



STATE OF MICHIGAN  
JOCELYN BENSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

June 8, 2020

**NOTICE OF FILING**

**ADMINISTRATIVE RULES**

To: Secretary of the Senate  
Clerk of the House of Representatives  
Joint Committee on Administrative Rules  
Michigan Office of Administrative Hearings and Rules (Administrative Rules #19-112-LE)  
Legislative Service Bureau (Secretary of State Filing #20-06-03)  
Department of Labor and Economic Opportunity

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2019-112-LE (Secretary of State Filing #20-06-03) on this date at 12:14 P.M. for the Department of Labor and Economic Opportunity entitled, "Part 632. Hazardous Waste Operations and Emergency Response in Construction".

These rules take effect 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.

Sincerely,

Jocelyn Benson  
Secretary of State

Melissa Malerman, Departmental Supervisor  
Office of the Great Seal

Enclosure



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC OPPORTUNITY  
LANSING

JEFF DONOFRIO  
DIRECTOR

## CERTIFICATE OF ADOPTION

(By authority conferred on the director of the department of labor and economic opportunity 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, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

R 325.63201 is added to the Michigan Administrative Code.

Date: April 21, 2020

A handwritten signature in black ink, appearing to read "Jeff Donofrio".

Jeff Donofrio, Director



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

## LEGAL CERTIFICATION OF RULE

I certify that I have examined the attached administrative rule, dated March 30, 2020, in which the Department of Labor and Economic Opportunity proposes to modify a portion of the Michigan Administrative Code entitled "**Construction Safety and Health Standard Part 632. Hazardous Waste Operations and Emergency Response in Construction**" by:

- ◆ Adding R 325.63201.

The Legislative Service Bureau has approved the proposed rule as to form, classification, and arrangement.

I approve the rule as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rule as to legality, I have determined that it is within the scope of the authority of the agency, does not violate constitutional rights, and is in conformity with the requirements of the Administrative Procedures Act.

Dated: April 21, 2020

Michigan Office of Administrative Hearings and Rules

By: \_\_\_\_\_

Katie Wienczewski,  
Attorney



Since 1941

**Legal Division**

**Kevin H. Studebaker, Director**

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Labor and Economic Opportunity dated March 30, 2020, adding R 325.63201 of the Department's rules entitled "Construction Safety and Health Standard Part 632. Hazardous Waste Operations and Emergency Response in Construction." I approve the rules as to form, classification, and arrangement.

Pursuant to section 44(2) of 1969 PA 306, being MCL 24.244(2), these rules are being processed without a public hearing.

Dated: April 21, 2020

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,  
Legal Counsel

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY AND HEALTH STANDARD

Filed with the secretary of state on June 8, 2020

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 labor and economic opportunity 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, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

R 325.63201 is added to the Michigan Administrative Code, as follows:

PART 632. HAZARDOUS WASTE OPERATIONS AND EMERGENCY RESPONSE IN  
CONSTRUCTION

R 325.63201 Scope, adoption, and availability of standards.

Rule 1. (1) These rules cover all of the following operations, unless the employer can demonstrate that the operation does not involve employee exposure or the reasonable possibility for employee exposure to safety or health hazards:

(a) Clean-up operations required by a governmental body, whether federal, state, local, or other, involving hazardous substances that are conducted at uncontrolled hazardous waste sites, including, but not limited to, the federal Environmental Protection Agency's (EPA's) national priority site list (npsl), state priority site lists, sites recommended for the EPA's npsl, and initial investigations of government identified sites that are conducted before the presence or absence of hazardous substances has been ascertained.

(b) Corrective actions involving clean-up operations at sites covered by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 USC 6901 et seq.

(c) Voluntary clean-up operations at sites recognized by federal, state, local, or other governmental bodies as uncontrolled hazardous waste sites.

(d) Operations involving hazardous wastes that are conducted at treatment, storage, and disposal (tsd) facilities regulated by 40 CFR parts 264 and 265 (February 22, 2019), pursuant to RCRA, or by agencies under agreement with the EPA to implement RCRA regulations.

(e) Emergency response operations for releases of, or substantial threats of releases of, hazardous substances without regard to the location of the hazard.

