

State Budget Office  
**Office of Regulatory Reinvention**  
111 S. Capitol Avenue; 8th Floor, Romney Building  
Lansing, MI 48933  
Phone: (517) 335-8658 FAX: (517) 335-9512

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

**PART 1: INTRODUCTION**

Under the Administrative Procedures Act (APA), 1969 PA 306, the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than 28 days before the public hearing (MCL 24.245(3)-(4)). Submissions should be made by the department Regulatory Affairs Officer (RAO) to [orr@michigan.gov](mailto:orr@michigan.gov). The ORR will review the form and send its response to the RAO (see last page). Upon approval by the ORR, the agency shall make copies available to the public at the public hearing (MCL 24.245(4)).

**1. ORR-assigned rule set number:**

2016-057 LR

**2. ORR rule set title:**

Gas Safety

**3. Department:**

Licensing and Regulatory Affairs

**4. Division/agency/bureau:**

Public Service Commission

**5. Name, title, and phone number of person completing this form:**

Sally Wallace, Administrative Law Specialist, 517-284-8087

**6. Reviewed by department Regulatory Affairs Officer:**

Liz Arasim  
Department of Licensing and Regulatory Affairs

## PART 2: APPLICABLE SECTIONS OF THE APA

### **MCL 24.207a “Small business” defined.**

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.

### **MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).**

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.
- (b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.
- (c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.
- (d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

- (a) 0-9 full-time employees.
- (b) 10-49 full-time employees.
- (c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

**MCL 24.245 (3)** Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** which shall contain specific information (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5].

### **MCL 24.245b Information to be posted on office of regulatory reinvention website.**

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
- (b) Instructions on any existing administrative remedies or appeals available to the public.
- (c) Instructions regarding the method of complying with the rules, if available.
- (d) Any rules filed with the secretary of state and the effective date of those rules.

(2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

### PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

#### Comparison of Rule(s) to Federal/State/Association Standards:

1. Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

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.

One additional rule, R 483.20335, was added to codify a 1974 rule adopted by MPSC order and to harmonize the MPSC’s approach to master meter systems with the federal rules. Another rule, R 483.20338, was added to ban the installation of new “farm taps” in most circumstances. These rules are intended to ensure that master meter systems and farm tap facilities are installed, maintained, and operated safely.

2. Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

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

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has 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 do not duplicate, overlap with, or conflict with any other regulation or law.

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

4. Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

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.

R 483.20335 is being added to address gas safety concerns with respect to master meter systems. Except in the case where the MPSC has issued a waiver, master meter systems are prohibited in the future. For existing systems, the rule provides a clear definition of what constitutes such a system, requires operators to enter into an operation and maintenance agreement with each master meter system owner, and provides for maximum charges for master meter system operations and maintenance. Some existing master meter systems pose a threat to public safety because these systems are not installed, operated, and maintained in accordance with state and federal safety requirements.

R 483.20338 is being added to address farm taps. Under the proposed rule, no new farm taps may be established after January 1, 2019, except in the case where the operator is a public utility. Like master meter systems, some existing farm taps may not have been installed or are not being maintained in accordance with state and federal standards resulting in a threat to public safety.

5. Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) instead of leaving them as currently written?

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.

6. Describe how the proposed rule(s) 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.

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

Due to the frequency of the updates of these rules, none of the rules 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, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would

not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

**8.** 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 U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, with minimal fiscal impact on the MPSC.

**9.** Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

No additional funds are required for implementation of the proposed rules at this time. In the future, the MPSC expects to apply for a grant from the U.S. Department of Transportation to cover a portion of the cost of gas storage inspection and enforcement activities.

**10.** Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts. Despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

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.

**Impact on Other State or Local Governmental Units:**

**11.** 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. Please include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

These rules apply to gas utilities and gas pipeline operators; the rules do not affect state or local government revenues or costs.

**12.** Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

These rules do not impose any duty or responsibility on any city, county, town, village, or school district.

**13.** 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 rule(s).

These rules do not require any additional funds for local government units. In the future, the MPSC may apply for an additional grant from the U.S. Department of Transportation to cover the cost of additional staff for gas storage inspection and enforcement activities.

**Rural Impact:**

**14.** In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

Pipeline operators in rural areas (primarily in Northern Michigan) will be affected by these rules. 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.

**Environmental Impact:**

**15.** Do the proposed rule(s) have any impact on the environment? If yes, please explain.

These rules and amendments focus on infrastructure safety and generally do not affect the environment. Nevertheless, natural gas incidents may occur in environmentally sensitive areas, and to the extent these rules decrease incidents, the effect on the environment will be positive.

