

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:

2019-122 LE

Title of proposed rule set:

General Industry Safety and Health Part 62 Plastic Molding

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.

MIOSHA Act 154 of 1974, as amended, Section 11, mandates that an employer shall provide a place of employment which is free from recognized hazards that are causing, or likely to cause, death or serious physical harm to the employee. The (federal) Williams-Steiger Occupational Safety and Health Act of 1970, Section 17 and Section 18, ensures, as far as possible, safe and healthful working conditions for every working man and woman.

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

These rules are required by state law, MIOSHA Act 154 of 1974, as amended, Section 21.

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.

MIOSHA Act 154, 1974, as amended, MCL 408.1014(6), states "a proposed administrative rule that would address a matter not addressed by 1 or more federal standards shall not be processed and presented to the joint committee on administrative rules unless the director determines that there is a clear and convincing need for the standard to meet the criteria set forth, as appropriate". Federal OSHA does not have a comparable standard for plastic molding. However, they do have many of the same regulations in various other standards. In addition to aligning MIOSHA rules with Federal OSHA standards/recommendations MIOSHA is also incorporating rules that reflect current practices in the industry.

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

The Federal OSHA standard went into effect in 1993 for lockout/tagout and all federal states follow the lockout/tagout standard.

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

All federal states follow the lockout/tagout standard. MIOSHA's rules are more specific to industry and machine type for employers to have adequate lockout/tagout.

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

By stating that plastic mold changes on horizontal plastic injection molding machines shall comply with MIOSHA General Industry Safety Standard Part 85 "The Control of Hazardous Energy Sources," which adopts by reference OSHA 29 CFR 1910.147 "Lockout/Tagout", we are not duplicating the same language.

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.

Part 85 Lockout/Tagout is referenced in R 408.16202 of the rules. Part 85 is referenced in Part 62, in that the entire standard (Part 85 R 408.18502) needs to be adhered to during mold changes.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

MCL 24.232(8) does not apply to these rules.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the 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 and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

MCL 24.232(9) does not apply to these rules. MIOSHA rules are more specific than federal standards not stringent.

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

The rules are designed to enable employers to have machine operators and maintenance personnel comply with proper lockout/tagout during mold changes and repairs of equipment occur daily. Proper guarding of the point of operation of plastic injection mold machines, which will prevent injuries/death to employees.

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

As this is the industry standard there should be no frequency of the targeted behavior expected from these proposed rules.

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

There is no difference between current behavior/practice or desired behavior/practice.

C. What is the desired outcome?

The desired outcome is to have machine operators and maintenance personnel comply with proper lockout/tagout during mold changes and repairs of equipment. Proper guarding of the point of operation of plastic injection mold machines, which will prevent injuries/death to employees.

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.

The harm that the rules are designed to alter is to eliminate injuries up to and including death by keeping employees out of the point of operation, or when required to be in the point of operations, and ensure that energy isolation procedures have been enacted.

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

The rationale for adding additional options for lockout and guarding are to give an employer more choices for effective lockout/tagout of their molding machines. This will also allow the rules to add additional options to new and old machines.

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.

Employers are already required to comply with rules under Part 62. The additional rules give employers another option to ensure they are meeting the requirements and allows them to decide what options they want to utilize.

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

R 408.16223 rescinded due to this rule can be covered under Part 2.

R 408.16227 rescinded due to these rules can be covered under Part 85.

R 408.16251 rescinded due to this rule is covered under Part 1.

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).

These proposed rule changes should impose no additional costs to implement, as the rules incorporate current industry standards. Costs to revise rules and publish new rules are the same as ongoing costs to replenish supplies of rules that are already being provided.

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

There is no additional funding/appropriation for expenditures associated with the proposed 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.

There should be no additional burdens placed on individuals due to the implementation of these rules.

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

No additional burdens.

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 will be no increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule changes.

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

No additional program, service, duty or responsibility will be imposed on any city, county, town, village or school district by the rule changes.

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.

There are no actions that governmental units must take to be in compliance with the 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 additional appropriations for additional expenditures associated with the proposed rule have been made to state or local governmental units.

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

There will not be a disproportionate impact on employers or employees based on their geographic location.

