



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

January 26, 2024

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 Rule #23-056-LE)
Legislative Service Bureau (Secretary of State Filing #24-01-02)
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 #2023-056-LE (Secretary of State Filing #24-01-02) on this date at 10:57 A.M. for the Department of Labor and Economic Opportunity entitled, "Part 8. Portable Fire Extinguishers".

These rules become effective 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

Lashana Threlkeld, Departmental Supervisor
Office of the Great Seal

Enclosure



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

January 26, 2024

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 #: 2023-56 LE

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated November 14, 2023 for the Department of Labor and Economic Opportunity **“Part 8. Portable Fire Extinguishers”**. 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
DIRECTOR

CERTIFICATE OF ADOPTION

By authority conferred on the director of the department of labor and economic opportunity by sections 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.

R 408.10801, R 408.10803, R 408.10826, R 408.10831, R 408.10833, and R 408.10837 of the Michigan Administrative Code are amended, and R 408.10804, R 408.10805, R 408.10807, R 408.10808, R 408.10811, R 408.10812, R 408.10813, R 408.10814, R 408.10821, R 408.10822, R 408.10823, R 408.10824, R 408.10825, R 408.10835, R 408.10836, and R 408.10839 are rescinded.

Date: 12/12/2023

Adopted by:

A handwritten signature in cursive script, appearing to read "Susan R. Corbin", written over a horizontal line.

Susan Corbin
Director

Department of Labor and Economic Opportunity



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARLON I. BROWN, DPA
ACTING DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated November 14, 2023, 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 8, Portable Fire Extinguishers" by:


- ◆ Amending R 408.10801, R 408.10803, R 408.10826, R 408.10831, R 408.10833, and R 408.10837.
- ◆ Rescinding R 408.10804, R 408.10805, R 408.10807, R 408.10808, R 408.10811, R 408.10812, R 408.10813, R 408.10814, R 408.10821, R 408.10822, R 408.10823, R 408.10824, R 408.10825, R 408.10835, R 408.10836, and R 408.10839.

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: November 28, 2023

Michigan Office of Administrative Hearings and Rules

By: 
Ashlee N. Lynn,
Attorney



Since 1941

Legal Division

Kevin H. Studebaker, Director

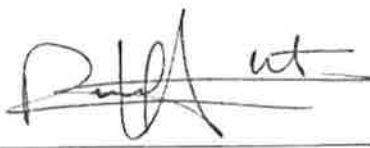
CERTIFICATE OF APPROVAL

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 November 14, 2023, amending R 408.10801, R 408.10803, R 408.10826, R 408.10831, R 408.10833, and R 408.10837, and rescinding R 408.10804, R 408.10805, R 408.10807, R 408.10808, R 408.10811, R 408.10812, R 408.10813, R 408.10814, R 408.10821, R 408.10822, R 408.10823, R 408.10824, R 408.10825, R 408.10835, R 408.10836, and R 408.10839, of the Department's rules entitled "General Industry Safety and Health Standard Part 8, Portable Fire Extinguishers." 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: November 28, 2023

LEGISLATIVE SERVICE BUREAU

By 
Rachel M. Hughart,
Legal Counsel

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY AND HEALTH STANDARD

Filed with the secretary of state on January 26, 2024

These rules become effective immediately after 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 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

R 408.10801, R 408.10803, R 408.10826, R 408.10831, R 408.10833, and R 408.10837 of the Michigan Administrative Code are amended, and R 408.10804, R 408.10805, R 408.10807, R 408.10808, R 408.10811, R 408.10812, R 408.10813, R 408.10814, R 408.10821, R 408.10822, R 408.10823, R 408.10824, R 408.10825, R 408.10835, R 408.10836, and R 408.10839 are rescinded, as follows:

PART 8, PORTABLE FIRE EXTINGUISHERS

R 408.10801 Scope, application, adoption, and availability of standards.

Rule 801. (1) The rules apply to the placement, use, maintenance, and testing of portable fire extinguishers provided for the use of employees. 29 CFR 1910.157(d) does not apply to extinguishers provided for employee use on the outside of workplace buildings or structures. Where extinguishers are provided but are not intended for employee use and the employer has an emergency action plan and a fire prevention plan that meet the requirements of 29 CFR 1910.38 and 29 CFR 1910.39, respectively, then only the requirements of 29 CFR 1910.157(e) and (f) apply. The provisions of this part are the minimum requirements for portable fire extinguishers. A specific rule may be set forth in other general industry safety standards where, due to process hazards, additional portable fire extinguishers may be required.

Exemptions. Where the employer has established and implemented a written fire safety policy which requires the immediate and total evacuation of employees from the workplace upon the sounding of a fire alarm signal and which includes an emergency action plan and a fire prevention plan which meets the requirements of 29 CFR 1910.38

November 14, 2023

and 29 CFR 1910.39 respectively, and when extinguishers are not available in the workplace, the employer is exempt from all requirements of this section unless a specific General Industry Safety and Health standard requires that a portable fire extinguisher be provided. Where the employer has an emergency action plan meeting the requirements of 29 CFR 1910.38, which designates certain employees to be the only employees authorized to use the available portable fire extinguishers, and which requires all other employees in the fire area to immediately evacuate the affected work area upon the sounding of the fire alarm, the employer is exempt from the distribution requirements in 29 CFR 1910.157(d).

