

**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:**

Environment, Great Lakes and Energy

**Bureau name:**

Air Quality Division

**Name of person filling out RIS:**

Cari DeBruler

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**Rule Set Information:**

**ARD assigned rule set number:**

2020-60 EQ

**Title of proposed rule set:**

Part 9: Emission Limitation and Prohibitions - Miscellaneous

**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.**

Rule 902 is required as part of the State Implementation Plan required under Section 110 of the federal Clean Air Act that must be submitted to the United States Environmental Protection Agency (USEPA). Rule 974 is required by Section 111(d) of the federal Clean Air Act that must be submitted to the USEPA as part of the delegation process for existing commercial and industrial solid waste incinerators.

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

Rules 902 and 974 are both required by federal law under the Clean Air Act.

**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 rules do not exceed a federal standard.

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

These rules do not exceed standards in similarly situated states as they are intended to meet the requirements of the federal Clean Air Act. Rule 902 adopts reference material, including federal standards. All states will adopt federal standards using similar language. Rule 974 complies with the federal requirement to have rules as stringent as the USEPA emission guidelines for certain facilities. Any state that has commercial and industrial solid waste incinerators is required by federal law to have a similar rule.

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

The rules do not exceed standards in states situated in similar geographic location, topography, natural resources, commonalities, or economic similarities.

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

There are no known laws, rules, or other legal requirements in the State of Michigan that duplicate, overlap, or conflict with these rules.

**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.**

These rules are required to comply with federal law, and the language of the rules has been coordinated with the USEPA to ensure compliance.

**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 either proposed Rule 902 or 974. The proposed rules are not more stringent than the applicable federally mandated standard, therefore no further explanation is required.

**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.**

MCL 24.232(9) does not apply to the proposed rules, and the proposed rules are not more stringent than the applicable federal standard, therefore no further explanation is required.

## **Purpose and Objectives of the Rule(s)**

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

The purpose of Rule 902 is to revise the test methods and standards that are adopted by reference in other Air Pollution Control Rules. The purpose of Rule 974 is to update state standards to reflect the current federal USEPA requirements for commercial and industrial waste incinerators.

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

There is no expected change in the frequency of targeted behavior expected from these proposed rules.

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

Rule 902 currently represents test methods and standards adopted by reference in other Air Pollution Control Rules that have been updated in some manner, to which the desired proposed rule would reflect those updates.

The current Rule 974 is less stringent than the Title 40 of the Code of Federal Regulations, Part 60, subpart DDDD requirement due to an update to the subpart by the USEPA shortly after Rule 974 was previously promulgated. The desired behavior resulting from the proposed Rule 974 would conform with the federal standard.

**C. What is the desired outcome?**

The desired outcome of proposed Rule 902 is to update the requirements of other Air Pollution Control Rules. The desired outcome for the proposed Rule 974 is to create a State Plan to regulate incinerators that are currently regulated by the USEPA.

**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.**

Rule 902 provides updates to reference materials. In the absence of updating these rules, there will be confusion in test methods used and other material adopted by reference in the Air Pollution Control Rules. Rule 974 updates the state standards for commercial and industrial waste incinerators to align with the federal standards. In the absence of updating this rule, Rule 974 does not accurately reflect the federal standards and cannot be considered by the USEPA as part of a State Plan.

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

Rule 902 provides references to materials used in regard to test methods and other materials adopted within the Air Pollution Control Rules. For these references to accurately reflect current materials the rule must be updated. To reach the Air Quality Division's (AQD) desired outcome of creating a State Plan, Rule 974 must meet the updated requirements for these sources set by the USEPA.

**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.**

Consistency in materials adopted by reference, through Rule 902, will result in less confusion in implementing the Air Pollution Control Rules.

Creation of a State Plan to regulate commercial and industrial solid waste incinerators, through Rule 974, will allow the regulated community consistency in dealing with compliance issues.

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

There are no obsolete or unnecessary rules in the affected rule set that can be rescinded.

### **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).**

There is expected to be little net increase in fiscal impact on the AQD, because the affected sources are currently subject to other regulations and permit requirements and are therefore currently inspected by AQD field staff.

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

No additional appropriation is expected for these rules.

**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 rules are expected to have a beneficial impact on individuals by providing cleaner air due to the lower emissions and impacts of hazardous air pollutants regulated under Rule 974. The rules are also expected to have a beneficial impact on the regulated community by providing consistency in implementation of the Air Pollution Control Rules through Rule 902.

