



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 #19-113-LE)
Legislative Service Bureau (Secretary of State Filing #20-06-04)
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 #2019-113-LE (Secretary of State Filing #20-06-04) on this date at 1:24 P.M. for the Department of Labor and Economic Opportunity entitled, "Part 640. Beryllium 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 /CK

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 325.64001 is added to the Michigan Administrative Code.

Date: April 1, 2020

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

Jeff Donofrio, Director



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULE

I certify that I have examined the attached administrative rule, dated October 17, 2019, 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 640. Beryllium in Construction" by:

- ◆ Adding R 325.64001.

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 1, 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 October 17, 2019, adding R 325.64001 of the Department's rules entitled "Construction Safety and Health Standard Part 640. Beryllium 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: March 31, 2020

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,
Legal Counsel

Michigan Legislature

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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 325.64001 is added to the Michigan Administrative Code, as follows:

PART 640. BERYLLIUM IN CONSTRUCTION

R 325.64001 Scope, application, adoption, and availability of standards.

Rule 4001. (1) This standard applies to occupational exposure to beryllium in all forms, compounds, and mixtures in construction, except those articles and materials exempted by subrules (2) and (3) of this rule.

(2) This standard does not apply to articles, as defined in Construction Safety Standard Part 42. "Hazard Communication," that contain beryllium and that the employer does not process.

(3) This standard does not apply to materials containing less than 0.1% beryllium by weight where the employer has objective data demonstrating that employee exposure to beryllium will remain below the action level as an 8-hour TWA under any foreseeable conditions.

(4) The federal Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1926.1124 "Beryllium," as amended September 30, 2019, is adopted by reference in these rules.

(5) A reference to 29 CFR 1926.51, means Construction Safety Standard Part 1. "General Rules."

(6) A reference to 29 CFR part 1926 subpart E, means Construction Safety and Health Standard Part 6. "Personal Protective Equipment."

(7) A reference to 29 CFR 1910.1200, means Construction Safety Standard Part 42. "Hazard Communication."

(8) A reference to 29 CFR 1910.134, means Occupational Health Standard Part 451. "Respiratory Protection."

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

October 17, 2019

(10) The adopted federal regulations shall 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.

(11) 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.

(12) The regulations adopted in these rules are available for inspection at the Department of Labor and Economic Opportunity, MIOSHA, Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(13) The regulations adopted in these rules may be obtained from the publisher or the Department of Labor and Economic Opportunity, MIOSHA, Standards and FOIA 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.

(14) 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 Labor and Economic Opportunity, MIOSHA, Standards and FOIA 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) 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 42. "Hazard Communication," R 408.44201 to R 408.44204.

(d) Occupational Health Standard Part 451. "Respiratory Protection," R 325.60051 to R 325.60052.

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

FILED WITH SECRETARY OF STATE

ON 6/8/20 AT 1:24 P.M.