(2) The federal Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.155(c), "Definitions applicable to this subpart," as amended April 12, 1998, are adopted by reference in these rules, except for the following:

- (a) Section 1910.155(c)(1).
- (b) Section 1910.155(c)(5).
- (c) Section 1910.155(c)(6).
- (d) Section 1910.155(c)(15).
- (e) Section 1910.155(c)(16).
- (f) Section 1910.155(c)(17).
- (g) Section 1910.155(c)(18).
- (h) Section 1910.155(c)(19).
- (i) Section 1910.155(c)(20).
- (j) Section 1910.155(c)(22).
- (k) Section 1910.155(c)(25).
- (l) Section 1910.155(c)(28).
- (m) Section 1910.155(c)(29).
- (n) Section 1910.155(c)(30).
- (o) Section 1910.155(c)(32).
- (p) Section 1910.155(c)(33).
- (q) Section 1910.155(c)(34).
- (r) Section 1910.155(c)(35).
- (s) Section 1910.155(c)(36).
- (t) Section 1910.155(c)(37).
- (u) Section 1910.155(c)(39)(iv).
- (v) Section 1910.155(c)(40).
- (w) Section 1910.155(c)(42).

(3) The following federal Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.157, "Portable fire extinguishers," as amended November 7, 2002, are adopted by reference in these rules:

- (a) A reference to 29 CFR 1910.38 means General Industry Safety Standard Part 6. "Fire Exits."
- (b) A reference to 29 CFR 1910.39 means General Industry Safety Standard Part 6. "Fire Exits."
- (c) A reference to 29 CFR 1910.158 means General Industry Safety Standard Part 9. "Fixed Fire Equipment."

(d) A reference to 29 CFR 1910.159 means General Industry Safety Standard Part 9. "Fixed Fire Equipment."

(4) 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.

(5) 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.

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

(7) The following MIOSHA standards are referenced in these rules:

(a) General Industry Safety and Health Standard Part 6. "Fire Exits," R 408.10601 to R 408.10697.

(b) General Industry Safety Standards Part 9. "Fixed Fire Equipment," R 408.10901 to R 408.10999.

(8) Up to 5 copies of the standards listed in subrule (2) of this rule 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, as of the time of adoption of these rules, is 4 cents per page.

R 408.10803 Definitions; C to E.

Rule 803. (1) "Class "K" fire" means a fire in cooking appliances that involve combustible vegetable or animal oils and fats.

(2) "Extinguisher" means a portable fire extinguisher that is carried or on wheels and operated by hand.

R 408.10804 Rescinded.

R 408.10805 Rescinded.

R 408.10807 Rescinded.

R 408.10808 Rescinded.

R 408.10811 Rescinded.

R 408.10812 Rescinded.

R 408.10813 Rescinded.

R 408.10814 Rescinded.

R 408.10821 Rescinded.

R 408.10822 Rescinded.

R 408.10823 Rescinded.

R 408.10824 Rescinded.

R 408.10825 Rescinded.

R 408.10826 Class "K" extinguishers.

Rule 826. (1) A class "K" extinguisher shall be provided for hazards where there is a potential for fires involving combustible vegetable or animal oils and fats.

(2) A placard shall be conspicuously placed near the extinguisher that states that the fire protection system shall be activated before using the fire extinguisher.

(3) A class "K" extinguisher shall be maintained within 30 feet, 9.15 meters from the hazards.

R 408.10831 Location.

Rule 831. In a location where a visual obstruction cannot be avoided, a sign, color symbol, or other means shall be used to indicate the extinguisher's location.

R 408.10833 Installation.

Rule 833. (1) An extinguisher shall be installed securely on a hanger, in a bracket, or mounted in a cabinet unless it is wheeled type or cart mounted. A means shall be used to indicate the location of an extinguisher mounted in a cabinet or on a shelf. The extinguisher shall be placed so that the operating instructions face outward.

(2) An extinguisher having a gross weight of not more than 40 pounds shall be installed so that the top is not more than 5 feet above the floor. An extinguisher having a gross weight of more than 40 pounds, except a wheeled type or cart mounted extinguisher, shall be installed so that the top is not more than 3 1/2 feet above the floor. An extinguisher, except a wheeled type or cart mounted extinguisher, shall be installed so that the bottom is not less than 4 inches from the floor.

R 408.10835 Rescinded.

R 408.10836 Rescinded.

R 408.10837 Recharging.

Rule 837. An employer maintaining their own extinguisher shall use recharging materials of the class specified on the extinguisher nameplate or recommended by the manufacturer for recharging.

R 408.10839 Rescinded.

FILED WITH SECRETARY OF STATE

ON 1/26/24 AT 10:57 A.M.