

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

**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:**

Leah Arendt

**Phone number of person filling out RIS:**

517-284-8093

**E-mail of person filling out RIS:**

ArendtL@michigan.gov

**Rule Set Information:**

**ARD assigned rule set number:**

2023-51 LR

**Title of proposed rule set:**

Electrical Supply and Communication Lines and Associated Equipment

**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 proposed amended rule updates the reference to the National Electric Safety Code (NESC) to most current edition, being the 2023 edition effective February 1, 2023. The Commission is not aware of any conflict with or duplication of state or federal regulations. There are no known comparisons to state or other national licensing organization standards. The NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the United States (US).

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

These rules are not required by state law or federal mandate. Again, the NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the US.

**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 rules do not exceed a federal standard.

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

Again, the NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the US. Similarly situated states to Michigan include Illinois, Indiana, Ohio, and Wisconsin. Based on publicly available information, rules and regulations in Illinois, Indiana, Ohio, and Wisconsin still reference older versions of the NESC; however, Wisconsin is in the process of updating its rules to reflect the 2023 NESC.

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

The rule does not exceed standards in other states, including those similarly situated to Michigan, just updates the reference to the most recent version of the NESC. Again, the NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the US.

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

There are no laws, rules, or other legal requirements that may duplicate, overlap, or conflict with the proposed rule.

**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 Commission is not aware of any conflict with or duplication of local, state, or federal regulations. Again, the NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the U.S. and is a national standard that emphasizes practical guidance for safeguarding workers and the public when in proximity to utility infrastructure and equipment.

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

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

The NESC standards are revised approximately every five years to ensure the practical safeguarding of persons during installations, operations, or maintenance of electrical supply and communication lines. The rule is designed to alter the behavior and frequency of behavior of utilities subject to this rule to follow the updated standards.

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

The Commission cannot estimate the change in the frequency of the targeted behavior because applicable utility company employees will need to follow the updated NESC standards (as opposed to the 2017 standards) at various times that cannot be predicted, and which will depend on such factors as applicable utility size, age of existing assets, and system improvement plans.

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

Applicable utilities (see, Mich Admin Code, R 460.811(b)) are currently required to follow the 2017 NESC, and the desired behavior/practice is that the utilities will be required to follow the 2023 NESC.

**C. What is the desired outcome?**

Applicable utilities in the state of Michigan will follow and apply the 2023 NESC standards.

**5. 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 resulting from the behavior that the proposed rule is designed to alter is applicable utilities following a standard that is out-of-date. The likelihood that the harm will occur in the absence of the rule is 100%.

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

Applicable utilities in the state of Michigan need to follow and apply the 2023 NESC standards, which is the most recent version of the NESC, to ensure the practical safeguarding of persons during installations, operations, or maintenance of electrical supply and communication lines. The 2023 NESC updates the standards to reflect burgeoning technology and also makes long-standing sections clearer.

**6. 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.**

The health, safety, and welfare of Michigan citizens will be further protected by applicable utilities following and applying the 2023 NESC. This will also promote a regulatory environment in Michigan that is the least burdensome alternative for those required to comply as the amended rule adds no new burden within the regulatory environment, just updates standards that applicable utilities are required to follow as technology and industry needs change.

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

There are no rules in the affected ruleset that are obsolete or unnecessary and can be rescinded.

## **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.

**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 fiscal impact on the agency was approximately \$237, the cost of purchasing a print copy of the 2023 NESC.

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

Funding for purchasing the 2023 NESC was provided through existing funding.

**10. 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.**

An administrative rule is necessary to adopt the new NESC by reference. The rule will not place any burden on individuals.

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

The rule does not place a burden on individuals.

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

The rule will not increase or decrease the revenues to other state or local governmental units. The rule will not increase or decrease costs for other state or local governmental units.

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

No programs, services, duties, or responsibilities will be imposed upon any city, county, town, village, or district by the rule.

**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.**

Local governmental units will not need to take any actions to be in compliance with the rule.

**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 rules.**

An appropriation to state or local governmental units has not been made, as it is not necessary. A funding source for additional expenditures associated with the proposed rules has not been provided, as it is unnecessary.

## **Rural Impact**

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

The rule adopts the 2023 NESC by reference, which will make applicable utility infrastructure and equipment safer throughout the state, including in rural areas.

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

Members of the public will be positively affected by safer utility infrastructure and equipment. Applicable utility personnel will have to comply with the 2023 NESC but will also benefit from safer ways of working with utility infrastructure and equipment as technology and industry needs change.

## **Environmental Impact**

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

The proposed rule does not have any impact on the environment.

**Small Business Impact Statement**

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

The updated rule does not impose any requirements on small businesses but rather imposes requirements on applicable utilities subject to the Commission's jurisdiction. According to MCL 24.207a, a small business is "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." The utilities subject to this rule do not fit this definition of small business.

**17. 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 updated rule does not impose a disproportionate 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.**

All utilities subject to this ruleset do not meet the definition of "small business."

**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 updated rule does not impose requirements on small businesses as defined in MCL 24.207a, and, therefore, the Commission did not establish different compliance or reporting standards.

**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 updated rule does not impose requirements on small businesses as defined in MCL 24.207a, and, therefore, the Commission did not consider how to consolidate or simplify compliance and reporting requirements for small businesses.