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

The requirements outlined within Rules 902 and 974 are needed and reasonable to provide consistency and compliance with the related federal standards established by the USEPA.

### **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.**

There would be no significant increases or decreases in the revenues or costs to other state or local governmental units as a result of these rules.

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

These rules will be implemented equally across the state and will not have any different impact on rural areas.

**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.**

Rules 902 and 974 do not require any actions that governmental units must take to be in compliance with these 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.**

No appropriation to state or local governmental units has been made nor has a funding source provided any additional expenditures associated with these proposed rules.

## **Rural Impact**

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

In general, Rules 902 and 974 will not have any impact on rural areas.

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

No public or private interests in rural areas will be affected by Rules 902 or 974.

## **Environmental Impact**

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

Rule 902 will not have any impact on the environment. Changes to Rule 974 are expected to have beneficial impact on the environment by lowering emissions of hazardous air pollutants from commercial and industrial solid waste incinerators.

## **Small Business Impact Statement**

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

The agency followed federal regulations when creating these rules and could not consider exempting small businesses.

**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.**

The federal regulations followed when making these rules does not allow the exemption of small businesses.

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

The agency followed federal regulations when creating these rules. Rule 902 does not apply specifically to any business as it adopts material by reference. Rule 974 applies only to entities that own an existing commercial and industrial solid waste incinerator. There are four entities in Michigan, and none are small businesses.

**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.**

The agency followed federal regulations when creating these 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.**

The agency followed federal regulations when creating these rules.

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

The agency followed federal regulations when creating these rules.

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

There is no known disproportionate impact on small businesses due to these rules. Small businesses must comply with federal regulations.

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

These rules do not require any additional reports by small businesses. Small businesses must comply with federal regulations whether they are in the form of a state rule or a federal regulation.

**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.**

The proposed rules should not increase the cost of compliance for small businesses over costs associated with complying with federal regulations.

**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.**

The proposed rules should not increase the cost of compliance for small businesses over costs associated with complying with federal regulations.

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

The proposed rules should not increase the cost of compliance for small businesses over costs associated with complying with federal regulations.

**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.**

The proposed rules will have negligible impact on the Department of Environment, Great Lakes, and Energy because small businesses must comply with federal regulations.

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

The proposed rules will impact industry across the state of Michigan in a similar manner without lesser standards for small businesses because small businesses must comply with federal regulations.

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

These rules are based on federal regulations so small businesses were not involved in their development.

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

These rules are based on federal regulations so small businesses were not involved in their development.

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

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

These proposed rules are based on federal standards. There is no additional cost over the cost to comply with the federal standards.

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

These proposed rules are based on federal standards. There is no additional cost over the cost to comply with the federal standards. Therefore, there are no specific businesses or groups that will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

**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.**

No additional costs will be imposed on businesses and other groups as a result of these proposed rules.

**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.**

The proposed rules are based on federal standards. There is no additional cost over the cost to comply with the federal standards.

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

The proposed rules will not affect a specific category of individuals.

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

The proposed rules are based on federal standards. There is no additional cost over the cost to comply with the federal standards. There are no qualitative or quantitative impacts to any category of individuals.

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

The proposed rules are based on federal standards. There are no additional cost reductions over the cost reductions required to comply with the federal standards.

**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 primary benefits of these rules are a healthier population due to fewer hazardous pollutants in the atmosphere.

The secondary benefits of these rules are a healthier environment due to fewer hazardous pollutants in the atmosphere.

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

These rules are based on federal requirement. It is not known whether there will be any effect on business growth.

**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.**

There is not expected to be a disproportionate impact on any sector because the proposed rules are based on federal regulations.

**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.**

The federal Clean Air Act dictates the requirement and the USEPA provides additional guidance.

**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.**

No estimates or assumptions were made since these rules are dictated by the federal Clean Air Act and the USEPA provides additional guidance.

## **Alternative to Regulation**

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

These rules mirror federal regulations and have no reasonable alternatives.

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

No statutory amendments are necessary since there are no reasonable alternatives.

**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.**

A market-based approach would not be approvable by the USEPA.

**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.**

These rules are based on federal regulations and there are no significant alternatives.

## **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.**

MCL 24.245b(1)(c) is not applicable to this proposal of rules.