

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Labor and Economic Opportunity

Bureau name:

MIOSHA

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2022-44 LE

Title of proposed rule set:

General Industry Safety and Health Standard Part 73. Fire Brigades

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

These proposed rules parallel the Federal Occupational Safety and Health Administration (OSHA) rules, 29 CFR 1910.156, "Fire brigades."

A. Are these rules required by state law or federal mandate?

Yes, as a state plan program, the Michigan Occupational Safety and Health Administration (MIOSHA) is obligated to cover private and public sector employees. State plan programs are monitored by OSHA and must be at least as effective as OSHA in protecting workers and preventing work-related injuries, illnesses, and deaths.

The legislative requirement of Public Act 143 of 2020 amended the MIOSHA Act 154 of 1974 by amending section 14 and adding section 14r, which requires the director to promulgate rules regarding firefighters use of firefighting foam concentrate, to include rules for best practices regarding proper use, handling, and storage of firefighting foam containing Polyfluoroalkyl Substances (PFAS).

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These proposed rules parallel the OSHA rules, 29 CFR 1910.156, "Fire brigades." The proposed rules regarding a firefighter's use of firefighting foam concentrate exceed the federal standard due to the legislative requirement of Public Act 143 of 2020 which amended the MIOSH Act 154 of 1974 by amending section 14 and adding section 14, which required the director to promulgate rules for best practices regarding proper use, handling, and storage of firefighting foam containing PFAS.

These rules will be more restrictive than the federally mandated standard as MIOSHA will be adopting the following National Fire Protection Association (NFPA) consensus standards:

NFPA 1971: "Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting," 2013 edition.

NFPA 1981: "Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services," 2007 edition.

NFPA 1982: "Standard on Personal Alert Safety Systems (PASS)," 2007 edition.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Illinois - Illinois operates an OSHA-approved State Plan covering only state and local government workers. Private sector employers and their workers are covered by federal OSHA.

Indiana - Indiana operates an OSHA-approved State Plan covering most private sector workers and all state and local government workers.

Ohio – Ohio is under federal OSHA jurisdiction, which covers most private-sector workers within the state.

Wisconsin – Wisconsin is under federal OSHA jurisdiction, which covers most private-sector workers within the state.

PFAS – Proper use, handling, storage, and containment of firefighting foam concentrate – R 408.17313

Illinois, Indiana, and Ohio do not appear to have any requirements for the containment and handling of materials contaminated by foam containing PFAS.

Wisconsin Act 101 of 2019 implemented measures that mitigate the discharge of PFAS-containing firefighting foam into the environment.

Personal protective equipment for structural firefighting – R 408.17314

Federal OSHA has jurisdiction in Illinois, Ohio, and Wisconsin, covering all private sector workplaces; federal agencies; maritime employers; military facilities; Native American sovereignty workplaces; and the United States Postal Service. Federal OSHA has a parallel standard, 29 CFR 1910.156, "Fire brigades." Indiana is a state plan program similar to Michigan, and they have adopted the same federal OSHA standard 29 CFR 1910.156, "Fire brigades."

The federal OSHA standard 29 CFR 1910.156 "Fire brigades" list the individual components of the protective clothing used for interior structural firefighting. The components include foot and leg protection, body protection, hand protection, and head, eye, and face protection. The only element of protective clothing with requirements referencing NFPA standards is body protection, which the performance, construction, and testing of fire-resistive coats and protective trousers shall be at least equivalent to the requirements of the NFPA standard NFPA No. 1971-1975, "Protective Clothing for Structural Fire Fighting." The existing MIOSHA standard already exceeded the federal standard by requiring the protective ensemble elements to comply with NFPA 1971: "Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting," 1997 edition. The new proposed rules combine

the individual elements of the protective clothing under the category of the protective ensemble and reference a new version of NFPA 1971 (2013 edition).

Respiratory protection (SCBA & PASS) – R 408.17320

Federal OSHA has jurisdiction in Illinois, Ohio, and Wisconsin, covering all private sector workplaces; federal agencies; maritime employers; military facilities; Native American sovereignty workplaces; and the United States Postal Service. Federal OSHA has a parallel standard, 29 CFR 1910.156, "Fire brigades." Indiana is a state plan program similar to Michigan, and they have adopted the same federal OSHA standard 29 CFR 1910.156, "Fire brigades."

