn by the United States Department of Labor, Occupational Safety and Health Administration, so the adoption of the standards has sunset pursuant to R 408.2 and these rules are being rescinded.

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 do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level. Other than 29 CFR 1910.502(q)(2)(ii), 29 CFR 1910.502 (q)(3)(ii) - (iv), and 29 CFR 1910.502(r), the standards adopted by these rules have been withdrawn by the United States Department of Labor, Occupational Safety and Health Administration.

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?

Yes, the rules are 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 (1)

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

These rules are being promulgated under MCL 24.244 (1) as this is a rescission of rules that are obsolete.

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.