DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

GENERAL RULES

EMERGENCY RULES

CORONAVIRUS DISEASE 2019 (COVID-19)

Filed with the secretary of state on

These rules take effect upon filing with the secretary of state and shall remain in effect for 6 months.

(By authority conferred on the director of the department of labor and economic opportunity by sections 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 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.)

FINDING OF EMERGENCY

These rules are promulgated by the Director of the Michigan Department of Labor and Economic Opportunity to establish requirements for employers to control, prevent, and mitigate the spread of coronavirus disease 2019 (COVID-19) among employees. Based on the best available scientific evidence and public health guidance published by the U.S. Centers for Disease Control (CDC) and other public health authorities, COVID-19 is an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). SARS-CoV-2 is easily transmitted through the air from person-to-person through respiratory aerosols, and the aerosols can settle and deposit on environmental surfaces where they can remain viable for days. There is currently no approved vaccine or proven effective antiviral treatment for COVID-19. In addition to its contagious nature, COVID-19 is dangerous and deadly. As of October 7, 2020, COVID-19 has infected 130,842 Michiganders and killed 6,847 in less than seven months.

Work, by its nature, removes people from the confines and relative safety of their homes to interact with others who may be carrying the virus including coworkers, customers, patients, or the public at large. Employees who come into contact with others at work are at elevated risk of infection.

Since March 2020, employers have reported 30 worker deaths from COVID-19 in Michigan and 127 in-patient hospitalizations for COVID-19 potentially linked to workplace exposure to SARS-CoV-2. MIOSHA has received over 3,800 complaints from employees alleging uncontrolled COVID-19 hazards in the workplace and 263 referrals from local government, including local health departments, indicating that businesses were not taking all the necessary measures to protect their employees from SARS-CoV-2 infection.

The Legislature has declared that "all employees shall be provided safe and healthful work environments free of recognized hazards." MCL 408.1009. Employers must provide employees with "a place of employment that is free from recognized hazards that are causing, or are likely to

cause, death or serious physical harm to the employee." MCL 408.1011(a). Nonetheless, Michigan's experience with COVID-19 demonstrates that the disease can spread rapidly without protective measures and standards in place. Workplaces, where employees, customers, and members of the public congregate, pose a particular threat for COVID-19's spread. To mitigate and limit COVID-19's spread in workplaces and to protect employees across Michigan, it is necessary to impose these rules and standards.

Businesses must do their part to protect employees, their patrons, and their communities. Many businesses have already done so by implementing robust safeguards to prevent viral transmission. But we can and must do more: no one should feel unsafe at work. Pursuant to section 21(2) of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1021, I find that these emergency rules are necessary to protect employees during the ongoing COVID-19 pandemic.

Based on the best available scientific evidence and public health guidance available regarding the spread of COVID-19 in the workplace, I find that these emergency rules are necessary to protect employees. If the non-emergency rulemaking process specified in the administrative procedures act of 1969 (APA), 1969 PA 306, MCL 24.201 to 24.328, for the promulgation of rules was followed, employees across Michigan may be unnecessarily exposed to SARS-CoV-2 during the rule promulgation process. Further, existing MIOSHA rules do not directly address COVID-19's spread in the workplace and employees are likely to experience an increased probability of infection at work until the protective measures in this rule are in place. Accordingly, following the non-emergency rulemaking process would undermine the effectiveness of Michigan's emergency response to COVID-19, and expose Michigan workers to a higher risk of contracting the disease in their places of employment.

The Director, therefore, for the preservation of the public health, safety, and welfare, finds that a clear and convincing need exists for the promulgation of emergency rules as provided in section 48 of the APA, MCL 24.248, without following the notice and participation procedures required by sections 41 and 42 of the APA, MCL 24.241 and 24.242.

Rule 1. Scope and application.
These rules apply to all employers covered in the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

Rule 2. Definitions.
(1) As used in these rules:

(a) "Close contact" means someone who was within 6 feet of an infected person for at least 15 minutes starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to specimen collection) until the time the person is isolated.