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

There are no public or private interests in rural areas that will be affected by the rules.

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

The proposed rules will have no impact on the environment.

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

MIOSHA did not consider exempting small businesses, because all Michigan employers are required to provide a workplace free of recognized hazards regardless of the size of the business.

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.

There is no economic impact on small businesses.

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

Approximately 904 small businesses will be affected by the proposed rules.

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.

Advisory committee members indicated that the majority of employers are already in compliance. The advisory committee did have small business representation reviewing the proposed rules.

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

The agency is proposing rules based on design and operation standards due to the specificity of the equipment used for injection molding.

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

There is no disproportionate impact based on size or geographic location since these proposed rules effect all employers regardless of size and location.

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

No significant compliance costs are anticipated for employers or employees with respect to reporting.

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.

There is no practical way to determine the expected costs for those not already in compliance due to many variations in equipment, installation methods, and operational. Industry representatives and advisory committee members indicated that the majority of employers are already in compliance.

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.

No additional legal, consulting, or accounting services will be required as a result of the proposed rule changes.

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

There is no practical way to determine the expected costs for those not already in compliance due to many variations in equipment, installation methods, and operations. Industry representatives and advisory committee members indicated that the majority of employers are already in compliance.

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 would be no additional costs to the agency since there are no exemptions for enforcement or allowing lesser standards for compliance by small businesses.

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

Allowing exemptions or allowing lesser standards of compliance for small businesses could potentially injure employees employed by small businesses.

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

MIOSHA convened an advisory committee meeting in 2019. Small businesses as described in question 27(a) below had representation on the committee.

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

Lack's Enterprises, Inc.

US Farathane

Knoll Inc.

Plastics Industry Association. This association represents many small businesses.

Flat Globe Consulting is a sales and engineering consulting firm focused on plastic automotive applications.

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

There is no practical way to determine the expected costs for those not already in compliance due to many variations in equipment, installation methods and operation.

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

Any business that has a horizontal or vertical plastic injection molding machine.

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.

There are no additional costs imposed on businesses or 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.

There are no actual statewide compliance costs to the proposed rules on individuals. Including no costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

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

Approximately 904 small businesses, and 1,043 Rubber and Plastic Product Manufacturing businesses will be affected by the proposed rules for any employer that has a plastic injection mold machine.

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

The qualitative impact could be that employers do not have to change lockout/tagout on existing machines. The proposed changes do not have a quantitative impact on individuals.

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

It would be difficult to quantify any 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.

There are no primary and/or direct benefits or any secondary or indirect benefits of the proposed rules. The qualitative impact could be that employers do not have to change lockout/tagout on existing machines. The proposed changes do not have a quantitative impact on individuals.

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

If employers are not required to retrofit or replace machinery to come into compliance with the proposed rules, they could potentially use this savings to increase the number of jobs for their business.

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 no anticipated 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.

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 relied on the expertise of the advisory committee that included plastics industry representation, including small businesses.

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

MIOSHA relied on the expertise of the advisory committee that included plastics industry representation, including small businesses.

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

There are no reasonable alternatives to the proposed rules that would achieve the same or similar goals.

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

There are no statutory amendments that 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.

MIOSHA's responsibility to enforce workplace rules under the Michigan Occupational Safety and Health Act, 154 of 1974, creating a program similar to this would be a duplicate of efforts. There are no private market-based systems utilized by other states since Federal OSHA or other state plans are responsible for enforcing workplace safety 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.

The advisory committee discussed if a gate guard is needed, it was determined that R 408.16225 addressed the issue. There was discussion regarding lockout of local disconnect, some welding machines could generate plastic waste that needs to be cleaned up. It was determined that as long as no part of the body is going into the mode of operation, the lockout is accepted. Discussion if light curtain/electric eye are being used as the lockout means, it was determined that a light curtain should be all that is needed, and an employee should not have to go back to the control panel. There was discussion if a machine needs to be locked out for cleaning, it was determined that it is enforced and covered by General Industry Part 85 The Control of Hazardous Energy Sources.

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

MIOSHA has a fact sheet for the rules. The factsheet gives the background of the changes, the actual changes, and complying with the rule changes.