



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

September 9, 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 #21-039-LE)
Legislative Service Bureau (Secretary of State Filing #21-09-02)
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 #2021-039-LE (Secretary of State Filing #21-09-02) on this date at 3:42 P.M. for the Department of Labor and Economic Opportunity entitled, "Construction Safety and Health Standard Part 10. Cranes and Derricks".

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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

Adam Fracassi, Departmental Supervisor
Office of the Great Seal

Enclosure



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

September 9, 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 #: 2021-39 LE

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated June 1, 2021 for the Department of Labor and Economic Opportunity “**Construction Safety and Health Standard Part 10. Cranes and Derricks**”. 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 408.41001 of the Michigan Administrative Code is amended.

Date: 7/23/2021

Adopted by: *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 June 1, 2021, 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 10. Cranes and Derricks**” by:

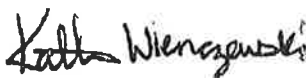
- ◆ Amending R 408.41001.

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: July 12, 2021

Michigan Office of Administrative Hearings and Rules

By: 
Katie Wienczewski,
Attorney

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 June 1, 2021, amending R 408.41001 of the Department's rules entitled "Construction Safety and Health Standard Part 10. Cranes and Derricks." 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: July 12, 2021

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 September 9, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 408.41001 of the Michigan Administrative Code is amended, as follows:

PART 10. CRANES AND DERRICKS

R 408.41001 Scope, adoption, and availability of standards.

Rule 1001. (1) This standard applies to power-operated equipment, when used in construction, that can hoist, lower, and horizontally move a suspended load. Such equipment includes, but is not limited to, any of the following:

- (a) Articulating cranes, such as knuckle-boom cranes.
- (b) Crawler cranes.
- (c) Floating cranes.
- (d) Cranes on barges.
- (e) Locomotive cranes.
- (f) Mobile cranes, such as wheel-mounted, rough-terrain, all-terrain, commercial truck-mounted, and boom truck cranes.
- (g) Multi-purpose machines when configured to hoist and lower by means of a winch or hook and horizontally move a suspended load.
- (h) Industrial cranes, such as carry-deck cranes.
- (i) Dedicated pile drivers.
- (j) Service/mechanic trucks with a hoisting device.
- (k) Crane on a monorail.
- (l) Tower cranes, such as a fixed jib, for example, "hammerhead boom", luffing boom, and self-erecting.
- (m) Pedestal cranes.
- (n) Portal cranes.
- (o) Overhead and gantry cranes.

June 1, 2021

- (p) Straddle cranes.
- (q) Sideboom cranes.
- (r) Derricks.

(s) Variations of equipment listed in subdivisions (a) to (r) of this subrule. Items listed in subrule (3) of this rule are excluded from the scope of this standard.

(2) Attachments. This standard applies to equipment included in subrule (1) of this rule when used with attachments. These attachments, whether crane-attached or suspended, include, but are not limited to, any of the following:

- (a) Hooks.
- (b) Magnets.
- (c) Grapples.
- (d) Clamshell buckets.
- (e) Orange peel buckets.
- (f) Concrete buckets.
- (g) Drag lines.
- (h) Personnel platforms.
- (i) Augers or drills.
- (j) Pile driving equipment.

(3) Exclusions. This standard does not cover any of the following:

(a) Machinery included in subrule (1) of this rule while it has been converted or adapted for a non-hoisting or lifting use. These conversions or adaptations include, but are not limited to, any of the following:

- (i) Power shovels.
- (ii) Excavators.
- (iii) Concrete pumps.

(b) The following machinery is excluded when used with chains, slings, or other rigging to lift suspended loads:

- (i) Power shovels.
- (ii) Excavators.
- (iii) Wheel loaders.
- (iv) Backhoes.
- (v) Loader backhoes.
- (vi) Track loaders.

(c) Automotive wreckers and tow trucks when used to clear wrecks and haul vehicles.