The federal OSHA standard 29 CFR 1910.156 "Fire brigades" does not require a self-contained breathing apparatus (SCBA) to meet the requirements of NFPA consensus standards. In addition, the "Fire brigades" standard does not require the use of a personal alert safety system (PASS) device in conjunction with an SCBA while performing interior structural firefighting. The new proposed rules require SCBAs to meet or exceed the requirements of NFPA 1981: "Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services," 2007 edition, when employees perform interior structural firefighting. In addition, the new proposed rules require the use of a PASS device for each employee utilizing a self-contained breathing apparatus when performing interior structural firefighting. The PASS devices shall meet or exceed the requirements of NFPA 1982: "Standard on Personal Alert Safety Systems (PASS)," 2007 edition.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

PFAS –Proper use, handling, storage, and containment of firefighting foam concentrate – R 408.17313.

The proposed rules exceed the standards in Illinois, Indiana, and Ohio because those states do not appear to have any requirements for the containment and handling of materials contaminated by foam containing PFAS. The proposed rule would protect employees by reducing occupational exposure to PFAS.

There was no indication from the Advisory Committee (AC) these proposed rules would significantly increase costs to the point that they would outweigh the benefit of added employee protection by reducing occupational exposure to PFAS.

Protective ensemble –Protective ensemble for structural firefighting - R 408.17314.

The proposed rules exceed the standards in Illinois, Indiana, Ohio, and Wisconsin as those states enforce the federal OSHA standard 29 CFR 1910.156 "Fire brigades." See the response above in question 2 for an explanation of the proposed rules exceeding those of situated states based on geographic location. The proposed rule would ensure employees' protective ensembles meet or exceed a more recent version of NFPA 1971, 2013 edition, effective January 1, 2025.

There was no indication from the AC that these proposed rules would significantly increase costs to the point that they would outweigh the benefit of added employee protection by ensuring protective ensembles meet or exceed NFPA 1971, 2013 edition.

Respirator protection devices - R 408.17320.

The proposed rules exceed the standards in Illinois, Indiana, Ohio, and Wisconsin as those states enforce the federal OSHA standard 29 CFR 1910.156 "Fire brigades." See the response above in question 2 for an explanation of the proposed rules exceeding those of situated states based on geographic location. The proposed rule would ensure employees' respiratory protection devices meet or exceed NFPA 1981 and 1982, 2007 edition, effective January 1, 2025.

There was no indication from the AC that these proposed rules would significantly increase costs to the point that they would outweigh the benefit of added employee protection by ensuring respiratory protection devices meet or exceed NFPA 1981 & 1982, 2007 edition.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

Public Act 132 of 2020 amends the Natural Resources and Environmental Protection Act 451 of 1994 – Section(s) 324.14701(d) and 14703 duplicates/overlaps with GI Part 73 Michigan Rule R 408.17313 that requires an employer to report the use of intentionally added PFAS firefighting foam. MIOASHA has decided to leave this requirement in our rules to emphasize this requirement for the fire brigades.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

Public Act 132 of 2020 amends the Natural Resources and Environmental Protection Act 451 of 1994 – Section(s) 324.14701(d) and 14703 duplicates/overlaps with GI Part 73 Michigan Rule R 408.17313 that requires an employer to report the use of intentionally added PFAS firefighting foam. MIOASHA has decided to leave this requirement in our rules to emphasize this requirement for the fire brigades.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply to the proposed rules.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

The proposed rules exceed the federal standards due to the legislation requirement – Public Act 143 of 2020 amends the MIOASHA Act 154 of 1974 by amending section 14 and adding section 14r. The director shall promulgate rules regarding a firefighter’s use of firefighting foam concentrate, to include rules for best practices regarding proper use, handling, and storage of firefighting foam containing PFAS. The director determines that there is a clear and convincing need to exceed the applicable federal standard.

These rules will be more restrictive than the federally mandated standard as we are adopting the following NFPA consensus standards:

NFPA 1971: “Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting,” 2013 edition.

