CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Board of Building Standards

Regulation/Package Title: Ohio Plumbing Code Amendments

Rule Number(s): 4101:3-3-01, 4101:3-6-01, 4101:3-7-01

Date: March 14, 2018

Rule Type:

- ☐ New
- X Amended
- ☐ 5-Year Review
- ☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. **Please briefly describe the draft regulation in plain language.**
   Please include the key provisions of the regulation as well as any proposed amendments.

   The Ohio Board of Building Standards (Board) proposes to amend Ohio Administrative Code (OAC) Rules as follows:

4101:3-3-01 to incorporate ICC Errata and add language to clarify that pipe joints and fitting joints should not occur within an exterior foundation wall assembly as a result of approved Petition #18-01 as modified by the Board.
4101:3-6-01 to incorporate ICC Errata and to bring back previously deleted text.
4101:3-7-01 to incorporate ICC Errata and add language to clarify that pipe joints and fitting joints should not occur within an exterior foundation wall assembly as a result of approved Petition #18-01 as modified by the Board.
A detailed summary of the proposed amendments is attached as Exhibit A.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

   Revised Code § 3781.10: http://codes.ohio.gov/orc/3781.10
   Revised Code § 3781.11: http://codes.ohio.gov/orc/3781.11

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
   If yes, please briefly explain the source and substance of the federal requirement.

   No.

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   Not applicable.

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   Revised Code § 3781.10 directs the Board to "formulate and adopt rules governing the erection, construction, repair, alteration and maintenance of all buildings specified in section 3781.06 of the Revised Code…" Additionally, Revised Code 3781.06 provides:

   > *Any building that may be used* as a place of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy *by the public*, *any residential building, and all other buildings or parts and appurtenances of those buildings erected within this state, shall be so constructed, erected, equipped, and maintained that they shall be safe and sanitary for their intended use and occupancy.*

   This statute defines safe and sanitary as follows:

"Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

"Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing.

The Ohio Building Code sets forth the construction standards for nonresidential buildings in the State of Ohio to ensure that they are safe and sanitary. Additionally, Revised Code § 3781.01 provides that local governments may not adopt regulations that that conflict with the Board's rules to facilitate the uniform application of the standards.

Revised Code 3781.11 lists conditions that rules of the Board must address, including:

(1) For nonresidential buildings, provide uniform minimum standards and requirements, and for residential buildings, provide standards and requirements that are uniform throughout the state, for construction and construction materials, including construction of industrialized units, to make residential and nonresidential buildings safe and sanitary as defined in section 3781.06 of the Revised Code;

(2) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

(3) Permit, to the fullest extent feasible, the use of materials and technical methods, devices, and improvements, including the use of industrialized units which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction;

(4) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques, including methods employed to produce industrialized units;

6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The enforcement of these rules will be implemented by certified township, city, and county building departments, and local heath districts. Rule 4101:1-1-01 lays out the administrative procedures certified building departments must follow to implement the substantive requirements of these rules to determine compliance. These provisions require a builder or owner to make application to a building department to obtain an approval to build (permit). As part of this application the owner must submit sufficient information and/or construction documents for the building official/plans examiner to determine whether the proposed work complies with the code. After the builder or owner obtains the approval (permit), construction may commence and the building department inspectors will inspect the construction to ensure that the work conforms with the original approval. Rule 4101:1-1-01 § 105.2 provides that in the absence of fraud or a serious safety or sanitation hazard, any non-residential structure built in accordance with approved plans shall be conclusively presumed to comply with these rules. The Board requires that certified nonresidential building departments submit an annual yearly operational report which lists the following information: current employees and their certifications, total number of permits issued during the year for each type of occupancy, total number of inspections made, the total value of construction, and the total number of appeals of the code requested by a builder or owner during the year.

Development of the Regulation

7. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**
If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Board maintains a stakeholder distribution including building department personnel, contractors, designers and professional associations. The stakeholder list is available upon request. On December 5, 2017, the Board sent an email to all agency stakeholders informing them of a scheduled stakeholder meeting on January 5, 2018 to hear comments and respond to questions on these rules. The notice summarized the proposed amendments and also informed stakeholders that if they could not attend the stakeholder meeting, they could submit questions or comments via email or regular mail by January 12, 2018. On January 5, 2018, the Board conducted a stakeholder meeting on the proposed rules between 10:00 AM and 12:00 PM and the following individuals attended: Derek Spurling, MVBOC, Rick Helsinger, OBOA, Mike Spry, City of Cincinnati, Jene Gaver, City of Springfield, James Smith, American

Wood Council, Michael Boso, City of Grove City, Jason Baughman, Mid East Ohio Building Department, Scott Young, MVBOC, and Don Phillips, City of Worthington.

8. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Emailed comments from Mark Allen were reviewed by the Board's Code Committee and are attached as Exhibit B. Mr. Allen's comments were not accepted as they related to building sewer piping which is outside the authority of the Board.
Included in the rule package are changes as a result of approved Petition # 18-01 submitted by Dana Daughters requesting amendments to the plumbing code as modified by the Board. A copy of Petition 18-01 is attached Exhibit C.

9. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Continuing law is based on is the 2015 International Plumbing Code (IPC) promulgated and amended by the International Code Council (ICC). The model codes developed by ICC are updated every three years through a process that incorporates petitioning, public hearings and voting by ICC members. The ICC Committees that oversaw the development of the different provisions 2015 IPC included building and fire code officials, architects, engineers, contractors, and representatives from the National Association of Home Builders, Underwriters Laboratories, and other professional organizations.

When a petition to amend the model code is submitted, the proponent of the change must submit the proposed language of the amendment, the reason for the amendment including scientific data when applicable, and the cost impact of the amendment. All submitted petitions are then published prior to initial code development hearings on the petitions. Interested persons may review the proposed changes and attend the code development hearing and provide comments. A report then is published on the public hearings for review and then final action is taken on the proposed changes at final action hearings. All successful changes are incorporated into the next edition of the model code.

Upon publication the Board's code committee reviews each substantive change included in the newest edition of the code and determines whether to recommend the change to the Board for adoption. The Board last fully updated the Ohio Plumbing Code on November 1, 2017.

10. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

    See response to Question 9.

11. **Did the Agency specifically consider a performance-based regulation? Please explain.** ***Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

    Continuing law permits a registered design professional's alternative engineered design to be a compliance alternative method to the prescriptive requirements of the code. Section 106.5 of the Ohio Building Code permits a registered design professional to submit sufficient technical data to substantiate that performance of the proposed alternative engineered design meets the intent of the code. Additionally, section 107.4.3 provides that when construction documents have been prepared by an Ohio registered design professional conforming to the requirements of the rules of the Board pertaining to design loads, stresses, strength, and stability and other requirements involving technical analysis, the documents need only be examined to the extent necessary to determine conformity with other requirements of the rules of the Board.

12. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

    Editorial changes are routinely made to the rules to provide consistency with the Ohio Revised Code and other Board and agencies' rules. Additionally, RC § 3781.10 gives the Board sole authority to adopt rules which regulate the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified RC § 3781.06 including residential and non-residential buildings. This authority includes the adoption of standards for plumbing systems.

13. **Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

    For these rules to be enforced by a local government, its building department must be certified by the Board. The Board also certifies the personnel who work within these departments to ensure only qualified personnel are enforcing the Board's rules. Certified personnel must complete continuing education to maintain their certifications and continue to be authorized to enforce these rules. The Board has authority to suspend or revoke certifications for failure to properly enforce the rules. Also, the Board has a staff member

dedicated to responding to complaints by persons affected by the Board rules. This program helps promote consistent and predictable application of the Board rules.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

Minimal, if any, impact. The amendments included in this package primarily incorporate ICC Errata for the 2015 IPC and other editorial corrections. The proposed amendments for pipe joints and fitting joints as a result of approved Petition 18-01 may necessitate a change in plumbing practice, but should not increase any material or labor costs.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

See above.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

See above

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

See Petition 18-01 attached as Exhibit C for justification.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The rules do not have special exemptions or alternative means of compliance specifically for small business. The Ohio Building Code (OBC) requires a building official to issue an adjudication order to an owner when the design or construction of a building does not comply with the OBC. The adjudication order must comply with Revised Code Chapter 119 and give the owner an opportunity to appeal. This mechanism is often utilized by an owner voluntarily

to obtain a variance from the requirements. Variance requests are heard by either the Ohio Board of Building Appeals or a certified local board of building appeals.

Also, the OBC permits alternative engineered designs prepared by a registered design professional to not strictly comply with the prescriptive requirements of the rules. To obtain approvals based on alternative engineered designs, the design professional must submit sufficient technical information to demonstrate that the performance meets the intent of the rules.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Revised Code § 3781.102 does not authorize the Board to set the fees and/or penalties assessed by local certified residential building departments in connection with the enforcement of these rules. Compliance with the rules is accomplished through construction conforming to the certificate of plan approval (permit). Therefore, there are no potential paperwork violations of these rules.