(b) "COVID-19" means coronavirus disease 2019, a severe acute respiratory disease characterized by symptoms including fever, cough, fatigue, and shortness of breath which may progress to pneumonia, multi-organ failure, and death.

(c) "Known cases of COVID-19" means persons who have been confirmed through diagnostic testing to have COVID-19.

(d) "SARS-CoV-2" means severe acute respiratory syndrome coronavirus 2, the virus which is the causative agent of COVID-19.

(e)"Suspected cases of COVID-19" means persons who have symptoms of COVID-19 but have not been confirmed through diagnostic testing or persons who have had close contact with a person who has been confirmed through diagnostic testing to have COVID-19.

Rule 3. Exposure determination for all employers.

(1) The employer shall evaluate routine and reasonably anticipated tasks and procedures to determine whether there is actual or reasonably anticipated employee exposure to SARS-CoV-2.
(2) The employer shall categorize jobs tasks and procedures into the following risk categories:
    (a) Lower exposure risk job tasks and procedures. These job tasks and procedures are those that do not require contact with people known to be or suspected of being infected with SARS-CoV-2 nor frequent close contact (e.g., within 6 feet) with the general public. Workers in this category have minimal occupational contact with the public and other coworkers.
    (b) Medium exposure risk job tasks and procedures. These job tasks and procedures include those that require frequent or close contact (e.g., within 6 feet) with people who may be infected with SARS-CoV-2, but who are not known or suspected COVID-19 patients. In areas without ongoing community transmission, workers in this risk group may have frequent contact with travelers who may return from locations with widespread SARS-CoV-2 transmission. In areas where there is ongoing community transmission, workers in this category may have contact with the general public (e.g., schools, high-population-density work environments, high-volume retail settings).
    (c) High exposure risk job tasks and procedures. These job tasks and procedures are those with high potential for exposure to known or suspected sources of COVID-19. Workers in this category could include licensed health care professionals, medical first responders, nursing home employees, law enforcement, correctional officers, or mortuary workers.
    (d) Very high exposure risk job tasks and procedures. These job tasks and procedures are those with high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures. Workers in this category can include:
        (i) Healthcare workers (e.g., doctors, nurses, dentists, paramedics, emergency medical technicians) performing aerosol-generating procedures (e.g., intubation, cough induction procedures, bronchoscopies, some dental procedures and exams, or invasive specimen collection) on known or suspected COVID-19 patients.
        (ii) Health care or laboratory personnel collecting or handling specimens from known or suspected COVID-19 patients (e.g., manipulating cultures from known or suspected COVID-19 patients).
        (iii) Morgue workers performing autopsies, which generally involve aerosol-generating procedures, on the bodies of people who are known to have or are suspected of having COVID-19 at the time of their death.

Rule 4. COVID-19 preparedness and response plan for all employers.

(1) The employer shall develop and implement a written COVID-19 preparedness and response plan, consistent with the current guidance for COVID-19 from the US Centers for Disease Control and Prevention (CDC) and recommendations in "Guidance on Preparing Workplaces for COVID-19," developed by the Occupational Health and Safety Administration (OSHA).
(2) The preparedness and response plan shall include the employee exposure determination from Rule 3 and shall detail the measures the employer will implement to prevent employee exposure, including any:
    (a) Engineering controls.

(b) Administrative controls.
(c) Basic infection prevention measures.
(d) Personal protective equipment.
(e) Health surveillance.
(f) Training.

(3) The employer shall make the preparedness and response plan readily available to employees and their representatives, whether via website, internal network, or by hard copy.

Rule 5. Basic infection prevention measures for all employers.

