

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:

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Rule Set Information:

ARD assigned rule set number:

2023-19 LR

Title of proposed rule set:

Gas Safety

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.

The amended rule is 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 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?

The amended rule is required by state and federal law if Michigan intends to continue to operate its own gas safety program. 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.

The amended rule does not exceed a federal standard or citation.

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

All other 49 states have adopted or will adopt the same federal standard.

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

The amended rule does not exceed standards from any other state.

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

The amended rule does not duplicate, overlap, or conflict with any other rules, laws or provisions.

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 merely adopts the latest federal standard and no other coordination with other federal, state, or local law was necessary.

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.

The amended rule is not more stringent than the applicable federal standard.

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 amended rule is not more stringent than the applicable federal standard.

Purpose and Objectives of the Rule(s)

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

The amended rules are not designed to alter behavior or the frequency of behavior other than continued compliance with the most up to date associated federal regulation.

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

The amended rule will not result in a change in the frequency of the targeted behavior as compliance with the most up to date associated federal regulation is already required.

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

The amended rule does not result in a difference between the current behavior/practice as the desired behavior/or practice will be the same.

C. What is the desired outcome?

The amended rule does not alter behavior and thus the only desired outcome is to adopt the most current federal standard.

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 revisions do not involve any new behavior prohibition; they simply revise the current rules to incorporate recent amendments 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?

Federal funding is predicated on adopting the most current applicable federal standards.

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.

No rules in the affected rule set are obsolete or unnecessary.

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).

The MPSC spends approximately \$4000 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.

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 the rule does not require any additional agency appropriation or other funding source.

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 amendment 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 amendment 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.

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.

Amending this rule set does not increase or decrease revenues or any costs 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 does not impose any program, service, duty responsibility upon 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.

Amending this rule does not require any action from any governmental unit for compliance.

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 or funding source has been made to state or local governmental units because there are no expenditures associated with the proposed rule.

Rural Impact

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

Amending this rule has no impact on rural areas.

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

Amending this rule has no impact on public or private interest rural areas.

Environmental Impact

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.

Small Business Impact Statement

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.

The Public Service Commission did not attempt to reduce the economic impact on small businesses as no economic impact is expected from adoption of the most current federal regulation.

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

Small businesses are not adversely impacted by the amended rule and there is no probable effect on 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 did not establish differing compliance or reporting requirements or timetables for small businesses as none were required.

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 amended rule does not require consolidation or simplification for small businesses and no reporting requirements are included.

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

No established performance standards are required to be replaced by amending this rule.

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

Small businesses are not impacted by the amended rule with no disproportionate impact to any small business due to its size or geographic 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.

Small businesses are not required to make any report and no cost to small businesses will result from the amended rule.

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.

Small businesses are not impacted by the amended rule so there is no cost for 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.

Small businesses are not impacted by the amended rule so there is no cost for any legal, consulting, or accounting services.

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

Small businesses are not impacted by the amended rule so there is no absorbing of costs by small businesses.

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.

Small businesses are not impacted by the amended rule so no exemption is necessary.

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

Small businesses are not impacted by the amended rule so no evaluation on the impact of exempting or setting a lesser standard is necessary.

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

Small businesses are not impacted by the amended rule so no small businesses were in development of the amended rule.

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

Small businesses are not impacted by the amended rule so small businesses were not involved in the development of the amended rule.

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

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

Amending this rule results in little to no additional compliance costs on businesses or groups.

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 will have little to no affect on any specific group and no group will bear the cost of, or directly benefit from the rule.

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 will have little to no additional imposed cost on any specific group.

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 will have little to no cost for statewide compliance on any specific group or individuals.

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

Amending this rule will have little to no affect on any specific group or individuals.

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

Amending this rule will have little to no qualitative or quantitative impact on any specific group or individuals.

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

Amending this rule results in no cost reductions to any specific group or individuals.

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 updates 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 the rule will have no impact on business growth or 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 impacted by the amended rule.

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 agency is merely adopting an updated federal standard and no cost-benefit analysis was necessary.

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.

Consultation with MPSC Gas Safety Staff and gas safety staff from regulated entities demonstrated the need to amend the rule.

Alternative to Regulation

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. To receive the allocated federal funding Michigan continue to regulate gas safety consistent with the most up to date federal regulations.

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

No alternative is possible so no statutory amendments are necessary.

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 is no feasibility of establishing a regulatory program similar to the proposed rule that would operate through private market-based mechanisms and there are none associated with other states.

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.

There are no alternatives to the proposed amended rule so no alternatives were not considered or discussed.

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.

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.