NFPA 1981: “Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services,” 2007 edition.

NFPA 1982: “Standard on Personal Alert Safety Systems (PASS),” 2007 edition.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The behavior the proposed rule is designed to alter is to ensure the following:

PFAS – R 408.17313

R 408.17313 Proper use, handling, storage, and containment of firefighting foam concentrate.

Rule 17313. (1) An employer must follow the specific, manufacturer provided safety data sheets (SDSs) for all firefighting foam concentrate that employees may be exposed to and follow best practices regarding the proper use, handling, and storage information.

(2) An employer must prevent intentionally added PFAS containing foam concentrate or foam solution from entering ground water, surface water, or storm drains, as soon as possible. Manual containment strategies used for spills involving a hazardous liquid should be employed. These include blocking storm drains to prevent the contaminated

foam/water solution from entering the wastewater system or the environment. Defensive tactics such as damming, diking, and diverting should be employed to get the foam/water solution to an area suitable for containment until it can be removed in accordance with local, state, and federal regulations. Immediately after the end of a fire or other incident at which an organized fire brigade uses firefighting foam containing intentionally added PFAS, the employer must report the incident to the Michigan pollution emergency alert system.

(3) An employer must dispose of materials contaminated by foam containing PFAS pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(4) An employer must ensure the decontamination of an employee's body and equipment as follows:

(a) Post fire response contaminated personal protective equipment (PPE) must be decontaminated as soon as practical. A mild detergent, with a pH of not less than 6 and not greater than 10.5, must be used. The use of chlorine bleach, chlorinated solvents, or other organic solvents is not permitted. Follow manufacturer's recommended cleaning procedures.

(b) An employee's exposed skin, including the neck, face, and hands, must be decontaminated, post fire response and whenever exposed to firefighting foam. Employees must wash exposed skin with a mild soap and rinse thoroughly with water.

(5) An employer must prohibit the use of firefighting foam concentrate containing intentionally added PFAS, by an employee for training purposes.

(6) An employer must prohibit the use of firefighting foam concentrate containing intentionally added PFAS, by an employee, for equipment calibration purposes, unless required by law or the facility where the calibration takes place has implemented appropriate measures.

The frequency of these behaviors occurs anytime an employee uses firefighting foam concentrate.

Protective ensemble – R 408.17314 (4)

When performing interior structural firefighting, the protective ensemble must meet or exceed the requirements of NFPA 1971: Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting," 1997 edition, as adopted in R 408.17301. Effective January 1, 2025, when performing interior structural firefighting, the protective ensemble must meet or exceed the requirements of NFPA 1971: "Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting," 2013 edition, as adopted in R 408. 17301.

The frequency of the behavior is anytime an employee is performing interior structural firefighting.

Respiratory protection (SCBA & PASS) – R 408.17320

(1) Effective January 1, 2025, when performing interior structural firefighting, an employer shall ensure any self-contained breathing apparatus currently in use must meet or exceed the requirements of NFPA 1981: "Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services," 2007 edition, as adopted in R 408.17301.

(2) Effective January 1, 2025, an employer shall provide and enforce the use of a Personal Alert Safety Systems (PASS) device to each employee utilizing a self-contained breathing apparatus when performing interior structural firefighting. PASS devices shall meet or exceed the requirements of NFPA 1982: "Standard on Personal Alert Safety Systems (PASS)," 2007 edition, as adopted in R 408.

The frequency of the behavior is anytime an employee is required to use an SCBA or PASS when performing interior structural firefighting.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

There are no expected changes in the frequency of the targeted behavior from the proposed rules.