(1) The employer shall promote frequent and thorough hand washing, including by providing workers, customers, and worksite visitors with a place to wash their hands. If soap and running water are not immediately available, provide antiseptic hand sanitizers or alcohol-based hand towelettes containing at least 60 percent alcohol.
(2) The employer shall require workers who are sick to not report to work or work in an isolated location.
(3) The employer shall prohibit workers from using other workers' phones, desks, offices, or other work tools and equipment, when possible.
(4) The employer shall increase facility cleaning and disinfection to limit exposure to SARS-CoV-2, especially on high-touch surfaces (e.g., door handles), paying special attention to parts, products, and shared equipment (e.g., tools, machinery, and vehicles).
(5) The employer shall establish procedures for disinfection in accordance with CDC guidance if it is suspected or confirmed that an employee, visitor, or customer has a known case of COVID-19.
(6) The employer shall use Environmental Protection Agency (EPA)-approved disinfectants that are expected to be effective against SARS-CoV-2 based on data for harder to kill viruses.
(7) The employer shall follow the manufacturer's instructions for use of all cleaning and disinfection products (e.g., concentration, application method and contact time, and personal protective equipment).
(8) The employer shall create a policy prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely.

Rule 6. Health surveillance for all employers.

(1) The employer shall conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.
(2) The employer shall direct employees to promptly report any signs and symptoms of COVID-19 to the employer before or during the work shift.
(3) The employer shall physically isolate any employees known or suspected to have COVID-19 from the remainder of the workforce, using measures such as, but not limited to:
    (a) Not allowing known or suspected cases to report to work.
    (b) Sending known or suspected cases away from the workplace.
    (c) Assigning known or suspected cases to work alone at a remote location (for example, their home), as their health allows.
(4) When an employer learns of an employee, visitor, or customer with a known case of COVID-19, the employer shall:
    (a) Immediately notify the local public health department, and

(b) Within 24 hours of learning of the known case, notify any co-workers, contractors, or suppliers who may have come into contact with the person with a known case of COVID-19.

(5) The employer shall allow employees with a known or suspected case of COVID-19 to return to the workplace only after they are no longer infectious according to the latest guidelines from the CDC and they are released from any quarantine or isolation order by the local public health department.

Rule 7. Workplace controls for all employers.

(1) The employer shall designate one or more worksite COVID-19 safety coordinators to implement, monitor, and report on the COVID-19 control strategies developed under these rules. The COVID-19 safety coordinator must remain on-site at all times when employees are present on site. An on-site employee may be designated to perform the COVID-19 safety coordinator role.

(2) The employer shall place posters in the languages common in the employee population that encourage staying away from the workplace when sick, cough and sneeze etiquette, and proper hand hygiene practices.

(3) The employer shall keep everyone on the worksite premises at least 6 feet from one another to the maximum extent possible and to reduce congestion, including using ground markings, signs, and physical barriers, as appropriate to the worksite.

(4) The employer shall provide non-medical grade face coverings to their employees at no cost to the employee.

(5) The employer shall require face coverings to be worn when employees cannot consistently maintain 6 feet of separation from other individuals in the workplace and consider face shields when employees cannot consistently maintain 3 feet of separation from other individuals in the workplace.

(6) The employer shall require face coverings in shared spaces, including during in-person meetings and in restrooms and hallways.

Rule 8. Personal protective equipment requirements for all employers.

(1) The employer shall provide employees with the types of personal protective equipment, including respirators if necessary, for protection from SARS-CoV-2 appropriate to the exposure risk associated with the job. The employer must follow current CDC and OSHA guidance for personal protective equipment.

(2) The employer shall ensure that the personal protective equipment is properly fitted and worn; used consistently; regularly inspected, maintained, and replaced, as necessary; and properly removed, cleaned, and stored or disposed of to avoid contamination of self, others, or the work environment.

(3) In establishments that provide medical treatment or housing to known or suspected cases of COVID-19, the employer shall ensure that employees in frequent or prolonged close contact with such cases are provided with and wear, at a minimum, an N95 respirator, goggles or face shield, and a gown.

Rule 9. Industry-specific requirements. An employer of a business, operation, or facility in the industry sectors named below shall comply with the following requirements specific for its business, operation, or facility.

(1) **Construction.** Businesses or operations in the construction industry must:

(a) Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in Rule 6 of these rules, or in the alternative issue stickers or other indicators to employees to show that they received a screening before entering the worksite that day.

