Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
611 W. Ottawa Street; 2nd Floor, Ottawa Building
PO Box 30004; Lansing, MI 48909
Phone (517) 335-8658 FAX (517) 335-9512

REGULATORY IMPACT STATEMENT and COST-BENEFIT ANALYSIS

PART 1: INTRODUCTION

In accordance with 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 departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2015-033 LR

ORR rule set title:

Part 10a – Michigan Energy Code

Department:

Licensing and Regulatory Affairs

Agency or Bureau/Division

Construction Codes – Building Division

Name and title of person completing this form; telephone number:

Shannon Matsumoto, Rules Specialist (517) 241-6312

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** containing…" (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, and 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.

The rules update the Michigan Energy Code as required by section 4(5) of the Stille-DeRosset-Hale State Construction Code, MCL 125.1504(5). This section requires the director of the department to update the commercial chapters of the Michigan Energy Code at least once every 3 years to coincide with the national code change cycle.

(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.

There is no state or national licensing organization that sets energy conservation standards. However, the International Code Council (ICC), which develops codes and standards used to construct commercial and residential buildings, including homes and schools, is a national code organization. The International Codes, or I-Codes, published by ICC, provide minimum safeguards for people at school, at home and in the workplace. The I-Codes are a complete set of comprehensive, coordinated building safety and fire prevention codes. Building codes benefit public safety and support the industry's need for one set of codes without regional limitations. The International Energy Conservation Code (IECC), which is part of the I-Codes, is a model code that regulates minimum energy conservation requirements for new buildings. The IECC is a design document. For example, before one constructs a building, the designer must determine the minimum requirements for exterior envelope insulation, window and door U-factors, duct insulation, lighting and power efficiency, and water distribution insulation. The proposed rule adopts the 2013 ASHRAE 90.1 for technical provisions and Chapters 1, 2, 3, 4 of the 2015 IECC.

(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.

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

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?

MCL 125.1504(5) of the Stille-DeRossett-Hale Single State Construction Code Act requires the department to add, amend, and rescind rules to update the Michigan Energy Code not less than once every 3 years to coincide with the national code change cycle. The proposed rules will adopt the 2013 ASHRAE 90.1 for technical provisions and Chapters 1, 2, 3, 4 of the 2015 IECC. These rules will provide a more energy efficient design behavior to lessen the dependence on fossil fuels.

(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) and not leaving them as currently written?

If the rules aren't revised, buildings will not meet the minimum standards for efficient use of energy. This can cause buildings to use more energy than necessary if the building envelope and the mechanical and electrical systems do not meet the minimum requirements. The rationale for these rules is that cost/benefit is one that is positive for the building owner and society.

(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.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c are administrative in nature and are amended to help fulfill the goal of eliminating energy waste, provides energy savings to businesses, and sets a higher level of performance but is not restrictive.

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

R 408.31089 Heating, ventilating, and air condition alterations. This rule is being 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, 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 on the agency promulgating the rule).

There is no additional fiscal impact to the agency beyond the current operational costs.

(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).

The proposed rules will not result in additional fiscal impact on the agency. Thus, there is no need for any additional appropriation or funding source as a result of the changes to the rules.

(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. So despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c are administrative in nature and are amended to bring the administrative application of the Michigan Energy Code in line with actual practices. There is no individual fiscal or administrative burden.

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 on 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.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c are administrative in nature and are amended to bring the administrative application of the Michigan Energy Code in line with actual practices. There is no anticipated increase or decrease in revenues to other state or local governmental units as a result of the proposed rules.

(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.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c are administrative in nature and are amended to bring the administrative application of the Michigan Energy Code in line with actual practices. It is not anticipated that a local governmental unit would incur any added responsibility due to the proposed rules.

(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).

There is no appropriation to state or local governmental units required.

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).

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c are administrative in nature and are amended to bring the administrative application of the Michigan Energy Code in line with actual practices. The proposed rules affect the state of Michigan as a whole. There is no specific rural impact.

Environmental Impact:

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

The proposed rules do not have any impact on the environment.

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 rules.

Small businesses would not be exempt from these rules. Generally, the bureau does not anticipate that small businesses will be affected disproportionately by these proposed 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.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091,

R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c as these rules are administrative in nature and for greater clarity of the Michigan Energy Code.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

Generally, the bureau does not expect small businesses will be affected disproportionately by these proposed 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.

It is not practical to establish differing compliance or reporting requirements or timetables for small businesses. Small businesses are not expected to be adversely affected by these rules. There are no additional reporting, record keeping, or other administrative costs associated with the implementation of the proposed rules.

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

The compliance and reporting requirements are unchanged.

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

R 408.31087 The proposed rule adopts by reference ASHRAE 90.1-2013 which is a nationally recognized standard. There are design or operation standards required by the proposed rules.

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

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c have no 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 business required to comply with the proposed rule(s).

There are no anticipated reports or increased costs to small businesses that are required to comply with the proposed rules.

(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.

Small businesses are not expected to be adversely affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

(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 legal, consulting, or accounting services costs that small businesses would incur in complying with the proposed rules.

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

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c are administrative in nature and are amended to bring the administrative application of the Michigan Energy Code rules in line with actual practices. There are no additional costs or harm anticipated by the proposed rules.

(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.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c will not result in any statewide compliance costs for small businesses as they are administrative in nature and they apply equally to individuals and businesses that are involved in the building industry. There is no additional cost to the agency for administrating and enforcing the proposed rules beyond the current operational cost. These proposed rules meet the state's requirements for cost effectiveness.

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

Exempting or setting lesser standards of compliance for small businesses with respect to the 2015 IECC may have a negative effect on the health, safety, and welfare of the citizens of the state of Michigan.

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

The bureau involved small businesses through the rules review committee process including a utility representative, building representative, general public, commercial builder, homebuilder, plumbing, and mechanical representation.

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.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c will not result in any statewide compliance costs on businesses or groups as they are administrative in nature. These proposed rules meet the state's requirements for cost effectiveness.

(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 proposed rules are not anticipated to increase costs for regulated individuals or the public.

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

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c will not result in any statewide compliance cost reductions on businesses or groups as they are administrative in nature. These proposed rules meet the state's requirements for cost effectiveness.

(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.

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c are anticipated to provide greater clarity to the Michigan Energy Code and an increase in the health and safety of the public.

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

R 408.31087, R 408.31087a, R 408.31087b, R 408.31088, R 408.31088a, R 408.31090, R 408.31091, R 408.31092, R 408.31092a, R 408.31093, R 408.31094, R 408.31095, R 408.31096, R 408.31097, R 408.31098, R 408.31098a, R 408.31098b, and R 408.31098c will not result in any statewide compliance costs on businesses or groups as they are administrative in nature. These proposed rules meet the state's requirements for cost effectiveness.

(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 who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

(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).

The bureau relied upon the rules review committee to compile the regulatory impact statement, including determining the existence and extent of the impact of the proposed rules and the cost benefit analysis of these proposed rules.

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 not reasonable alternatives to the proposed rules that have been identified that would achieve the same or similar goals.

(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.

The proposed rules are implemented through regulatory agencies at the state and local level. There are mechanisms for third party inspection as specified in the Stille-DeRossett-Hale Single State Construction Code Act.

(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.

There were no significant alternatives presented for the bureau and rules review committee to consider.

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.

Not applicable.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

5-19-2016

Date RIS approved:	**June 24, 2016**
ORR assigned rule set number:	**2015-033 LR**

Date of disapproval:	Explain:
More information needed:	Explain:

(ORR-RIS March 2014)