B. Describe the difference between current behavior/practice and desired behavior/practice.

PFAS – R 408.17313

There is no current behavior/practice for this rule. The desired behavior/practice is to ensure the following:

- (1) An employer must follow the specific, manufacturer provided safety data sheets (SDSs) for all firefighting foam concentrate that employees may be exposed to and follow best practices regarding the proper use, handling, and storage recommendations.
- (2) An employer must prevent intentionally added PFAS containing foam concentrate or foam solution from entering groundwater, surface water, or storm drains as soon as possible. Manual containment strategies used for spills involving a hazardous liquid should be employed. These include blocking storm drains to prevent the contaminated foam/water solution from entering the wastewater system or the environment. Defensive tactics such as damming, diking, and diverting should be employed to get the foam/water solution to an area suitable for containment until it can be removed in accordance with local, state, and federal regulations. Immediately after the end of a fire or other incident at which an organized fire brigade uses firefighting foam containing intentionally added PFAS, the employer must report the incident to the Michigan pollution emergency alert system.
- (3) An employer must dispose of materials contaminated by foam containing PFAS pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (4) An employer must ensure the decontamination of an employee's body and equipment. An employer must ensure the decontamination of an employee's body and equipment as follows:
 - (a) Post fire response contaminated personal protective equipment (PPE) must be decontaminated as soon as practical. A mild detergent, with a pH of not less than 6 and not greater than 10.5, must be used. The use of chlorine bleach, chlorinated solvents, or other organic solvents is not permitted. Follow manufacturer's recommended cleaning procedures.
 - (b) An employee's exposed skin, including the neck, face, and hands, must be decontaminated, post fire response and whenever exposed to firefighting foam. Employees must wash exposed skin with a mild soap and rinse thoroughly with water.
- (5) An employer must prohibit the use of firefighting foam concentrate containing intentionally added PFAS, by an employee, for training purposes.
- (6) An employer must prohibit the use of firefighting foam concentrate containing intentionally added PFAS, by an employee, for equipment calibration purposes (unless required by law or facility where the calibration takes place has implemented appropriate measures).

Protective ensemble – R 408.17314(4)

The current behavior/practice is when employees perform interior structural firefighting, the protective ensemble must meet or exceed the requirements of NFPA 1971: Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting," 1997 edition. The desired behavior/practice for the proposed rules is that effective January 1, 2025, when performing interior structural firefighting, the protective ensemble must meet or exceed the requirements of NFPA 1971: "Standard on Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting," 2013 edition.

Respiratory protection (SCBA & PASS) – R 408.17320

(1) Effective January 1, 2025, when performing interior structural firefighting, an employer shall ensure any self-contained breathing apparatus currently in use must meet or exceed the requirements of NFPA 1981: "Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services," 2007 edition, as adopted in R 408.17301.

(2) Effective January 1, 2025, an employer shall provide and enforce the use of a Personal Alert Safety Systems (PASS) device to each employee utilizing a self-contained breathing apparatus when performing interior structural firefighting. PASS devices shall meet or exceed the requirements of NFPA 1982: "Standard on Personal Alert Safety Systems (PASS)," 2007 edition, as adopted in R 408.17301.

C. What is the desired outcome?

The desired outcome is for affected employers to comply with the behaviors/practices outlined above in question 6B.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Firefighting is an inherently dangerous occupation. The proposed rules are designed to protect the health and safety of fire brigade members. In the absence of the proposed rules, fire brigade members will face an increased risk of serious injuries that could result in death or serious physical harm.

A. What is the rationale for changing the rules instead of leaving them as currently written?

Public Act 143 of 2020 amends the MIOASHA Act 154 of 1974 by amending section 14 and adding section 14r. The director shall promulgate rules regarding a firefighters use of firefighting foam concentrate to include rules for best practices regarding proper use, handling, and storage of intentionally added firefighting foam containing PFAS.

The remainder of the proposed rule changes will include new requirements for protective ensemble and respiratory protection. The proposed rules are consistent with the recommendations agreed upon by the AC, which was made up of industry representatives from both management and labor.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules include best practices for the proper use, handling, and storage of firefighting foam containing PFAS. The rules will help limit the amount of PFAS contamination while protecting Michigan citizens and the environment.