(b) Identify choke points and high-risk areas where employees must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.
(c) Create protocols for minimizing personal contact upon delivery of materials to the worksite.

(2) **Manufacturing.** Manufacturing facilities must:
(a) Create dedicated entry point(s) at every facility for daily screening and ensure physical barriers are in place to prevent anyone from bypassing the screening.
(b) Create protocols for minimizing personal contact upon delivery of materials to the facility.

(3) **Retail, libraries, and museums.** Retail stores that are open for in-store sales, as well as libraries and museums, must:
(a) Create communications material for customers (e.g., signs or pamphlets) to inform them of changes to store practices and to explain the precautions the store is taking to prevent infection.
(b) Require patrons to wear a face covering (unless the patron is unable medically to tolerate a face covering).
(c) Post signs at store entrances instructing customers to wear a face covering when inside the store.
(d) Post signs at store entrances informing customers not to enter if they are or have recently been sick.
(e) Design spaces and store activities in a manner that encourages employees and customers to maintain 6 feet of distance from one another.
(f) Install physical barriers at checkout or other service points that require close interaction, including plexiglass barriers, tape markers, or tables.
(g) Establish an enhanced cleaning and sanitizing protocol for high-touch areas like restrooms, credit-card machines, keypads, counters, shopping carts, and other surfaces.

(4) **Restaurants and bars.** Restaurants and bars must:
(a) Require 6 feet of separation between parties or groups at different tables or bar tops (e.g., spread tables out, use every other table, remove or put up chairs or barstools that are not in use).
(b) Require patrons to wear a face covering except when seated at their table or bar top (unless the patron is unable medically to tolerate a face covering).
(c) Prohibit access to common areas in which people can congregate.
(d) Create communications material for customers (e.g., signs, pamphlets) to inform them of changes to restaurant or bar practices and to explain the precautions that are being taken to prevent infection.
(e) Post signs at all entrances informing customers not to enter if they are or have recently been sick.
(f) Post signs instructing customers to wear face coverings until they are seated at their table.
(g) Require hosts, servers, and staff to wear face coverings in the dining area in addition to areas where social distancing cannot be maintained.

(5) **Health care.** Health facilities or agencies, including outpatient health-care facilities, clinics, primary care physician offices, dental offices, and veterinary clinics, must:
(a) Post signs at entrance(s) instructing patients to wear a face covering when in the facility, except as necessary for identification or to facilitate an examination or procedure.

(b) Limit waiting-area occupancy to the number of individuals who can be present while staying 6 feet away from one another and ask patients, if possible, to wait in cars for their appointment to be called.
(c) Mark or arrange waiting rooms to enable 6 feet of social distancing (e.g., by placing X's on the ground and/or removing seats in the waiting room).
(d) Conduct a common screening protocol for all patients, including a temperature check and questions about COVID-19 symptoms.
(e) Place hand sanitizer and face coverings at patient entrances.
(f) Require patients to wear a face covering when in the facility, except as necessary for identification or to facilitate an examination or procedure.
(g) Install physical barriers at sign-in, temperature screening, or other service points that normally require personal interaction (e.g., plexiglass, cardboard, tables).

(6) **In-home services.** All businesses or operations that provide in-home services, including cleaners, repair persons, painters, and the like, must:
(a) Maintain accurate appointment record, including date and time of service, name of client, and contact information, to aid with contact tracing.
(b) Prior to entering the home, inquire with the customer whether anyone in the household has been diagnosed with COVID-19, is experiencing symptoms of COVID-19, or has had close contact with someone who has been diagnosed with COVID-19. If so, the business or operation must reschedule for a different time.

