



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

March 24, 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 #20-092-LE)
Legislative Service Bureau (Secretary of State Filing #21-03-17)
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 #2020-092-LE (Secretary of State Filing #21-03-17) on this date at 1:12 P.M. for the Department of Labor and Economic Opportunity entitled, "General Industry Part 590. Silica".

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 24, 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 #: 2020-92 LE

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated December 10, 2020, for the Department of Labor and Economic Opportunity - "**General Industry Part 590. Silica**". 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 325.59001 of the Michigan Administrative Code is amended.

Date: 2/17/2021

Adopted by 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 10, 2020, in which the Department of Labor and Economic Opportunity proposes to modify a portion of the Michigan Administrative Code entitled “**General Industry Safety and Health Standard – Part 590. Silica in General Industry**” by:

- ◆ Amending R 325.59001.

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 8, 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 10, 2020, amending R 325.59001 of the Department's rules entitled "General Industry Safety and Health Standard Part 590. Silica in General Industry." 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 5, 2021

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,
Legal Counsel

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY AND HEALTH STANDARD

Filed with the secretary of state on March 24, 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 325.59001 of the Michigan Administrative Code is amended, as follows:

PART 590. SILICA IN GENERAL INDUSTRY

R 325.59001 Scope, application, adoption, and availability of standards.

Rule 59001. (1) This standard applies to all occupational exposures to respirable crystalline silica, except as follows:

(a) Construction work as covered by Construction Safety and Health Standard Part 690. "Silica in Construction."

(b) Agricultural operations covered under Occupational Health Standard Part 700. "Agriculture."

(c) Exposures that result from the processing of sorptive clays.

(2) This standard does not apply where the employer has objective data demonstrating that employee exposure to respirable crystalline silica will remain below 25 micrograms per cubic meter of air ($25 \mu\text{g}/\text{m}^3$) as an 8-hour time-weighted average (TWA) under any foreseeable conditions.

(3) This standard does not apply if the employer complies with Construction Safety and Health Standard Part 690. "Silica in Construction" and both of the following apply:

(a) The task performed is indistinguishable from a construction task listed on Table 1 in 29 CFR 1926.1153(c) of Construction Safety and Health Standard Part 690. "Silica in Construction."

(b) The task will not be performed regularly in the same environment and conditions.

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

(a) 29 CFR 1910.1053 "Respirable crystalline silica," as amended May 14, 2019.

(b) 29 CFR 1910.1053, appendix A “Methods of Sample Analysis,” as amended March 25, 2016.

(c) 29 CFR 1910.1053, appendix B “Medical Surveillance Guidelines,” as amended March 25, 2016.

(5) A reference to 29 CFR 1910.94 means Occupational Health Standard Part 520. “Ventilation Control.”

(6) A reference to 29 CFR 1910.134 means General Industry and Construction Safety and Health Standard Part 451. “Respiratory Protection.”

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

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

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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) 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 and Construction Safety and Health Standard Part 470. “Employee Medical Records and Trade Secrets,” R 325.3451 to R 325.3476.

(d) Occupational Health Standard Part 520. “Ventilation Control,” R 325.52001 to R 325.52012.

FILED WITH SECRETARY OF STATE

ON 3/24/21 AT 1:12 P.M.