



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Regina Henshaw, Ohio Board of Building Standards

FROM: Caleb White, Business Advocate

DATE: November 8, 2023

RE: CSI Review – RCO Amendments (OAC 4101:8-4-01, 4101:8-34-01, and 4101:9-44-01)

On behalf of Lt. Governor Jon Husted, 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 Board as provided for in ORC 107.54.

Analysis

This rule package consists of three amended rules proposed by the Ohio Board of Building Standards (Board). This rule package was submitted to the CSI Office on September 11, 2023, and the public comment period was held open through October 6, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 11, 2023.

The rules contained in this package are being submitted in response to three petitions to the Board requesting changes to be made to three rules contained in the Residential Code of Ohio (RCO). Ohio Administrative Code (OAC) 4101:8-4-01 sets forth the design and construction of the foundation and foundation spaces for residential buildings. This rule is being amended to reinstate exemptions to the requirement to protect foundation walls, piers, and other permanent supports of buildings from frost. These exemptions would exempt certain low-risk structures from this requirement, such as a detached garage, and would reduce the construction costs for these structures.

OAC 4101:8-34-01 sets forth the requirements for the installation, testing and operation of electrical systems in one-, two-, and three-family dwellings as well as their accessory structures. This rule

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adopts by reference provisions of the National Fire Protection Association (NFPA) 70 version of the National Electric Code (NEC) and outlines the Ohio-specific amendments to this code. This also rule clarifies that any reference in NFPA 70 to “one- and two- family dwellings” will include “one-, two-, and three-family dwellings.” Modifications to the NFPA 70 outlined in this rule include the retention of a requirement for all 125-volt, single phase fifteen and twenty ampere receptacles to have ground-fault circuit-interrupter (GFCI) protection with certain exceptions, to eliminate a requirement for a surge protection device to be installed at feeder supplied distribution or a service entrance, and to reorganize the sections to match the referenced code.

OAC 4101:8-44-01 lists the various standards which are referenced in various sections of the RCO. This rule is amended to update the referenced dates of standards, remove an association from listed standards due to their withdrawal from standard sponsorship, and remove a staff note.

During the early stakeholder outreach period, the Board sent an email on March 2, 2023, to all agency stakeholders informing them of a scheduled stakeholder meeting on March 22, 2023, to discuss the proposed rules in this package. This email summarized the proposed rules and provided background information, as well as additional information and resources for the stakeholders to review. Additionally, the Board also informed all stakeholders if they are unable to attend the scheduled meeting in-person, they were invited to submit questions or comments to the board via email. The stakeholder meeting was attended by representatives from Summit County, Richland County, Tuscarawas County, the Delaware County Board of Developmental Disabilities, the Ohio Building Officials Association, the City of Lakewood, Changing Spaces Ohio, the Ohio Facilities Construction Commission, MA Design, with twelve other individuals attending virtually. The Board did not receive any comments on the rules during the stakeholder meeting but did receive written comments from four individuals.

The first comment was sent in support of the proposed changes. The second comment suggested adding a requirement for all pressure treated wood below grade as a part of a permanent wood foundation basement wall to have a label showing the UC4B use category as established by the American Wood Protection Association. The Board agreed with the commenter but chose not to adopt the change at this time, stating that it will keep this comment in mind during the five-year review of this rule. The third comment suggested that the 2023 NEC (NFPA 70) should be adopted for both the commercial and residential codes. This is because it can be confusing keeping track of different versions of the NEC, as by the time these changes are adopted, there will be buildings still being inspected under the 2017 NEC, and having to remember the changes in the 2023, 2020, and 2017 NECs will be both time consuming and confusing. This commenter further stated that adopting different versions of the NEC places an additional burden on contractors and building departments to spend money on different versions of the NEC when the most recent version has been published. Lastly, this commenter also stated their belief that the 2023 NEC should be adopted in full as the

code is a minimum safety standard as written and as such nothing should need to be taken out. The fourth commenter also suggested adopting the 2023 NEC to promote parity with the Ohio Building Code, which was recently amended to adopt the 2023 NEC, and to allow for uniformity in the review and inspections process and eliminate confusion. In response to these two comments the Board amended the rules which reference the NEC to reference the 2023 NEC with additional amendments in the RCO Chapter 34. No comments were received during the CSI public comment period.

The business community impacted by the rules consists of homebuilders, design professionals, contractors, homeowners, and code enforcement personnel. The adverse impacts created by the rules includes the time required to become familiar with the changes through both research and training, as well as the increased cost of construction resulting from changes that require different methods, materials, and products or through the increased stringency of construction standards. The Board states that the adverse impacts to business are justified in order to increase safety and uniformity as well as to modernize and reflect improvements in energy efficiency. The Board also notes the Ohio changes to the 2023 NEC will offset the increased costs from some of the new requirements which affect one-, two-, and three-family constructions.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.