(d) Digger derricks when used for augering holes for poles carrying electric or telecommunication lines, placing and removing the poles, and for handling associated materials to be installed on, or removed from, the poles. Digger derricks used in work subject to Construction Safety Standard Part 16. "Power Transmission and Distribution," must comply with General Industry Safety and Health Standard Part 86. "Electric Power Generation, Transmission, and Distribution." Digger derricks used in construction work for telecommunication service, as defined in and must comply with Construction Safety and Health Standard Part 30. "Telecommunications for Construction."

(e) Machinery originally designed as vehicle-mounted aerial devices for lifting personnel and self-propelled elevating work platforms.

- (f) Telescopic or hydraulic gantry systems.
- (g) Stacker cranes.

- (h) Powered industrial trucks, for example, forklifts, except when configured to hoist and lower by means of a winch or hook and horizontally move a suspended load.
- (i) Mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair.
- (j) Machinery that hoists by using a come-a-long or chainfall.
- (k) Dedicated drilling rigs.
- (l) Gin poles when used for the erection of communication towers.
- (m) Tree trimming and tree removal work.
- (n) Anchor handling or dredge-related operations with a vessel or barge using an affixed A-frame.
- (o) Roustabouts.
- (p) Material delivery under the following conditions:
 - (i) Articulating knuckle-boom truck cranes that deliver material to a construction site when used to transfer materials from the truck crane to the ground, without arranging the materials in a particular sequence for hoisting.
 - (ii) Articulating or knuckle-boom truck cranes that deliver material to a construction site when the crane is used to transfer building supply sheet goods or building supply packaged materials from the truck crane onto a structure, using a fork or cradle at the end of the boom, but only when the truck crane is equipped with a properly functioning automatic overload prevention device. These sheet goods or packaged materials include, but are not limited to, sheets of sheet rock, sheets of plywood, bags of cement, sheets or packages of roofing shingles, and rolls of roofing felt.
 - (iii) The exclusion in this subdivision does not apply when used under any of the following circumstances:
 - (A) The articulating or knuckle-boom crane is used to hold, support, or stabilize the material to facilitate a construction activity, such as holding material in place while it is attached to the structure.
 - (B) The material being handled by the articulating knuckle-boom crane is a prefabricated component. Prefabricated components include, but are not limited to, precast concrete members or panels; roof trusses constructed of wood; cold formed metal, steel, or other materials; and prefabricated building sections such as, but not limited to, floor panels, wall panels, roof panels, roof structures, or similar items.
 - (C) The material being handled by the crane is a structural steel member, for example, steel joists, beams, columns, bundled or unbundled steel decking, or a component of a systems-engineered metal building, as defined in Construction Safety Standard Part 26. "Steel Erection."
 - (D) The activity is not specifically excluded under 29 CFR 1926.1400(c)(17)(i) and (ii).
- (4) All sections of 29 CFR part 1926, subpart CC, apply to the equipment covered by this standard unless specified otherwise.
- (5) The duties of controlling entities under this standard include, but are not limited to, the duties specified in 29 CFR 1926.1402(c) and (e) and 1926.1424(b).
- (6) Where provisions of this standard direct an operator, crewmember, or other employee to take certain actions, the employer must establish effective communication to the relevant persons, and enforce work rules to ensure compliance with such provisions.

(7) Work covered by Construction Safety Standard Part 16. "Power Transmission and Distribution," in compliance with General Industry Safety and Health Standard Part 86. "Electric Power Generation, Transmission, and Distribution," is deemed in compliance with 29 CFR 1926.1407 to 1926.1411.

(8) 29 CFR 1926.1402 does not apply to cranes designed for use on railroad tracks, when used on railroad tracks that are part of the general railroad system of transportation that is regulated under the Federal Railroad Administration under 49 CFR part 213, and that comply with applicable Federal Railroad Administration requirements. See 29 CFR 1926.1402(f).

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

(a) 29 CFR part 1926, subpart CC, "Cranes and Derricks in Construction," 29 CFR 1926.1400 to 1926.1442, as amended November 16, 2020, except 29 CFR 1926.1400(c)(16) is not adopted, and as specified in subrules (e) and (f) of this rule.

