

**MEMORANDUM**

TO: Regina Hanshaw, Ohio Board of Building Standards

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: October 5, 2018

RE: **CSI Review – Residential Code of Ohio Five-Year Review (OAC 4101:8-1-01, 4101:8-2-01, 4101:8-3-01, 4101:8-4-01, 4101:8-5-01, 4101:8-6-01, 4101:8-7-01, 4101:8-8-01, 4101:8-9-01, 4101:8-10-01, 4101:8-11-01, 4101:8-12-01, 4101:8-13-01, 4101:8-14-01, 4101:8-15-01, 4101:8-16-01, 4101:8-17-01, 4101:8-18-01, 4101:8-19-01, 4101:8-20-01, 4101:8-21-01, 4101:8-22-01, 4101:8-23-01, 4101:8-24-01, 4101:8-25-01, 4101:8-29-01, 4101:8-34-01, and 4101:8-44-01)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of twenty-eight¹ amended rules submitted by the Ohio Board of Building Standards for their statutorily-required five-year review. They were submitted to the CSI Office on September 4, 2018 and the comment period closed on September 30, 2018; two comments were received during that time. The Board provided additional rule revisions based on stakeholder feedback to the CSI office on September 27, 2018 and a response to comments on October 3, 2018.

The rules in this package set forth the Residential Code of Ohio (RCO), which governs the

¹ All twenty-eight rules are being amended to the extent that the Legislative Service Commission requires the Department to rescind the rules and replace them with new rules of the same rule numbers.

erection, construction, repair, alteration, and maintenance of 1-, 2-, and 3- family dwellings. The RCO is proposed with updates based on the 2012, 2015, and 2018 editions of the International Residential Code (IRC), as well as the 2012 and 2015 editions of the International Energy Conservation Code (IECC). The BIA includes an exhaustive list of amendments, citing the source of each proposed change.

Pursuant to ORC 4740.14, the Board adopts these rules based on the recommendations of the Residential Construction Advisory Committee (RCAC). The BIA includes a timeline of the RCAC's work in reviewing subsequent IRC updates since the adoption of the initial RCO in 2013. In addition, the RCAC formed an Energy Subcommittee to closely review the 2018 IECC. The Subcommittee met four times this year and worked with the Ohio Homebuilders Association and the Midwest Energy Efficiency Alliance. In June 2018, the RCAC completed work on the proposed rules and submitted its recommendations to the Board.

Prior to filing the rules with CSI, the Board emailed a stakeholder list which includes building department personnel, contractors, designers and professional associations. This email notified them of the proposed amendments, announced a stakeholder meeting on August 17, 2018, and solicited questions or comments. During the stakeholder meeting, the Board received comments related to drip edge installation, whether the Ohio Plumbing Code should be referenced in OAC Chapter 4101:8-44, a statement of support, and a non-rule related question. As a result of the stakeholder meeting, the Board clarified section 905.2.8.5 of OAC 4101:8-9-01 and the definition of "manufacturer's installation requirements" in OAC 4101:8-2-01; the changes specify that although the drip edge requirement has been rescinded, the manufacturer's installation requirements still apply. The Board responded to all other stakeholder comments, but no additional changes were made.

The Board received five additional comments outside of the public meeting during early stakeholder engagement. Input included suggested editorial changes, a suggestion to rescind the Ohio Homebuilders Association Alternative compliance paths, suggestions to adopt the unmodified 2018 IRC Chapter 11, and one commenter identified a technical issue with section 1106.3 of OAC 4101:8-11-01. The Board made editorial changes to OAC 4101:8-3-01 and 4101:8-11-01 based on stakeholder input and the BIA details the justification for the suggestions that the Board declined to incorporate. In addition, the Board made minor clarifications to OAC 4101:8-29-01 as a result of a technical question posed by a care facility operator during the normal course of business.

During the CSI public comment period, the Board received two comments. The first comment, from the City of Columbus, expressed concern that several provisions of the proposed RCO were duplicative of changes already made to the Ohio Plumbing Code. The Board elected to address this concern by deleting section 312.9 from OAC 4101:8-25-01. The second comment, from the

Sierra Club, encouraged the Board to adopt the 2018 IRC in its entirety. Board staff responded on October 3, 2018 detailing the work of the RCAC in preparing the RCO as proposed, as well as their reasoning for their Ohio-specific modifications. On September 27, 2018 Board notified the CSI Office of additional minor changes to section 313.1 of OAC 4101:8-3-01 regarding dwelling unit automatic fire sprinkler systems and section 1106.3 of OAC 4101:8-11-01 regarding the energy rating index.

The BIA identifies the impacted business community as code enforcement personnel, homeowners, contractors, home builders, and design professionals. The rules require members of the business community to be familiar with the existing and updated code by obtaining the updated rules, as well as through research and training. In addition, the code increases the cost of construction by requiring certain construction methods, materials, and products and through more stringent construction standards. The BIA includes a fiscal impact analysis of the proposed changes to the RCO, estimating a cost increase of \$1,159 for a 1,800 square foot ranch house or \$1,365 for a 1,800 square foot 2-story house.

The Board justifies the proposed rules and increased construction cost as a necessary and acceptable tradeoff to protect the public and ensure uniformity in the application of the RCO. Per ORC 4740.14 the RCAC is charged with making rule recommendations to the Board and must consider the impact on public safety, the economic reasonableness, the technical feasibility, and the financial impact on the affordability of housing.

After reviewing the proposed rules and BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

Recommendation

For the reasons explained above, the CSI office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Board of Building Standards should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

CC: Emily Kaylor, Lt. Governor's Office