(7) **Personal-care services.** All businesses or operations that provide barbering, cosmetology services, body art services (including tattooing and body piercing), tanning services, massage services, or similar personal-care services must:
(a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
(b) Post signs at all entrances informing customers not to enter if they are or have recently been sick.
(c) Restrict entry to customers, to a caregiver of those customers, or to the minor dependents of those customers.
(d) Limit waiting-area occupancy to the number of individuals who can be present while staying 6 feet away from one another and ask customers, if possible, to wait in cars for their appointment to be called.
(e) Discard magazines in waiting areas and other non-essential, shared items that cannot be disinfected.
(f) Mark or arrange waiting rooms to enable 6 feet of social distancing (e.g., by placing X's on the ground and/or removing seats in the waiting room).
(g) Require employees and customers to wear a face covering at all times, except that customers may temporarily remove a face covering when receiving a service that requires its removal. During services that require a customer to remove their face covering, an employee must wear a face shield or goggles in addition to the face covering.

(8) **Public accommodations.** Sports and entertainment facilities, including arenas, cinemas, concert halls, performance venues, sporting venues, stadiums and theaters, as well as places of public amusement, such as amusement parks, arcades, bingo halls, bowling alleys, night clubs, skating rinks, and trampoline parks, must:
(a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
(b) Post signs outside of entrances informing customers not to enter if they are or have recently been sick.
(c) Require patrons to wear a face covering (unless the patron is unable medically to tolerate a face covering).

(d) Establish crowd-limiting measures to meter the flow of patrons (e.g., digital queuing, delineated waiting areas, parking instructions, social distance markings on ground or cones to designate social distancing).
(e) For sports and entertainment facilities, establish safe exit procedures for patrons (e.g., dismiss groups based on ticket number, row).

(9) **Sports and exercise facilities.** Gymnasiums, fitness centers, recreation centers, exercise facilities, exercise studios, bowling alleys, roller rinks, ice rinks, and like facilities must:
(a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
(b) Post signs outside of entrances instructing individuals not to enter if they are or have recently been sick.
(c) Mandate wearing of facial coverings at all times except when swimming.
(d) Provide equipment-cleaning products throughout the facility for use on equipment.
(e) Ensure that ventilation systems operate properly.

(10) **Meat and poultry processing.** Meat and poultry processing plants must:
(a) Create at least 1 dedicated entry point at every facility for daily screening and ensure physical barriers are in place to prevent anyone from bypassing the screening.
(b) Provide clean face coverings or disposable mask options for employees to use when the coverings become wet, soiled, or otherwise visibly contaminated over the course of a workday.

(11) **Casinos.** Casinos must:
(a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
(b) Designate entry points and exit points with extensive signage of the directional flow of patrons.
(c) Place signs at each entrance point, cage, and throughout the casino reminding patrons of CDC guidelines for social distancing practices, proper washing of hands, wearing face coverings, and to stay at home if feeling ill or sick.
(d) Conduct a daily entry screening protocol for customers and any other individuals entering the facility, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with temperature screening.
(e) Require patrons to wear a face covering, except while eating or drinking or for identification purposes.

Rule 10. Training requirements for all employers.

(1) The employer shall provide training to employees on SARS-CoV-2 and COVID-19.
(2) The employer shall provide any communication and training on COVID-19 infection control practices in the primary languages common in the employee population.
(3) The training shall cover:
(a) Workplace infection-control practices.
(b) The proper use of personal protective equipment.
(c) Steps the employee must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
(d) How to report unsafe working conditions.
(4) The employer shall provide updated training if it changes its preparedness and response plan or new information becomes available about the transmission of SARS-CoV-2 or diagnosis of COVID-19.

Rule 11. Recordkeeping requirements for all employers.

(1) Employers must maintain a record of the following requirements:
   (a) Training. The employer shall maintain a record of all COVID-19 employee training.
   (b) Screening protocols. The employer shall maintain a record of screening for each employee or visitor entering the workplace.
   (c) Records of required notifications. The employer shall maintain a record of each notification required by Rule 6 of these rules.
(2) Employers must maintain records for 1 year from time of generation.

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

10/14/2020
Date

Sean Egan
Sean Egan
Director COVID Workplace Safety

Pursuant to Section 48(1) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.248(1), I hereby concur in the finding of the Department of Labor and Economic Opportunity that circumstances creating an emergency have occurred and the public interest requires the promulgation of the above rules.

10/14/2020
Date

Honorable Gretchen Whitmer
Governor