18. What resources are available to assist small businesses with compliance of the regulation?

The Board's technical staff spends approximately 25% of their time responding to questions on the building codes and educating design professionals, contractors, the public, and code officials of the intent of the Board's rules assisting all parties in compliance.

Ohio Department of Commerce
Division of Industrial Compliance
John R. Kasich, Governor
Jacqueline T. Williams, Director

Exhibit A

E-NOTIFICATION
AMENDMENTS GROUP 95 - OHIO PLUMBING CODE PROPOSED CHANGES

Ohio Administrative Code Rule Number	Paragraph/Section	Reason for Proposed Change
4101:3-3-01	305.3	Petition 18-01 clarfies that pipe joints and fitting joints should not occur within an exterior foundation wall assembly
	307.6	ICC Errata deletes the section addressing trench location and renumbers remaining sections
4101:3-6-01	603.2	Brings back and modifies the previously deleted text regarding separation of building sewer and water service piping
	603.2.1	Brings back the previously deleted text
	Table 605.5	ICC Errata corrects the reference to ASME B16.26 in the copper or copper alloy row
4101:3-7-01	706.3	Petition 18-01 clarifies that sanitary fitting joints should not occur within an exterior foundation wall assembly
	711.1	ICC Errata corrects code reference

Ohio Board of Building Standards
6606 Tussing Road
Reynoldsburg, OH 43068-9009

614-644-2613
Fax 614 -644-3147
TTY/TDD 800-750-0750
com.ohio.gov

Gerald Holland, Chairman
An Equal Opportunity Employer and Service Provider

Exhibit B

Hanshaw, Regina

From: Allen, Mark <MAllen@phdmc.org>
Sent: Friday, December 08, 2017 11:55 AM
To: BBS, BBSOfficAsst3
Subject: AMENDMENTS GROUP 95

OHIO PLUMBING CODE PROPOSE CHANGE SECTION 603.2 SEPERATION OF WATER SERVICE AND BUILDING SEWER LOCATED IN THE SAME TRENCH THE BIULDING SEWER PIPING SHALL BE CONSTRUCTED OF MATERIALS LISTED IN TABLE 702.2 . TABLE 702.3 BUILDING SEWER PIPE OF THE 2007 OHIO PLUMBING CODE SHOULD ALSO BE ADDED AND SECTION 305.6.1 SEWER DEPTH 24 " BELOW FINISHED GRADE WAS DELETED IN THE 2011 OHIO PLUMBING CODE SHOULD ALSO BE ADDED. THERE ARE A LOT OF PLUMBING INSPECTORS INSPECT ON PREMISE SEWER AND WATER SERVICES THIS WOULD HELP!

HAVE A GREAT

DAY

Public Health
Prevent. Promote. Protect.
Dayton & Montgomery County
A Human Services Levy Funded Agency

Mark Allen
Plumbing Supervisor
Public Health - Dayton & Montgomery County
117 S. Main Street
Dayton , Ohio 45422
Phone : 937-225-6443

Web : www.phdmc.org

Disclaimer

Confidentiality Statement: This electronic mail transmission and any attached document(s) may contain information from Public Health - Dayton & Montgomery County that is confidential. This information is intended only for the individual(s) named on this electronic mail. If you are not an intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this electronic mail is strictly prohibited. If you have received this electronic mail transmission in error, please notify us so that we can arrange that the electronic mail transmission be directed to the correct recipient(s). Please destroy all copies that were sent to you in error. Thank you

This email has been scanned for viruses and malware, and may have been automatically archived.

Exhibit C

CRITERIA FOR SUBMITTING RULE CHANGES TO THE BOARD OF BUILDING STANDARDS

The Ohio Board of Building Standards processes all petitions for changes to the rules of the Board of Building Standards (Building, Mechanical, Plumbing, Boiler, Elevator, or Residential Codes) pursuant to ORC Chapter 119.

When anyone desires to petition the Board of Building Standards to adopt, amend, or annul a provision of rules of the Board, they must complete an application and provide supporting information submitted to the Secretary of the Board of Building Standards.