**Small Business Impact Statement:**

*[Please refer to the discussion of “small business” on page 2 of this form.]*

**16.** Describe whether and how the agency considered exempting small businesses from the proposed rule(s).

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.

**17.** If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) 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 rule(s) 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 rule(s) and the probable effect on small business.

There are approximately 40 small businesses affected by these rules.

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

There are *de minimus* additional reporting requirements under R 283.20335 and R 283.20338 that will allow the MPSC to track the location and safety status of master meter systems and farm tap facilities.

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

By order, the MPSC has already started the process of identifying and tracking farm taps. The reporting requirement for master meter systems is new, but operators (primarily large businesses) have a reasonable time (beginning March 15, 2019) to comply with the reporting requirements.

**D.** Describe how the agency established performance standards to replace design or operation standards required by the proposed rule(s).

These rules involve standards for gas system design, operation, inspection, and maintenance and are mandated by state and federal law, thus no performance standards can substitute for the rules.

**18.** Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

Failure to adopt updated federal standards would have no effect on regulated entities, small or large, because all transporters and distributors of natural gas are required to comply with the federal regulations, whether they are enforced by state or federal authorities. Thus, there is no disproportionate impact on small businesses.

**19.** Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rule(s).

Small businesses that have farm tap facilities on their systems have new annual reporting requirements. These requirements were initially established as part of an MPSC investigation commenced in 2015 and are being codified in this rule set. The cost for reporting these farm taps is expected to be *de minimus*.

**20.** Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

Additional costs of compliance with the updated federal and state rules are expected to be minimal for small businesses.

**21.** Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There are no additional costs for legal, consulting, or accounting services anticipated as a result of these rules.

**22.** 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.

**23.** 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.

**24.** 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.

**25.** Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small businesses were involved in the development of the rule(s), please identify the business(es).

An industry association, the Michigan Oil and Gas Association, was extensively involved in the development of the rules that affect these operators.

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

**26.** Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). 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.

Because the gas safety standards have been in place for over 50 years, and because the changes to the Michigan rules are prospective, the effect on both small and large gas businesses is not significant.

As noted previously, proposed R 483.20335 and R 483.20338 are being added to address safety concerns with master meter systems and farm taps. Owners of master meter systems may incur higher costs of up to \$10.00 per connection, per month. This amount is equal to what an individually metered customer pays in meter charges on a monthly basis. The trade-off is a system that is operated and maintained safely. The farm tap rule largely eliminates the installation of these systems; thus, no additional costs are expected to be incurred.

For operators who have gas storage, the new federal rules regulating these facilities (that are adopted by reference in the state rules) may result in sizable cost increases, depending on the age and complexity of the facility. The majority of the storage fields in Michigan are owned and operated by the three large gas utilities (Consumers, DTE, and SEMCO) and these utilities are already including the costs of compliance with the federal storage rules in rate cases.

Statewide, to bring all storage field into compliance, the MPSC estimates a cost between \$500 million and \$800 million over ten years.

**27.** Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping. How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

The distribution gas utilities and other owners of gas storage will be most affected by the updated federal rules, which include new rules for gas storage management, maintenance, and inspection. The additional costs will be included in utility rates or passed on to storage customers. While the total cost of over \$.5 billion seems large, overall it will only amount to a fraction of a cent per thousand cubic feet of gas injected into storage,

**28.** Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

There are no cost reductions to any entities as a result of the proposed rules.

**29.** Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The adoption of updated federal gas safety standards assures that natural gas pipelines and distribution systems are designed, constructed, inspected, and maintained in accordance with the most current standards. Standards for pipeline safety must be updated to address problem areas that have occurred under previous standards, thus better protecting public safety and welfare. Secondary or indirect benefits include savings in legal fees and property damage from the failure of unsafe pipelines or distribution infrastructure.

**30.** Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

The rules are not expected to have any effect on business growth and job creation or elimination in Michigan.

**31.** 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 are no individuals or businesses that are expected to be disproportionately affected by these rules.

**32.** 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 a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). 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 rule(s).

Consultation with MPSC gas safety staff and gas safety staff from regulated entities.

**Alternatives to Regulation:**

**33.** Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, 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.

**34.** Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) 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.

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

No alternatives to regulation are available; thus no alternatives were discussed. The incremental approaches under R 483.20335 and R 483.20338 were developed significantly based on discussions with stakeholders.

**Additional Information**

**36.** As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rule(s), 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.

**PART 4: REVIEW BY THE ORR**

**Date Regulatory Impact Statement (RIS) received:**

1-12-2018

<b>Date RIS approved:</b>	<b>01/29/2018</b>
<b>ORR assigned rule set number:</b>	<b>2016-057 LR</b>

<b>Date of disapproval:</b>	Explain:
<b>More information needed:</b>	Explain: