

Michigan Office of Administrative Hearings and Rules

611 West Ottawa Street; 2nd Floor, Ottawa Building

Lansing, MI 48933

Phone: (517) 335-8658 FAX: (517) 335-9512

REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file an RFR with the Michigan Office of Administrative Hearings and Rules (MOAHR) before initiating any changes or additions to the rules. Please submit the RFR to orr@michigan.gov.

1. Agency Information:

Agency name:	Department of Licensing and Regulatory Affairs
Division/Bureau/Office:	Michigan Public Service Commission (MPSC)
Name, title, phone number, and e-mail of person completing this form:	T. Blair Renfro, Administrative Law Specialist, (517) 284-8089, renfrob@michigan.gov

2. Rule Set Information:

Title of proposed rule set:	Gas Safety
Rule number(s) or range of numbers:	R 460.20101 through R 460.20606
Included in agency's annual regulatory plan as rule to be processed in current year?	Yes

3. Estimated timetable for completion, or statutory deadline, if applicable:

4 months

4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

In order for Michigan to maintain jurisdiction over gas pipeline facilities and transportation, the state must certify that it has adopted each applicable federal standard, or is taking steps to adopt that standard, 49 USC 60105(b)(2). Failure to adopt the 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. Thus, 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. The MPSC also proposes to add record retention periods. The proposed amendments also make minor changes to Michigan rules so that the language in these rules conforms more closely to the federal rules.

5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

49 USC 60105(b)(2) provides that the state retains jurisdiction over gas pipeline facilities and transportation as long as the state certifies that it has adopted each applicable federal standard, or is taking steps to adopt that standard.

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

- 6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.**

These rules adopt by reference a more current version of the federal standards contained in 49 CFR part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as well as more recent versions of 49 CFR parts 40, 191 and 199.

- 7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?**

No.

- 8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:**

These amended rules will be promulgated under the full rulemaking process.

- 9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.**

No.

- 10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.**

No.

- 11. Reviewed by the following Departmental Regulatory Affairs Officer:**

Liz Arasim
Department of Licensing and Regulatory Affairs

↓ To be completed by MOAHR ↓

Date RFR received: 6-19-2019

- ☒ **Based on the information in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR.**

MOAHR assigned rule set number:	2019-059 LR
Date of approval:	6/24/19

- ☐ **Based on the information in this RFR, MOAHR is not approving the RFR at this time.**

Date of disapproval:	
Explanation:	