The proposed rule changes will include new requirements for protective ensemble and respiratory protection to protect the health and safety of Michigan employees. The proposed rules referencing updated NFPA standards did not adopt the most recent version, which would have been more burdensome for some employers. In addition, some of the proposed rules have a delayed compliance date of January 1, 2025, to be less burdensome and to give employers time to comply with the proposed rule changes.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The following rules are being rescinded because they are being redefined in other added or amended sections of the new proposed rules: R 408.17302 – Adopted and referenced standards, R 408.17303 – Definitions; A to E, R 408.17315 - Foot and leg protection, R 408.17316 - Body protection, R 408.17317 – Hand Protection, and R 408.17318 – Head, eye, and face protection.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

Printing and distribution of the rules are estimated to be \$200, and the cost to purchase the NFPA consensus standards is \$0. In addition, in-house training for MIOASHA staff is estimated to be \$1,000.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

The MIOASHA agency has a training budget that includes educating our employees on revisions to standards.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules are consistent with the recommendations agreed upon by the AC, which comprised industry representatives from management and labor. The AC discussed the benefits and determined that the proposed rules are needed to ensure the safety and health of employees.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The proposed rules are consistent with the recommendations agreed upon by the AC, which comprised industry representatives from management and labor. The AC discussed the benefits and determined that the proposed rules are needed to ensure the safety and health of employees.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

These proposed rules affect private fire brigades. They do not affect any other state or local governmental entities.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

These proposed rules affect private fire brigades. They do not affect any other state or local governmental entities.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

Government units have no requirements/responsibilities imposed by these proposed rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

MIOSHA is not aware of any appropriations or other funding sources available for the proposed rules.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The proposed rules should have little to no impact on rural areas. The few facilities with structural firefighting fire brigades are large manufacturing-type facilities that provide their own fire prevention services.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules should have little to no impact on rural areas. The few facilities with structural firefighting fire brigades are large manufacturing-type facilities that provide their own fire prevention services.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules regarding PFAS will have a positive impact on the environment. The proposed regulations prohibit the use of PFAS-containing firefighting foams for training. Such foams may only be used in emergency firefighting or fire prevention operation and for testing purposes in a facility that has implemented appropriate measures.

In addition, the proposed rules require the prevention of intentionally added PFAS-containing foam concentrate or foam solution from entering groundwater, surface water, or storm drains through the implementation of manual containment strategies, such as blocking storm drains to prevent the contaminated foam/water solution from entering the wastewater system or the environment. Defensive tactics such as damming, diking, and diverting should also be employed to get the foam/water solution to an area suitable for containment until it can be removed in accordance with local, state, and federal regulations.

The proposed rules require that immediately after the end of a fire or other incident at which the fire brigade uses firefighting foam containing intentionally added PFAS, the employer shall report the incident to the Michigan Pollution Emergency Alert System.

Lastly, the proposed rules require the disposal of materials contaminated by foam containing PFAS to be in accordance with the Natural Resources and Environmental Protection Act, PA 451 of 1944, MCL 324.101 to 324.90106.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

MIOSHA administers the occupational safety and health program in compliance with the provisions of the MIOSHA Act 154 of 1974, as amended, and consistent with an agreement between Michigan and the United States Secretary of Labor, which became effective October 3, 1973, and is known as the Michigan State Plan for Occupational Safety and Health. Under the agreement, MIOSHA has exclusive jurisdiction for administering and enforcing the occupational safety and health program in Michigan that covers most private-sector employees and all state and local government workers. As a result, MIOSHA is unable to exempt small business from the proposed rules.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

MIOSHA General Industry Safety and Health Standard, Part 73. Fire Brigades is only required if an employer chooses to have their employees perform firefighting operations. Therefore, small businesses are not obligated to organize and implement a fire brigade covered under the standard. The proposed rules affect establishments such as industrial, private, or contractual fire departments that perform structural firefighting, which is more commonly found in large businesses. The proposed rules referencing updated NFPA standards did not adopt the most recent version, which would have been more burdensome for small employers. In addition, some of the proposed rules have a delayed compliance date of January 1, 2025, to be less burdensome and to give employers time to comply with the proposed rule changes.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The U.S. Fire Administration does not provide an accurate accounting of industrial, private, or contractual fire departments on its website.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

MIOSHA did not establish differing compliance or reporting requirements or timetables for small businesses under the rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

MIOSHA did not establish differing compliance or reporting requirements or timetables for small businesses under the rules.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

No performance standards were established.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

Geographic location or establishment size will not be disproportionately impacted by the proposed rules. MIOSHA General Industry Safety and Health Standard, Part 73. Fire Brigades are only required if an employer chooses to have their employees perform firefighting operations. Therefore, small businesses are not obligated to organize and implement a fire brigade covered under the standard.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

