

DEPARTMENT OF ~~LICENSING AND REGULATORY AFFAIRS~~ **LABOR AND
ECONOMIC OPPORTUNITY**

DIRECTOR'S OFFICE

GENERAL INDUSTRY AND CONSTRUCTION SAFETY AND HEALTH
STANDARD

Filed with the secretary of state on

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 **Michigan** department of ~~licensing and regulatory affairs~~ **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, ~~and~~ 2011-4, **and 2019-3**, MCL 330.3101, 445.2001, 445.2011, 445.2025, ~~and~~ 445.2030, **and 125.1998**)

R 325.77101 of the Michigan Administrative Code ~~are~~ **is** amended, as follows:

PART 311. BENZENE

R 325.77101. Scope, applicability, adoption, and availability of standards.

Rule 1. (1) These rules apply to all occupational exposures to benzene, Chemical Abstracts Service Registry No. 71-43-2, except as provided in subrules (2) and (3) of this rule.

(2) These rules do not apply to any of the following:

(a) The storage, transportation, distribution, dispensing, sale, or use of gasoline, motor fuels, or other fuels that contain benzene after its final discharge from bulk wholesale storage facilities, except that operations which dispense gasoline or motor fuels for more than 4 hours per day in an indoor location are covered by these rules.

(b) Loading and unloading operations at bulk wholesale storage facilities which use vapor control systems for all loading and unloading operations. However, such operations are subject to the provisions of Occupational Health Standard Part 430. "Hazard Communication" and the hazard communication provisions of sections 14a to 14m of the Michigan occupational safety and health act (MIOSHA), 1974 PA 154, MCL 408.1014a to 408.1014m.

(c) The storage, transportation, distribution, or sale of benzene or liquid mixtures that contain more than 0.1% benzene in intact containers or in transportation pipelines while sealed in a manner to contain benzene vapors or liquid. However, such storage, transportation, distribution, or sale is subject to the provisions of Occupational Health

Standard Part 430. "Hazard Communication" and the hazard communication provisions of sections 14a to 14m of the Michigan occupational safety and health act (MIOSHA), 1974 PA 154, MCL 408.1014a to 408.1014m.

(d) Containers and pipelines that carry mixtures which are less than 0.1% benzene.

(e) Natural gas-processing plants that process gas which contains less than 0.1% benzene.

(f) Work operations where the only exposure to benzene is from liquid mixtures that contain 0.5% or less of benzene, by volume, or the vapors released from the liquids until September 12, 1988; work operations where the only exposure to benzene is from liquid mixtures that contain 0.3% or less of benzene, by volume, or the vapors released from the liquids from September 12, 1988, to September 12, 1989; and work operations where the only exposure to benzene is from liquid mixtures that contain 0.1% or less of benzene, by volume, or the vapors released from the liquids after September 12, 1989; except that tire-building machine operators who use solvents which contain more than 0.1% benzene are subject to the provisions of paragraph (i) of **29 CFR 1910.1028**.

(g) Oil and gas drilling, production, and servicing operations.

(h) Coke oven batteries.

(3) Cleaning and repair operations of barges and tankers that have contained benzene are excluded from paragraph (f) methods of compliance, paragraph (e)(1) exposure monitoring-general, and paragraph (e)(6) accuracy of monitoring of **29 CFR 1910.1028**. Engineering and work practice controls shall be used to keep exposures below 10 ppm, unless it is proven to be not feasible.

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

(a) **29 CFR 1910.1028, "Benzene," as amended ~~March 26, 2012~~ May 14, 2019.**

(b) **29 CFR 1910.1028, appendix A "Substance safety data sheet, Benzene," as in effect as of the effective date of these rules.**

(c) **29 CFR 1910.1028, appendix B "Substance technical guidelines, Benzene," as in effect as of the effective date of these rules.**

(d) **29 CFR 1910.1028, appendix C "Medical surveillance guidelines for Benzene," as in effect as of the effective date of these rules.**

(e) **29 CFR 1910.1028, appendix D "Sampling and analytical methods for Benzene monitoring and measurement procedures," as in effect as of the effective date of these rules.**

(5) A reference to **29 CFR 1910.133** means both of the following:

(a) General Industry Safety and Health Standard Part 33. "Personal Protective Equipment."

(b) General Industry Safety and Health Standard Part 433. "Personal Protective Equipment."

(6) A reference to **29 CFR 1910.1200** means Occupational Health Standard Part 430. "Hazard Communication."

(7) A reference to **29 CFR 1910.134** means ~~Occupational Health~~ **General Industry and Construction Safety and Health** Standard Part 451. "Respiratory Protection."

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

(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 ~~Licensing and Regulatory Affairs~~ **Labor and Economic Opportunity**, MIOSHA ~~Regulatory Services~~ **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 ~~Licensing and Regulatory Affairs~~ **Labor and Economic Opportunity**, MIOSHA ~~Regulatory Services~~ **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 Department of ~~Licensing and Regulatory Affairs~~ **Labor and Economic Opportunity**, MIOSHA ~~Regulatory Services~~ **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) General Industry Safety and Health Standard Part 33. "Personal Protective Equipment," R 408.13301 to R 408.13398.

(b) General Industry Safety and Health Standard Part 433. "Personal Protective Equipment," R 325.60001 to R 325.60013.

(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 430. "Hazard Communication," R 325.77001 to R 325.77004.

(e) ~~Occupational Health~~ **General Industry and Construction Safety and Health** Standard Part 451. "Respiratory Protection," R 325.60051 to R 325.60052.