

**Rule Summary and Fiscal Analysis (Part A)****Department of Commerce**

Agency Name

**Board of Building Standards: Ohio  
Mechanical Code**

Division

**Regina S. Hanshaw**

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**4101:2-6-01**

Rule Number

**RESCISSION**

TYPE of rule filing

Rule Title/Tag Line

**Duct systems.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **3781.10(A)**5. Statute(s) the rule, as filed, amplifies or implements: **3781.10, 3781.11, 3791.04**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

To comply with the five year rule review and to update to the 2015 model codes published by ICC. This rule is being rescinded and a new rule is being filed to replace it.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

This rule prescribes the requirements for ducts located in non-residential buildings.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

The referenced standards are generally available to the affected parties. The referenced standards can easily be purchased from or viewed on websites of the standards making organization. The affected parties typically would be product manufacturers, design professionals, builders, and contractors. These parties would be expected to already own the standards in order to conduct their business of manufacturing, testing, designing, and installing the building systems and products.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

It was infeasible for the agency to file the text electronically due to copyright issues with the standards making organizations. The standards are generally available.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

It was infeasible for the agency to file the text electronically due to copyright issues with the standards making organizations. The standards are generally available.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date: **3/14/2017**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this

rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

The rescission of the rule does not fiscally affect the board.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Due to the variance in allowed building designs, it is difficult to ascertain, in dollars, a cost increase or decrease in the design cost of a building as a result of this proposed rule rescission. Additional information regarding these findings and the findings of the cost impact of the entire Mechanical Code can be found in the attached BIA document.

It is estimated that this rule rescission will have no impact on the design costs of a building.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

No, The rules of the Board do not require a license or permit to operate a line of business. However, rule 4101:1-1-01 does require, prior to commencing construction of or within a building, that a building owner obtain a certificate of plan approval from the building department having jurisdiction. This certificate of plan approval is considered a license to build in accordance with the approved plans. Inspections, conducted during and after construction, verify that the actual work matches the proposed building design.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

No, Revised Code § 3781.102 does not authorize the Board to set the fees and/or penalties assessed by local certified building departments in connection with the enforcement of these rules. The owner is required to demonstrate compliance with the rules of the Board through the submission of construction documents to the building department having jurisdiction. In accordance with rule 4101:1-1-01, if the proposed plans do not comply with the rules of the board, the building department having jurisdiction is required to issue an adjudication order which gives the building owner the right to appeal.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

No, This rule does not require expenditures or the report of information to the Board as a condition of compliance. However, in accordance with rule 4101:1-1-01, the building owner is required to obtain a certificate of plan approval and a certificate of occupancy from the building department having jurisdiction. These certificates are evidence that compliance with the rules of the Board has been achieved.