

Michigan Office of Administrative Hearings and Rules

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**AGENCY REPORT TO THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

1. Agency Information

Agency name:

Licensing and Regulatory Affairs

Division/Bureau/Office:

Bureau of Construction Codes

Name of person completing this form:

Amanda Johnson

Phone number of person completing this form:

517-241-3408

E-mail of person completing this form:

JohnsonA39@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

Elizabeth Arasim

2. Rule Set Information

MOAHR assigned rule set number:

2019-118 LR

Title of proposed rule set:

Part 5 Residential Code

3. Purpose for the proposed rules and background:

The rules currently adopted by reference Chapters 1 and 2 of the International Residential Code. The bureau is revising the above rules that are in Part 5. Residential Code, to correct conflicts and inconsistencies between the two chapters of the Residential Code and the Stille-DeRossett-Hale Single State Construction Code Act 230 PA 1972 and the Skilled Trades Regulation Act, 407 PA 2016.

4. Summary of proposed rules:

The proposed rule set (2019-118 LR) currently adopted by reference Chapters 1 and 2 of the International Residential Code. The bureau is revising these rules to correct conflicts and inconsistencies between the two chapters of the Residential Code, the Stille-DeRossett-Hale Single State Construction Code Act 230 PA 1972 and the Skilled Trades Regulation act, 407 PA 2016.

5. List names of newspapers in which the notice of public hearing was published and publication dates:

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Newberry News- Published on September 2, 2020
MLive Ann Arbor- Published on August 30, 2020
The Morning Sun- Published on September 3, 2020

6. Date of publication of rules and notice of public hearing in Michigan Register:

9/15/2020

7. Date, time, and location of public hearing:

9/17/2020 09:00 AM at Zoom or Conference Call , [https://zoom.us/j/93758972177?](https://zoom.us/j/93758972177?pwd=TXJibjhaUGRucWlVbMENDK0lLMVhFdz09)
pwd=TXJibjhaUGRucWlVbMENDK0lLMVhFdz09 or Conference Call: 1-888-873-8017 Conference
Code: 109987

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=104>

9. List of the name and title of agency representative(s) attending public hearing:

Alesha Gensler: Deputy Director for BCC
Anthony Snyder- Administrative Law Specialist with BCC
Jonathan Paradine: Chief of the Building & Residential Division in BCC
Amanda Johnson- Rules Analyst in BCC

10. Persons submitting comments of support:

None

11. Persons submitting comments of opposition:

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Mr. William Hordyk- Representing himself and the Metro Building Inspectors of Greater Grand Rapids.

Mr. Hordyk inquired why the department deleted the following sections of the Residential Code: R 103.1, R 103.2, R 103.3, R 104.2, R 104.3, R 104.5, R 104.6, R 104.7, R 104.8, R 104.8.1, R 104.10, R 105.3, R 105.3.1, R 105.3.2, R 105.6, R 105.9, R 106.2, R 108.1 to R 108.2, R 108.3, R 108.4, R 108.5, R 108.6, R 109.1, R 109.1.5, R 110.1, R 110.2, R 112.2, R 112.3, R 112.4, R113.1 to R 113.3, and R 113.4.

Mr. Lee Swartz- Representing the Home Builders Association of Michigan.

Mr. Swartz inquired why the department deleted the following sections of the Residential Code: R 103.1 R 104.2, R 104.3, R 104.5, 104.7, R 105.3, R 105.3.1, R 105.6, R 105.9, R 109.1, R 112.2, R 112.4, R 114.1, and R 114.2. Also, Mr. Swartz questioned why the following definitions were deleted: Attic, Building Inspector, Building, Building Official, and Registered Design Professional. Mr. Swartz also inquired why the Bureau amended R 104.6, and did not include R 104.7, R 104.10, R 105.3.3, R 106.2, R 108.1, R 109.1.5, R 110.1, R 110.2, R 111.2, R 113.1, in the rules. Also, the amendments of the following rules R 101.3, 102.7, 104.1, and 106.5.

Mrs. M.J.D'Smith- Representing the Michigan Air Conditioning Contractors Association.

Mrs. M. J.D' Smith inquired the following: for the bureau to either remove R 105.2 (c) (xi) in its entirety or include the word " outdoor" in R 105.2 (c)(xi) as shown here: (xi) When changing or relocating a gas meter or regulator, a permit is not required when installing gas piping "OUTDOOR" which shall be limited to 10 feet (3 005 mm) in length and not more than 6 fittings and relace.

Mr. Roger Papineau – Representing himself.

