

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:

Licensing and Regulatory Affairs

Bureau name:

Public Service Commission

Name of person filling out RIS:

Blair renfro

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Rule Set Information:

ARD assigned rule set number:

2019-59 LR

Title of proposed rule set:

Michigan Gas Safety Standards

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 rules are required by state and federal law if Michigan intends to continue to operate its own gas safety program. 49 USC 60105(b)(2); MCL 483.152. These amended rules adopt by reference the current federal gas safety standards as set forth in 49 CFR parts 40, 191, 192, and 199. In addition, these rules adopt standards that apply to Michigan-specific circumstances.

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

Yes. MCL 483.152 provides that the MPSC shall promulgate rules and prescribe safety standards for gas pipeline facilities and transportation.

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 amended rules do not exceed any other regulation or law and are meant to merely adopt the latest federal standards and to provide clarity to affected business as to demonstrate compliance with federal regulations.

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

The Michigan Gas Safety Standards mirror the gas safety rules in the other 49 states that operate gas safety programs.

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

These rules do not exceed any other regulation or law.

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

These rules do not duplicate, overlap with, or conflict with any other regulation or law

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.

The amended rule set adopts updated federal standards.

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.

These amended rules adopt federal standards and are not more stringent than these standards.

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.

These amended rules adopt federal standards.

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

The amended rule set does not involve any new behaviors. The record retention schedule and associated requirements clarify behaviors already in place under Mich Admin Rule R 460.20501 and especially 49 CFR Part 192.

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

The amended rule set do not change the frequency of new behaviors only clarifies language to address federal standards.

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

The amended rule set does not alter current behaviors.

C. What is the desired outcome?

The amended rule set will merely clarify the behaviors that are already ongoing.

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 majority of the revisions do not involve any new behavior prohibition; they simply revise the current rules to incorporate recent amendments to the federal rules. The proposed amendments also make minor changes to Michigan rules so that the language in these rules conforms more closely to the federal rules.

Failure to adopt updates to the federal standards will eventually lead to reduction or termination of federal funding to the state to carry out enforcement of these standards. In addition, failure to maintain local jurisdiction over pipeline regulation will mean that pipelines located in Michigan will be forced to submit to federal regulators located in Washington, D.C. or other out-of-state locations.

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

Amending these rules adopt the latest federal standards. The primary purpose of these amendments is to adopt by reference current federal regulations governing gas safety along with updating certain other technical standards contained in the rules.

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.

Natural gas transportation, transmission, and distribution, if not conducted in a safe manner, poses a significant threat to the health, safety, and welfare of Michigan citizens. Failure to adopt the amendments to the federal standards would have no effect on regulated entities, because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities. Thus, these rules do not impose any additional burden on pipeline operators required to comply with pipeline safety standards.

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

None of these rules are obsolete or unnecessary.

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).

The MPSC spends approximately \$4,000 on publication of notices for rulemaking and holding a public hearing. Some additional training of the MPSC gas safety staff will be undertaken to educate staff on any changes to the federal requirements. Training is largely provided by the US Department of Transportation, Pipeline and Hazardous Materials Safety Administration, with minimal fiscal impact on the MPSC.

However, failure to adopt updates to the federal standards will eventually lead to reduction or termination of federal funding to the state to carry out enforcement of these standards.

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

Amending this rule set does not require any additional agency appropriation.

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.

Failure to adopt the amendments to the federal standards would have no effect on regulated entities, because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities.

Thus, these rules do not impose any additional burden on those required to comply.

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

Failure to adopt the amendments to the federal standards may lead to a reduction of federal funding for enforcement purposes.

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.

Amending this rule set does not increase or decrease revenues to any other state or local governmental units.

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

Amending this rule set does not alter any program, service, duty or responsibility of any city, town, village or school district.

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.

No action is required of any governmental unit other than adoption of the latest federal standards by the Public Service Commission. 49 CFR Part 192 sets forth the requisite record keeping requirements which affected business must follow.

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.

At this time no appropriation to state or local governmental units has been made as there are no additional expenditures associated with amending these rules. However, a failure to adopt the latest federal standards may lead to a reduction in federal funding, which may lead to a future appropriation request to accommodate that loss.

