



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

March 23, 2021

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 #20-064-LE)
Legislative Service Bureau (Secretary of State Filing #21-03-11)
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 #2020-064-LE (Secretary of State Filing #21-03-11) on this date at 2:06 P.M. for the Department of Labor and Economic Opportunity entitled, "Construction Safety and Health Standard Part 304. Ethylene Oxide".

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 LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

March 23, 2021

The Honorable Jocelyn Benson
Secretary of State
Office of the Great Seal
Richard H. Austin Building – 1st Floor
430 W. Allegan
Lansing, MI 48909

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules
Administrative Rules #: 2020-64 LE

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated December 22, 2020, for the Department of Labor and Economic Opportunity - "**General Industry Safety and Health Standard Part 304. Ethylene Oxide**". We are transmitting these rules to you pursuant to 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.

Sincerely,

Michigan Office of Administrative Hearings and Rules



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY
LANSING

SUSAN CORBIN
ACTING 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 325.51151 of the Michigan Administrative Code is amended.

Date: 02/17/2021

Adopted by:

A handwritten signature in cursive script that reads "Susan R. Corbin".

Susan R. Corbin
Acting Director
Department of Labor and Economic Opportunity



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated December 22, 2020, in which the Department of Labor and Economic Opportunity proposes to modify a portion of the Michigan Administrative Code entitled "**General Industry and Construction Safety and Health Standard – Part 304. Ethylene Oxide**" by:


- ◆ Amending R 325.51151.

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

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

Dated: February 9, 2021

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 December 22, 2020, amending R 325.51151 of the Department's rules entitled "General Industry and Construction Safety and Health Standard Part 304. Ethylene Oxide." I approve the rules as to form, classification, and arrangement.

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

Dated: February 8, 2021

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,
Legal Counsel

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

GENERAL INDUSTRY AND CONSTRUCTION SAFETY AND HEALTH
STANDARD

Filed with the secretary of state on March 23, 2021

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.

(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 325.51151 of the Michigan Administrative Code is amended, as follows:

PART 304. ETHYLENE OXIDE

R 325.51151 Scope, application, adoption, and availability of standards.

Rule 1. (1) These rules apply to all occupational exposures to ethylene oxide (EtO), chemical abstracts service registry no. 75-21-8, except as provided in subrule (2) of this rule.

(2) These rules do not apply to the processing, use, and handling of products that contain EtO if objective data are reasonably relied upon that demonstrate that the product is not capable of releasing EtO in airborne concentrations at or above the action level under the expected conditions of processing, use, or handling that will cause the greatest possible release.

(3) If products containing EtO are exempted under subrule (2) of this rule, the employer shall maintain records of the objective data supporting that exemption and the basis for the employer's reliance on the data, as provided in 29 CFR 1910.1047(k)(1), which is adopted by reference in subrule (4) of this rule.

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

(a) 29 CFR 1910.1047 "Ethylene oxide," as amended May 14, 2019.

(b) 29 CFR 1910.1047, appendix A "Substance safety data sheet for ethylene oxide (non-mandatory)," as amended January 8, 1998.

(c) 29 CFR 1910.1047, appendix B "Substance technical guidelines for ethylene oxide (non-mandatory)," as in effect as of the effective date of these rules.

(d) 29 CFR 1910.1047, appendix C “Medical surveillance guidelines for ethylene oxide (non-mandatory),” as in effect as of the effective date of these rules.

(e) 29 CFR 1910.1047, appendix D “Sampling and analytical methods for ethylene oxide (non-mandatory),” as amended February 13, 1996.

(5) A reference to 29 CFR 1910.38 and 1910.39 means General Industry Safety and Health Standard Part 6. “Fire Exits.”

(6) A reference to 29 CFR 1910.132 and 1910.133 means General Industry Safety and Health Standard Part 33. “Personal Protective Equipment.”

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

(8) A reference to 29 CFR 1910.134 means General Industry and Construction Safety and 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.”

(10) 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.

(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 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, at 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) General Industry and Construction Safety and Health Standard Part 451. “Respiratory Protection,” R 325.60051 to R 325.60052.

(c) General Industry Safety and Health Standard Part 6. “Fire Exits,” R 408.10601 to R 408.10697.

(d) General Industry Safety and Health Standard Part 33. “Personal Protective Equipment,” R 408.13301 to R 408.13398.

(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 3/23/21 AT 2:06 P.M.