(b) 29 CFR part 1926, subpart CC, appendix A "Standard Hand Signals," as amended August 9, 2010.

(c) 29 CFR part 1926, subpart CC, appendix B "Assembly/Disassembly--Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement," as amended August 9, 2010.

(d) 29 CFR part 1926, subpart CC, appendix C "Operator Certification--Written Examination--Technical Knowledge Criteria," as amended August 9, 2010.

(e) 29 CFR 1926.1427, "Operator training, certification, and evaluation," as amended November 9, 2018.

(f) 29 CFR 1926.1430, "Training," as amended November 9, 2018.

(10) A reference to 29 CFR 1926.251 means Construction Safety and Health Standard Part 8. "Handling and Storage of Materials."

(11) A reference to 29 CFR 1926.959 and 1926.960 means Construction Safety Standard Part 16. "Power Transmission and Distribution."

(12) A reference to 29 CFR part 1926, subpart R means Construction Safety Standard Part 26. "Steel Erection," and Construction Safety Standard Part 28. "Personnel Hoisting in Steel Erection."

(13) A reference to 29 CFR 1926.500 and 1926.502 means Construction Safety Standard Part 45. "Fall Protection."

(14) A reference to 29 CFR 1926.106 means Construction Safety and Health Standard Part 6. "Personal Protective Equipment."

(15) A reference to 29 CFR 1910.268 means Construction Safety and Health Standard Part 30. "Telecommunications for Construction."

(16) A reference to 29 CFR 1910.179 means General Industry Safety and Health Standard Part 18. "Overhead and Gantry Cranes."

(17) A reference to 29 CFR 1910.147 means General Industry Safety and Health Standard Part 86. "Electric Power Generation, Transmission, and Distribution."

(18) 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.

(19) 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.

(20) A reference to the American National Standards Institute Standard ANSI B30.5-1968 in 29 CFR 1926.1433(a) means ANSI B30.5, "Mobile and Locomotive Cranes," 1994 edition, which is adopted by reference in these rules. This standard is available from IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website, <http://global.ihs.com>, at a cost as of the time of adoption of these rules of \$119.00.

(21) A reference to the Power Crane and Shovel Association Standard PCSA Std. No. 2 (1968) in 29 CFR 1926.1433(a) means PCSA No. 4, "Mobile Power Crane and Excavator and Hydraulic Crane Standards," 1983 edition, which is adopted by reference in these rules. This standard is available from the Association of Equipment Manufacturers, 6737 West Washington Street, Suite 2400, Milwaukee, Wisconsin, 53214-5647, USA, telephone number: 1-414-272-0943 or via the internet at website, <http://shop.aem.org>, at no charge, as of the time of adoption of these rules.

(22) The standards 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.

(23) The standards 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.

(24) The following Michigan occupational safety and health 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 and Health Standard Part 8. "Handling and Storage of Materials," R 408.40801 to R 408.40841.

(b) Construction Safety Standard Part 16. "Power Transmission and Distribution," R 408.41601 to R 408.41658.

(c) Construction Safety Standard Part 26. "Steel Erection," R 408.42601 to R 408.42656.

(d) Construction Safety Standard Part 28. "Personnel Hoisting in Steel Erection," R 408.42801 to R 408.42809.

(e) Construction Safety Standard Part 45. "Fall Protection," R 408.44501 to R 408.44502.

(f) Construction Safety and Health Standard Part 6. "Personal Protective Equipment," R 408.40601 to R 408.40660.

(g) Construction Safety and Health Standard Part 30. "Telecommunications for Construction," R 408.43001 to R 408.43006.

(h) General Industry Safety and Health Standard Part 18. "Overhead and Gantry Cranes," R 408.11801 to R 408.11875.

(i) General Industry Safety and Health Standard Part 86. "Electric Power Generation, Transmission, and Distribution," R 408.18601 to R 408.18610.

FILED WITH SECRETARY OF STATE

ON 3/18/21 AT 7:00 PM