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

The updated rule does not impose requirements on small businesses as defined in MCL 24.207a, and, therefore, the Commission did not establish performance standards to replace design or operation standards required by the rules.

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

The updated rule does not impose a disproportionate impact on small businesses because of their size or geographic location.

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

There are no reporting requirements in this rule.

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

The updated rule does not impose costs on 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 rules.**

The updated rule does not impose costs on small businesses.

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

The updated rule does not impose costs on small businesses.

**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.**

The updated rule does not impose costs on small businesses.

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

The updated rule does not apply to any small businesses as defined in MCL 24.207a.

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

No small businesses were involved. The updated rule does not apply to any small businesses as defined in MCL 24.207a.

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

No small businesses were involved. The updated rule does not apply to any small businesses as defined in MCL 24.207a.

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

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

There are no known costs for compliance. Again, the 2023 NESC updates the standards to reflect burgeoning technology and also makes long-standing sections clearer to ensure the continued practical safeguarding of persons during installations, operations, or maintenance of electrical supply and communication lines.

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

Applicable utilities in Michigan will be directly affected by the proposed rule. To the extent compliance costs exist, utilities in Michigan will bear those costs. Michigan utilities will benefit from the proposed rule because their personnel will be operating around electrical and telecommunication systems that are safer.

**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 known costs for compliance.

**27. 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 known costs for compliance.

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

These rules are applicable to utilities as defined by Mich Admin Code, R 460.811(b). These rules do not apply to individuals.

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

These rules are applicable to utilities as defined by Mich Admin Code, R 460.811(b). These rules do not apply to individuals.

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

There will be no cost reductions to businesses, individuals, group of individuals, or governmental units as a result of the proposed rules.

**29. 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.**

The benefits of the proposed rule are toward the continued practical safeguarding of persons during the installation, operation, or maintenance of electrical supply and communication lines as technology and industry needs change.

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

The rule will not impact business growth and job creation in Michigan. Rather, the rule will incorporate updated standards by which applicable utilities will be required to follow to ensure the continued practical safeguarding of persons during the installation, operation, or maintenance of electrical supply and communication lines as technology and industry needs change.

**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.**

Utilities in Michigan would be disproportionately affected by the proposed rule, since the rule applies to utilities in Michigan. Per Mich Admin Code, R 460.811(b), a “utility” is defined as “an electric or telecommunications company, whether private, corporate, or cooperative, that operates under the jurisdiction of the [Michigan Public Service Commission].”

**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 the proposed rules and a cost-benefit analysis of the proposed rules.**

The Commission relied on staff from the Energy Operations Division and the Regulatory Affairs Division in compiling this Regulatory Impact Statement. Additional sources relied upon include the following:

[http://www.techstreet.com/standards/ieee-c2-2023?product\\_id=2254672](http://www.techstreet.com/standards/ieee-c2-2023?product_id=2254672)

<https://standards.ieee.org/wp-content/uploads/import/documents/other/2017-nesc-state-adoption-reference-survey.pdf>

<https://www.ilga.gov/commission/jcar/admincode/083/083003050000200R.html>

<https://casetext.com/regulation/indiana-administrative-code/title-170-indiana-utility-regulatory-commission/article-4-electric-utilities/rule-170-iac-4-1-standards-of-service/section-170-iac-4-1-26-line-construction-variances>

<https://codes.ohio.gov/ohio-administrative-code/rule-4901:1-10-06>

[https://docs.legis.wisconsin.gov/code/admin\\_code/psc/114.pdf](https://docs.legis.wisconsin.gov/code/admin_code/psc/114.pdf)

<https://apps.psc.wi.gov/ERF/ERFsearch/content/searchResult.aspx?>

UTIL=1&CASE=AC&SEQ=259&START=none&END=none&TYPE=none&SERVICE=none&KEY=none&NON=N

NESC 2023: National Electrical Safety Code training. <https://iln.ieee.org/Public/ContentDetails.aspx?id=1FBC2E128EC847EB83DDB85D80AED96B>

The methodology utilized in determining the existence and extent of the impact of the proposed rules was a review of the 2023 National Electrical Safety Code itself, a copy of which is in the Commission Staff’s possession. Energy Operations Division Staff also took the National Electrical Safety Code training course, presented by IEEE, in 2023.

**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.**

Estimates and assumptions were made on the basis of information in the possession of those employees of the Energy Operations Division and the Regulatory Affairs Division. Again, the NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the US.

## **Alternative to Regulation**

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

There are no reasonable alternatives to the proposed rule that would achieve the same or similar goals. Again, the NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the US.

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

There are no reasonable alternatives to the proposed rule that would achieve the same or similar goals, thus no statutory amendments are necessary.

**34. 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.**

Establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms would not be feasible. The Commission is not aware of any private market-based systems utilized by other states.

**35. 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.**

No alternatives were considered during the development of this rule. Again, the NESC, revised approximately every five years, is a voluntary standard typically adopted into law by states and public utility commissions across the U.S. and is a national standard that emphasizes practical guidance for safeguarding workers and the public when in proximity to utility infrastructure and equipment.

**Additional Information**

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

There are no instructions regarding the method of complying with this rule, other than information within the rule on where to obtain a copy of the 2023 NESC. The 2023 NESC itself provides guidance and rules for applicable utilities to follow as the go-to national safety standard for electric and telecom utility companies since 1914.