

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Labor and Economic Opportunity

2. Bureau:

MIOSHA

3. Promulgation type:

Full Process

4. Title of proposed rule set:

General Industry Safety and Health Standard Part 73. Fire Brigades

5. Rule numbers or rule set range of numbers:

R 408.17301 - R 408.17322

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

General Industry Safety Standard Part 73. Fire Brigades provides direction to fire brigades, industrial fire departments, and private or contractual-type fire departments when these types of fire brigades are established by an employer for protecting Michigan employees from health and safety hazards in the workplace.

The current rules will be revised to adopt by reference National Fire Protection Association (NFPA) 1981: "Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services" and NFPA 1982: "Standard on Personal Alert Safety Systems (PASS)" which establish requirements for respiratory protection when performing structural firefighting.

MIOSHA is placing language into Part 73 to meet conditions of the Michigan Occupational Safety and Health Act, PA 154 of 1974, MCL 408.1014r, that took effect July 31, 2020. The revisions will involve the inclusion of best practices regarding proper use, handling, containment, and storage of fire-fighting foam concentrate containing perfluoroalkyl or polyfluoroalkyl substance (PFAS).

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

The Williams-Steiger Occupational Safety and Health Act of 1970 requires that the Michigan Occupational Safety and Health Act promulgate standards that are “at least as effective as” those promulgated under Section 6 of the Act. By authority conferred on the director of the department of labor and economic opportunity by sections 14, 14r, 16, and 21 of Act No. 154 of 1974, as amended, being MCL, 408.1014, 408.1014r, MCL 408.1016 an MCL 408.1021.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, 125.1998, 408.1014, 408.1014r, 408.1016, and 408.1021.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Michigan Occupational Safety and Health Act, 1974 PA 154 sections MCL 408.1014, 408.1014r, 408.1021.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

There are rules in this ruleset that duplicate rules at the federal level. In addition, there are rules in this ruleset specific to PFAS that are not in the federal level rules.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

None that MIOSHA is aware of.

11. Are the rules listed on the department’s annual regulatory plan as rules to be processed for the current year?

Yes

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

These proposed rules are more restrictive than Federal OSHA in that Federal OSHA does not address the proper use, handling, storage, and containment of firefighting foam containing PFAS. Therefore, these rules are being promulgated under the full rulemaking process as specified in the Administrative Procedures Act and a public hearing is required.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

No comments have been received from the public regarding these rules; however, MIOSHA will be convening an advisory committee to receive input from the industry.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules were last updated on May 28, 2015.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

MIOSHA is not aware of any changes.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No