The application must include the following:

(1) The date the application is prepared;
(2) The rule number or section that is proposed for amendment, adoption, or annulment;
(3) The rule numbers of all other rules that will be affected by the matter proposed;
(4) The name, address, contact information, affiliation of the applicant, and of any representative;
(5) The provisions that are proposed for adoption, amendment, or annulment;
(6) The reason and technical justification for the proposed change;
(7) All text to be eliminated shall be shown deleted by means of strikethrough, e.g., ~~matter to be eliminated~~;
(8) All proposed new text to be inserted into a rule shall be shown as underlined, e.g., <u>proposed new matter</u>; and
(9) One copy of the completed application and attachments.
(10) An estimate of the increase or decrease in cost that would occur with the adoption of the proposed code change.

When the Secretary of the Board of Building Standards receives a completed application for an adoption, amendment, or annulment of rules of the Board, the Secretary will promptly deliver or mail a copy of the application to each member of the Board.

After receiving an application for the adoption, amendment, or annulment of rules of the Board, the Board of Building Standards shall proceed under sections 3781.101 and 3781.12 of the Revised Code.

BOARD OF BUILDING STANDARDS

APPLICATION

FOR

RULE CHANGE



Reynoldsburg, Ohio 43068-9009

(614) 644-2613

Pursuant to section 3781.12 of the Revised Code and rules adopted by the Board of Building Standards, application is herewith submitted to adopt, amend, or annul a rule adopted by the Board pursuant to section 3718.10 of the Revised Code.

For BBS use:

Petition #: 18-01

Date Recv'd: 01-11-2018

Submitter: **Dana L. Daughters** (Contact Name) **Gamechanger Fittings LLC** (Organization/Company)

Address: 784 Timber Lane (Include Room Number, Suite, etc.)

Geneva, Ohio 4 (City) (State) (Zip)

Telephone Number: 440-474-2204

Fax Number: 440-428-2245

Date: 01/10/2018

E-mail Address: dldaughters77@hotmail.com

Code Section: **706.3**

General Explanation of Proposed Change (attach additional sheets if necessary):

The change we are proposing is installing a longer wye fitting or sanitary tee fitting into the wall that will extend to the outside of the structure rather than couple together inside the wall. With the fittings being used currently, the connection inside the wall has the opportunity to move when the ground is settling and/or freezing which causes leakage, raw sewer gases, and methane gases to seep into the structures walls. The longer design allows for these poisonous and toxic possibilities to be pushed out of the structure since the connection is now outside and no longer in the wall. This will reduce any possibilities of health hazards and damage to the inside walls of the structure. Gamechanger's longer fittings will also make any future repairs or maintenance quicker and cheaper because the connection is now on the outside.

To get a visual demonstration of the product please visit: https://www.youtube.com/watch?v=B1f1_EMhCHU

Explanation of Cost Impact of Proposed Code Change*:

The longer fitting comes with a very minimal cost increase. The product will be available in ABS material or PVC which will increase the price by twenty to thirty dollars depending on the material chosen.

***Attach additional cost information as necessary to justify any statement of cost increase or cost decrease.**

Information on Submittal (attach additional sheets if necessary):

1. Sponsor:	See attachment Organization sponsoring or requesting the rule change (if any)
2. Rule Title:	One connection through the wall to the outside of the structure Title of rule change

3. Purpose/ Objective:	The purpose of this longer fitting is for ease of installation, decrease cost of any future repairs, and no possibilities of leaking raw sewage or gases into the structures walls causing damage to the structure and most importantly to the health of others, because the connection will no longer be in the wall but through the wall and on the outside of the structure. Technical justification for the proposed rule change
4. Formatted Rule Language **(Using Strike-out for Deleted Text and Underline for Added Text)**	706.3 **Installation of fittings.** Fittings shall be installed to guide sewage and waste in the direction of flow. Change in direction shall be made by fittings installed in accordance with Table 706.3. Change in direction by combination fittings, side inlets or increasers shall be installed in accordance with Table 706.3 based on the pattern of flow created by the fitting. Double sanitary tee patterns shall not receive the discharge of back-to-back water closets and fixtures or appliances with pumping action discharge. <u>The fitting being installed should be one piece that extends through the wall to the outside of the structure.</u> Use strike-out for deleted text and underline for added text

5. Notes:	1. To encourage uniformity among states using model codes, it is recommended that the submitter first submit any code change directly to ICC and participate in the national model code development process. 2. Please provide a copy of application and documentation. 3. Use a separate form for each code change proposal.