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

March 30, 2020

- (a) 29 CFR 1926.65, “Hazardous waste operations and emergency response,” as amended February 18, 2020.
  - (b) 29 CFR 1926.65, appendix A “Personal protective equipment test methods,” as amended February 18, 2020.
  - (c) 29 CFR 1926.65, appendix B “General description and discussion of the levels of protection and protective gear,” as amended August 22, 1994.
  - (d) 29 CFR 1926.65, appendix C “Compliance guidelines,” as amended June 30, 1993.
  - (e) 29 CFR 1926.65, appendix D “References,” as amended February 13, 1996.
  - (f) 29 CFR 1926.65, appendix E “Training Curriculum Guidelines,” as amended February 8, 2013.
- (3) A reference to 29 CFR 1926.20 and 1926.51 means Construction Safety Standard Part 1. “General Rules.”
  - (4) A reference to 29 CFR 1926.33 means General Industry and Construction Safety and Health Standard Part 470. “Employee Medical Records and Trade Secrets.”
  - (5) A reference to 29 CFR 1926.35 means Construction Safety Standard Part 18. “Fire Protection and Prevention.”
  - (6) A reference to 29 CFR 1926.55 means Construction Safety and Health Standard Part 601. “Air Contaminants for Construction.”
  - (7) A reference to 29 CFR 1926.59 means both of the following:
    - (a) Construction Safety Standard Part 42. “Hazard Communication.”
    - (b) Occupational Health Standard Part 430. “Hazard Communication.”
  - (8) A reference to 29 CFR 1926.97 means Construction Safety and Health Standard Part 6. “Personal Protective Equipment.”
  - (9) A reference to 29 CFR 1926.103 means Occupational Health Standard Part 451. “Respiratory Protection.”
  - (10) A reference to 29 CFR 1926.159 “Employer alarm system,” means 29 CFR 1926.159; however, OSHA removed this regulation on June 20, 1996.
  - (11) A reference to 29 CFR part 1926, subpart D, means all of the following:
    - (a) Construction Safety Standard Part 1. “General Rules.”
    - (b) Construction Safety and Health Standard Part 6. “Personal Protective Equipment.”
    - (c) Construction Safety Standard Part 42. “Hazard Communication.”
    - (d) Construction Safety Standard Part 91. “Process Safety Management of Highly Hazardous Chemicals.”
    - (e) Occupational Health Standard Part 430. “Hazard Communication.”
    - (f) Construction Safety and Health Standard Part 601. “Air Contaminants for Construction.”
    - (g) Construction Safety and Health Standard Part 603. “Lead Exposure in Construction.”
    - (h) Construction Safety and Health Standard Part 605. “Methylenedianiline (MDA) in Construction.”
    - (i) Construction Safety and Health Standard Part 620. “Ventilation Control for Construction.”
    - (j) Construction Safety and Health Standard Part 632. “Hazardous Waste Operations and Emergency Response in Construction.”
    - (k) Occupational Health Standard Part 680. “Occupational Noise Exposure.”
    - (l) Occupational Health Standard Part 681. “Radiation in Construction: Ionizing and Nonionizing.”
  - (12) A reference to 29 CFR part 1926, subpart E, means both of the following:
    - (a) Construction Safety and Health Standard Part 6. “Personal Protective Equipment.”

- (b) Construction Safety Standard Part 45. "Fall Protection."
- (13) A reference to 29 CFR part 1926, subpart F, means Construction Safety Standard Part 18. "Fire Protection and Prevention."
- (14) A reference to 29 CFR part 1926, subpart P, means Construction Safety Standard Part 9. "Excavation, Trenching, and Shoring."
- (15) A reference to 29 CFR 1910.141 means General Industry Safety and Health Standard Part 474. "Sanitation."
- (16) A reference to 29 CFR 1910.1200 means both of the following:
- (a) General Industry Safety Standard Part 92. "Hazard Communication."
  - (b) Occupational Health Standard Part 430. "Hazard Communication."
- (17) 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.
- (18) 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](http://www.osha.gov), at no charge, as of the time of adoption of these rules.
- (19) The regulations adopted in these rules are available for inspection at the Department of Labor and Economic Opportunity, Michigan Occupational Safety and Health Administration (MIOSHA) Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan 48909-8143.
- (20) The regulations adopted in these rules may be obtained from the publisher or the Department of Labor and Economic Opportunity, 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.
- (21) The following 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 Labor and Economic Opportunity, 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](http://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) Construction Safety Standard Part 1. "General Rules," R 408.40101 to R 408.40134.
  - (b) Construction Safety and Health Standard Part 6. "Personal Protective Equipment," R 408.40601 to R 408.40660.
  - (c) Construction Safety Standard Part 9. "Excavation, Trenching and Shoring," R 408.40901 to R 408.40953.
  - (d) Construction Safety Standard Part 18. "Fire Protection and Prevention," R 408.41801 to R 408.41884.
  - (e) Construction Safety Standard Part 42. "Hazard Communication," R 408.44201 to R 408.44204.
  - (f) Construction Safety Standard Part 45. "Fall Protection," R 408.44501 to R 408.44502.
  - (g) Construction Safety Standard Part 91. "Process Safety Management of Highly Hazardous Chemicals," R 408.49101 to R 408.49103.
  - (h) Occupational Health Standard Part 430. "Hazard Communication," R 325.77001 to R 325.77004.
  - (i) Occupational Health Standard Part 451. "Respiratory Protection," R 325.60051 to R 325.60052.

- (j) General Industry and Construction Safety and Health Standard Part 470. "Employee Medical Records and Trade Secrets," R 325.3451 to R 325.3476.
- (k) General Industry Safety and Health Standard Part 474. "Sanitation," R 325.47401 to R 325.47425.
- (l) Construction Safety and Health Standard Part 601. "Air Contaminants for Construction," R 325.60151 to R 325.60161.
- (m) Construction Safety and Health Standard Part 603. "Lead Exposure in Construction," R 325.51983 to R 325.51993.
- (n) Construction Safety and Health Standard Part 605. "Methylenedianiline (MDA) in Construction," R 325.60501.
- (o) Construction Safety and Health Standard Part 620. "Ventilation Control for Construction," R 325.62001 to R 325.62006.
- (p) Construction Safety and Health Standard Part 632. "Hazardous Waste Operations and Emergency Response in Construction," R 325.63201.
- (q) Occupational Health Standard Part 680. "Occupational Noise Exposure," R 325.60131.
- (r) Occupational Health Standard Part 681. "Radiation in Construction: Ionizing and Nonionizing," R 325.68101 to R 325.68102.
- (s) General Industry Safety Standard Part 92. "Hazard Communication," R 408.19201 to R 408.19204.



FILED WITH SECRETARY OF STATE

ON 6/8/20 AT 12:14 PM.