The proposed rules do not have any costs associated with reporting requirements.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

As the proposed rules only apply to companies with fire brigades, there will be no impact on small businesses. The only businesses MIOSHA found with structural firefighting fire brigades are large manufacturing-type facilities.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no anticipated legal, consulting, or accounting costs associated with the proposed rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

As the proposed rules only apply to companies with fire brigades, there will be no impact on small businesses. The only businesses MIOSHA found with structural firefighting fire brigades are large manufacturing-type facilities.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There are no additional costs anticipated of the agency for enforcing the proposed rules. There are no lesser standards of compliance for small businesses.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There is no impact on public interest as the proposed rules are not exempting or setting lesser standards of compliance for small businesses.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

As the proposed rules only apply to companies with fire brigades, there will be no impact on small businesses. The only businesses MIOSHA found with structural firefighting fire brigades are large manufacturing-type facilities.

A. If small businesses were involved in the development of the rules, please identify the business(es).

As the proposed rules only apply to companies with fire brigades, there will be no impact on small businesses. The only businesses MIOSHA found with structural firefighting fire brigades are large manufacturing-type facilities.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

Due to many variations in equipment, installation methods, and operational processes, there is no practical way to determine the expected costs for those not already in compliance. However, AC members indicated that the majority of employers are already in compliance.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Any fire brigades operating in the State of Michigan.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

Due to many variations in equipment, installation methods, and operational processes, there is no practical way to determine the expected costs for those not already in compliance. The AC discussed updating various NFPA standards to reference the most current NFPA standards. The proposed rules referencing updated NFPA standards did not adopt the most recent version, which would have been more burdensome for some employers. In addition, some of the proposed rules have a delayed compliance date of January 1, 2025, to be less burdensome.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There was no indication from the AC that these proposed rules would significantly increase costs to the point that they would outweigh the benefit of added employee protection.

A. How many and what category of individuals will be affected by the rules?

The U.S. Fire Administration does not provide an accurate accounting of industrial, private, or contractual fire departments on its website. The only businesses MIOSHA found with structural firefighting fire brigades are large manufacturing-type facilities.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The qualitative and quantitative impact of the proposed changes will improve the safety and health of fire brigade employees by providing better safety and health equipment and better protection while handling and disposing of PFAS, and other firefighting foam concentrates.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There will be no cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed changes will improve the safety and health of fire brigade employees by providing better safety and health equipment and better protection while handling and disposing of PFAS, and other firefighting foam concentrates.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rule changes should not have an impact on business growth and job creation in Michigan.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

No individuals or businesses will be disproportionately affected by the proposed rules due to their industrial sector, segment of the public, business, size, or geographic location.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

MIOSHA convened an AC comprised of employers that had fire brigades and representatives from the fire service.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

Due to many variations in equipment, installation methods, and operational processes, there is no practical way to determine the expected costs for those not already in compliance. The AC discussed updating various NFPA standards to reference the most current NFPA standards. The proposed rules referencing updated NFPA standards did not adopt the most recent version, which would have been more burdensome for some employers. In addition, some of the proposed rules have a delayed compliance date of January 1, 2025, to be less burdensome.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

No reasonable alternatives to the proposed rules would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There should be no statutory amendments necessary to achieve such alternatives, as there are no reasonable alternatives to the proposed rules.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

MIOSHA administers the occupational safety and health program in compliance with the provisions of the MIOSHA Act 154 of 1974, as amended, and consistent with an agreement between Michigan and the United States Secretary of Labor, which became effective October 3, 1973, and is known as the Michigan State Plan for Occupational Safety and Health. Under the agreement, MIOSHA has jurisdiction for administering and enforcing the occupational safety and health program in Michigan that covers most private-sector employees and all state and local government workers. Other states utilize no private market-based systems.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The AC discussed updating various NFPA consensus standards to reference the most current NFPA standards. It was determined that this could potentially significantly increase the cost of compliance, so the AC decided to adopt versions that would result in lesser costs to comply and still provide improved safety and health performance.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no applicable instructions.