Mr. Papineau inquired the following: in R 408.30501c by deleting the following reference " the international property maintenance code". Act 230 of 1972 does not adopt the IMPC. Section R102.7 is the only reference to the international property maintenance code and contains no specific section reference in this code. This amounts to a quasi-adoption of the IMPC which is beyond the purview of the Department. In R 408.30505 (section R 105.2) Mr. Papineau would like the word " porches" deleted from (x). To add in the definition section (R 408.30513) Registered Design Professional.

Mr. Phil Forner – Allendale Heating Company Inc.

Mr. Forner inquired the following: he does not want R 408.30505 (c) (xi) included in the rule set.

Mr. Wayne Jewell- Building Official, Green Oak Charter Township

Mr. Jewell inquired why the bureau deleted provisions that were redundant because it will not improve the quality or usability of the code. Mr. Jewell wants R 408.30505 to keep " Work exempt from permit". In R 408.30504 add " Right of Entry". Add back in the following definitions: Registered design professional and Building inspector.

12. Identify any changes made to the proposed rules based on comments received during the public comment period:

	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for change	Rule number & citation changed
1	Mr. Wayne Jewell- Building Official, Green Oak Charter Township		Mr. Jewell submitted the following comment in writing: As the first of the attached pages you'll see a copy of page iii of the 2015 Michigan Residential Code. That page expresses that the Code is a "comprehensive, stand alone residential code establishing the minimum regulations for one- and two-family dwellings and townhouses." Therefore, striking language that is repetitive to that in the Act only reinforces those provisions. Redundancy doesn't create or define a conflict or inconsistency. It is just that a redundant provision or regulation. Any inconsistencies should be corrected to	-R 408.30505, Section R105.2: The department chose to keep "Work exempt from permit" because it helps define what that section will cover within the rule set. -R 408.30504, Section R104.6: Added in the new language for "Right of entry" so it is updated with the code. -R 408.30513: Section 513: we added back in the following definitions "Registered design professional" and "Building inspector" to help clarify the definitions within the rule set.	R 408.30505 R 408.30504 R 408.30513

correlate not be removed. Most importantly it places ALL the provisions and regulations in a user's hands in a single document. My first question is which set of proposed rules are being used at the hearing? The proposed rules obtained from the bureau website following the link from the hearing announcement are not the same as the rules posted on the ARS page of the State of Michigan website. Which is correct? The remainder of this communication is using the rules posted on the BCC web page. In the proposed Strike out and Bold document there are numerous places where there is an inconsistency of section citations. For example, as cited "Rule 501b. Sections 101.3 and 101.4" don't exist in the Residential Code.

Sections 8101.3 and R101.4 do; the example sections above without a prefix "R" do represent sections of the Building Code. Those proposed rule changes are an entirely different set of rules proposed — confusion should be eliminated. Following is an outline or description of content of the following attached pages. Which are being presented mostly in opposition to the proposed rule changes for Chapters 1 and 2 of the 2015 MI Residential Code. Because they appear to violate or go beyond what was authorized with a defined scope in ORR 2018-054 LR. That defined scope allowed rules "to correct conflicts and inconsistencies between the two chapters of the Residential Code and the Stille-DeRossett-Hales

Single State Construction Code Act 230 PA 1972". What has been presented in my opinion goes beyond that scope in several instances; which I'll provide a justification as to why. It is requested that a reason be presented as to why these changes are within the limits of the scope of ORR 2018-054 LR.

Materials provided on the BCC web page regarding these proposed changes by the BCC were converted into a Word format. The first document is the comparison of existing verses proposed language. I've presented my reason for recommending denial at the beginning of the document, so it is not lost or missed at the end.

In the Strike out and bold document — Comments are

made after each proposal or section. Many proposed rule changes bring inconsistency between the rules and the Act. Deleting provisions that are redundant doesn't improve the quality or usability of the code. Instead it will create conflicts and controversy because things like site plan requirements are not clear, no means to actually modify the code provisions to meet a unique situation. Yet allow procedures to be developed that could conflict with the Act. I had participated in the "non-official hearing" last August for proposed rules to the building code. Many of these same issues were raised and written suggestions were submitted for improvement to proposed language and met

			<p>what was expressed as the intent of the rule changes. Those suggestions seemed to have been totally ignored and what is before us is rules proposed or deletion of existing language that will create conflict and controversy regarding the enforcement and administration of the Act and code. Act 1972 PA 230 refers in several places that enforcement is required of both the Act and the code as created via the rules. These rules have served our state well over the past 47 years, are they perfect no — but they are very good. Why mess that up, when a few changes could improve an already good code that has consistency with the Act?</p>	
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13.Date report completed:
3/9/2021