

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Construction Codes

Name of person filling out RIS:

Amanda Johnson

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Rule Set Information:

ARD assigned rule set number:

2019-118 LR

Title of proposed rule set:

Part 5 Residential Code

Comparison of Rule(s) to Federal/State/Association Standard:

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal rules or standards that regulate construction codes. The proposed rules update the Part 5 Residential rules.

A. Are these rules required by state law or federal mandate?

These rules are required by state law, Stille-DeRossett- Hale Single State Construction Code, Public Act 230 of 1972.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no standards that regulate construction codes.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The International Residential Code is followed by every state in the United States except Wisconsin. Indiana has adopted the 2018 International Residential Code, and Ohio has adopted the 2018 International Residential Code.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The International Residential Code (IRC) is a nationally recognized model code used throughout the United States as a minimum standard for residential code. Indiana and Ohio have adopted the 2018 International Residential Code and Michigan is still following the 2015 International Residential Code (IRC), so our rules do not exceed standards in Indiana or Ohio.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no federal, state or local laws, rules or other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There are no federal, state, or local laws, rules, or other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There are no federal rules or standards that regulate construction codes. The proposed rules update the Part 5 Residential rules, of the Construction Code as mandated by Public Act 230 of 1972.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the statute that specifically authorizes the more stringent rules or a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There are no federal rules or standards that regulate construction codes. The proposed rules update the Part 5 Residential rules, of the Construction Code as mandated by Public Act 230 of 1972.

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

MCL 125.1504 (6) of the Stille-DeRossett-Hale Single State Construction Code Act commencing with the 2015 national code change cycle, the director shall add, amend, and rescind rules to simultaneously update all chapters of the Michigan residential code not less frequently than once every 6 years or more frequently than once every 3 years as the director determined is appropriate. The proposed rules provide the latest standards to protect the health and promote the safety and welfare of the people.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The proposed rules will correct conflicts and inconsistencies between the two chapters and the Stille-DeRossett-Hale Single State Construction, Act 230 of 1972, and the Skilled Trades Regulation Act, 407 PA 2016, as per a request to amend these chapters.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The proposed rules provide the latest standards to protect the health and promote the safety and welfare of the people and the rules correct conflicts and inconsistencies between chapter 1 & 2 of the International Residential Code and the Stille- DeRossett-Hale Single State Construction Code, Public Act 230 of 1972, and the Skilled Trades Regulation Act, Public 407 of 2016.

C. What is the desired outcome?

The desired outcome is to bring the International Residential Code, the Stille-DeRossett-Hale Single State Construction Code, Public Act 230 of 1972, and the Skilled Trades Regulation Act, Public Act 407 of 2016, in line with actual practices. In addition, the desired outcome is to eliminate unnecessary requirements in the code and to have an easier interpretation and classification of these rules.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Without the implementation of the proposed rules, chapters 1 & 2 of the Residential Code have many discrepancies and conflicts that could cause issues in the future. With the new rules, there is no harm anticipated from behavior related to the proposed rules and there is little likelihood that harm will occur in the absence of the proposed rules.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The purpose of the proposed rules is to give greater clarity to the code and to continue to protect public health and safety.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

R 408.30501b is added to state the purpose of this code, which is to establish minimum requirements to safeguard the public, health, and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and vitalization, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, and to provide safety to firefighters and emergency construction code act, 1972 PA 230.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The following rules are being rescinded: R 408.30508, R 408.30511, R 408.30512, and R 408.30514.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

There is no additional fiscal impact to the agency beyond the current operational costs.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

The proposed rules will not result in additional fiscal impact on the agency. Thus, there is no need for an additional appropriation or funding source as a result of the changes in the rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The bureau has opened Chapters 1 & 2 of the 2015 Michigan Residential Code, to correct conflicts and inconsistencies between Chapters 1 & 2 of the Residential Code and the Stille-DeRossett-Hale Single State Construction Act, 230 PA 1973, and the Skilled Trades Act, 407 PA 2016.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The amendments will clarify code requirements which will make compliance less burdensome.

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There is no anticipated increase or decrease in revenues to other state or local governmental units as a result of the proposed rules.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rules do not impose any additional or new responsibilities on behalf of the governmental units to be in continued compliance with the rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules do not require any additional or new responsibilities on behalf of governmental units to be in compliance with the rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

There is no appropriation to state or local governmental units required.

16. In general, what impact will the rules have on rural areas?

The proposed rules do not have additional impact on rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules do not have any impact on public or private rural areas.

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have any impact on the environment.

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules provide no disproportionate economic impact on small businesses. Small businesses will not be exempt from these rules.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

Small businesses will not be adversely affected by the changes made in the proposed rules as these rules are greater clarity of the code.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The bureau does not expect small businesses to be affected by these proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

It is not practical to establish differing compliance or reporting requirements or timetables for small businesses.

Small businesses are not expected to be affected by these rules. There are no additional reporting, record keeping, or other administrative costs associated with the implementation of the proposed rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The compliance and reporting requirements are unchanged.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

There are no design or operation standards in the proposed rules.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules have no disproportionate impact on small businesses because of their size and geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no anticipated reports or increased costs to small businesses that are required to comply with the proposed rules.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There are no additional costs of compliance for small businesses because of these rules.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no legal, consulting, or accounting service costs that small businesses would incur in complying with the proposed rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

R 408.30500, R 408.30504, R 408.30505, R 408.30506, R 408.30510, and R 408.30513 are administrative in nature and are amended to bring the administrative application of the Residential Part 5 rule set in line with actual practices.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules do not exempt or set lesser standards for compliance by small businesses. There is no additional cost to the agency beyond the current operational cost.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Exempting or setting lesser standards of compliance for small business with respect to these rules may have a negative effect on the health, safety, and welfare of the citizens of the State of Michigan.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The bureau involved small businesses through the rules review process. An email blast was sent out to stakeholders and licensees with a rule/code proposal form giving them four weeks to get any rule changes submitted and an advisory meeting was held with stakeholders and licensees invited.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small business participation for these rules included residential builders. Stakeholders and licensees were also involved through the rules review process.

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The proposed rules will not result in statewide compliance costs of these rule amendments on businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

There will be no businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The proposed rules will not add any additional costs on businesses and other groups.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The proposed rules will not result in statewide compliance costs of these rule amendments on businesses or groups.

A. How many and what category of individuals will be affected by the rules?

The only category that could possibly be affected by this rule set are residential builders.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The only individuals these rules could possibly have a qualitative or quantitative impact on are residential builders.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules will provide greater clarity to the code and an increase in health and safety to the citizens of the State of Michigan and its visitors.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not inhibit business growth or job creation in Michigan.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The bureau does not expect any business or individual to be disproportionately affected by these proposed rules.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The bureau relied on the chief of the building division when determining the existence and extent of the impact of the proposed rules.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rules.

The bureau relied on the chief of the building division when determining the existence and extent of the impact of the proposed rules.

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no reasonable alternatives to the proposed rules that have been identified that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rules that have been identified.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The bureau is unaware of similar programs or private market-based systems in other states.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There were no significant alternatives presented for the bureau and rules review committee to consider.

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no instructions regarding the method of complying with the rules.