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

Amending this rule set does not alter any impact in rural areas. However, as previously noted, failure to adopt the amendments to the federal standards would have no effect on regulated entities in rural areas because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities.

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

Amending this rule set does not affect private interests in rural areas as any private entity would need to comply with the federal regulations.

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

These rules and amendments focus on infrastructure safety and do not affect the environment. Failure to adopt the federal standards would have no impact on the environment either as affected entities will still have to comply with federal standards contained in 49 CFR Part 192.

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

These rules apply to natural gas distribution utilities and natural gas pipeline operators. Approximately 80% of the pipeline operators regulated by the MPSC are small businesses. These businesses are subject to the same federal regulations as large businesses, and thus are subject to the same state regulations. Federal regulations apply uniformly to all regulated entities, although there are some very limited exemptions for small operators in the federal 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.

Because these rules concern health, safety, and welfare of the public, the rules are applied uniformly across all businesses engaged in the transportation or distribution of natural gas. It would not be lawful or reasonable to exempt small businesses, and there is no means to reduce the impact on these businesses.

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

There are approximately 40 small utility businesses in gas pipeline construction and maintenance affected by these rules, and only minimally, as these businesses must already comply with federal standards.

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.

There are no additional reporting requirements outside of those already required under federal regulation contained in 49 CFR Part 192.

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 amendment of this rule set does not alter the reporting requirements to small business only more clearly addresses the Public Service Commission's expectations for compliance with federal standards already in place.

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

The amended rule set does not change or alter any performance, design operational standards.

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

Amending this rule set does not result in any additional impact to small businesses.

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

Amending this rule set does not alter reporting requirements and will only clarify the expected times for the retention of certain records so that the Public Service Commission can more readily determine that federal standards are being met.

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.

Amending this rule set will result in little to no additional cost as the retention record only clarifies existing requirements set forth in 49 CFR Part 192.

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 additional costs for legal, consulting, or accounting services anticipated as a result of these rules.

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

Small business operators are required to comply with gas safety regulations set by the federal and state governments.

Any additional costs must be absorbed by the operator or passed through to customers of the operator.

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.

Lesser standards for compliance by small businesses is not an option under the regulatory construct.

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

Exempting or setting lesser standards for small businesses would violate federal law and would not be in the public interest.

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

Amending this rule set did not require small business involvement.

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

Small businesses were not involved in amending this rule set.

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

Amending this rule set results in little to no additional compliance costs.

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

Amending this rule set will have little to no effect on any specific group.

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.

Amending this rule set will have little to no additional effect on any specific group other than gas pipeline construction and maintenance businesses who already must comply regardless of the amendments.

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.

Amending this rule set will have little to no additional effect.

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

Amending this rule set will have little to no additional effect on individuals.

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

Amending this rule set will have little to no additional effect.

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

Amending this rule set will have little to no additional effect.

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.

Federal law and the MPSC's agreement with the Pipeline and Hazardous Materials Safety Administration require these rules to be updated every two to three years. However, failure to adopt the amendments to the federal standards would have no effect on regulated entities because they are required to comply with the federal regulations, whether the regulations are enforced by state or federal authorities.

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

Amending this rule set will have little to no additional impact.

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.

Amending this rule set will have little to no additional effect as any affected business are already required to comply with the federal standards in 49 CFR Part 192.

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.

Consultation with MPSC Gas Safety Staff and gas safety staff from regulated entities.

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.

Estimates and assumptions were not considered in amending this rule set.

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

There are no alternatives to the proposed rules if Michigan wishes to continue to regulate gas safety.

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

There are no alternatives to the proposed rules if Michigan wishes to continue to regulate gas safety.

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.

There are no alternatives to the proposed rules if Michigan wishes to continue to regulate gas safety in accordance with federal regulation, and to receive federal funding. Other states are under the same federal requirements.

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.

No alternatives were discussed.

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

The MPSC publishes a "Guide to the Michigan Gas Safety Standards" that combines the federal pipeline safety regulations with the Michigan rules in a user-friendly form.