

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES

- - -

PUBLIC HEARING

FRIDAY, SEPTEMBER 8, 2023

AT ABOUT 9:00 A.M.

- - -

MICHIGAN LIBRARY & HISTORICAL CENTER

FIRST FLOOR FORUM

702 W. KALAMAZOO STREET

LANSING, MICHIGAN

- - -

RE: Administrative Rules for Construction Codes
Part 7 - Plumbing Code - Rule Set 2022-56

- - -

HEARING FACILITATOR:

TONY WILLIAMSON
Administrative Code and Rules Analyst
Bureau of Construction Codes
Department of Licensing & Regulatory Affairs
611 W. Ottawa
Lansing, Michigan 48993
Williamsont5@michigan.gov

ALSO PRESENT: Tracie Pack
Matthew Hohman

REPORTED BY: Lori Anne Penn, CSR-1315
Penn Reporting, LLC - lori.penn@yahoo.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Opening Statement - Tony Williamson

3

- - -

COMMENTS:

PAGE

Dave Watson

William Hordyk

Ken Johnson

Larry D'Ascenzo

Kevin Roby

William Grayzar

Scott Hamilton

- - -

Closing Statement - Tony Williamson

1 Lansing, Michigan

2 Friday, September 8, 2023

3 At 9:04 a.m.

4 - - -

5 (Public hearing commences pursuant to due notice.)

6 MR. WILLIAMSON: Good morning. My name
7 is Tony Williamson, I am a Department Analyst for the
8 Bureau of Construction Codes in the Department of
9 Licensing and Regulatory Affairs, and I will be
10 conducting the hearing today.

11 This is a public hearing on proposed
12 Administrative Rules entitled "Part 7 Plumbing Code -
13 Rule Set 2022-56". We are conducting this hearing under
14 the authority of the Administrative Procedures Act,
15 Public Act 306 of 1969, on behalf of the Department of
16 Licensing and Regulatory Affairs, Bureau of Construction
17 Codes.

18 We are calling this hearing to order at
19 9:06 a.m. on September 8, 2023, at the Michigan Library &
20 Historical Center, First Floor Forum, 702 West Kalamazoo
21 Street, Lansing, Michigan 48915. Notice of public
22 hearing was published in the *Michigan Register*, Issue
23 #15-2023, on September 1, 2023, and in the following
24 newspapers of general circulation: The Morning Sun and
25 the Oakland Press on August 4, 2023, and the Mining
 Penn Reporting, LLC - lori.penn@yahoo.com

1 Journal on August 9, 2023.

2 Please know, we are here today to receive
3 comments or suggestions on the proposed rules. Please
4 make sure that they relate directly to the proposed rules
5 and the reasons why the changes would be in the public
6 interest. If you wish to speak, make sure you have
7 signed in and indicated that you wish to speak. We will
8 call on speakers in the order in which names are listed
9 on the sign-in sheet. Each speaker is limited to three
10 minutes and only allowed one time to speak during the
11 public hearing. For those making comments today, please
12 clearly state and spell your name slowly for the record,
13 and if you are speaking on behalf an organization, please
14 identify that organization as well.

15 If you have already submitted comments to
16 the Department in writing or by email, those comments
17 will be considered in the same manner as the comments
18 made during the public hearing today. If you have
19 written comments, you may submit them directly to me.
20 The Department will also accept written comments
21 postmarked or emailed until 9/15/2023 at 5:00 p.m.

22 We'll now call the first public member.

23 Dave Watson.

24 MR. WATSON: Yes. I've already submitted
25 my comments in advance, so you have them on record. My
Penn Reporting, LLC - lori.penn@yahoo.com

1 name is Dave Watson, as I've signed in. I represent Dave
2 Watson Associates, manufacturers' representatives
3 (inaudible) --

4 COURT REPORTER: I'm sorry.
5 Manufacturers representatives?

6 MR. WATSON: Manufacturers'
7 representative in the plumbing industry, yes, ma'am. As
8 I say, I've already submitted my comments, so I won't go
9 long, but they boil down to this. I do believe new
10 standards that were introduced in the International
11 Plumbing Code are being misapplied, and I've already
12 submitted the reasons for my belief.

13 I did want to speak publicly, though, to
14 say this, is that I would encourage the Bureau, if
15 possible, to return to the old ways where they -- a
16 plumbing rules committee was appointed to study these
17 rules; the committees would consist of engineers,
18 inspectors, labor, management, all the stakeholders in
19 the industry, and with a number of eyes on these code
20 changes, any errors, concerns, could be addressed at a
21 committee level. I don't mean this to be derogatory of
22 the plumbing chief or the chairman of the plumbing board,
23 but they're very talented individuals, but they don't
24 have the depth, and of course they have day jobs. So as
25 I say, I would -- that's my public comment is I would

Penn Reporting, LLC - lori.penn@yahoo.com

1 encourage the return to appointments of plumbing rules
2 committees to study these changes in more detail, and if
3 that were to happen, I do believe you wouldn't have the
4 comments that you're going to have today. So that's my
5 comment for today. Thank you.

6 MR. WILLIAMSON: Thank you. Now calling
7 Bill Hordyk.

8 MR. HORDYK: Good morning. My name is
9 William Hordyk, H-o-r-d-y-k. I'm a registered building
10 official in the State of Michigan serving the community
11 the Grand Rapids, and I also hold 20 national
12 certifications with the International Code Council,
13 including that of Master Code Professional. I'm here
14 today on behalf of the Metro Building Inspectors
15 Association of Greater Grand Rapids, a group of over 130
16 registered building officials and inspectors performing
17 their duties for over 70 delegated authorities in the
18 State of Michigan.

19 As I had ran out of time on my last
20 hearing for the Mechanical Code, I will be submitting all
21 of my, the interest I have in modifying the proposed
22 rules by paper, but I did want to speak specifically on a
23 couple comments that I noticed in there. We're concerned
24 about the proposed rules for the 2021 Plumbing Code. We
25 believe there were insufficient effort to put forth in

Penn Reporting, LLC - lori.penn@yahoo.com

1 reviewing the existing Administrative Rules in the
2 context of the 2021 Code.

3 Specifically, we found that multiple
4 existing rules reference code sections that did not exist
5 in the 2021 Code, the Model Code. There are multiple
6 rules that are unassociated, that reference unassociated
7 code sections where the Model Code has changed the
8 numbering but the Administrative Rules have not changed
9 the numbering, so there's a discongruity between those.
10 And there are some rules that propose the exact language
11 of the 2021 Model Code.

12 We're concerned that -- we're also
13 concerned about the Bureau's apparent intent to strike
14 Model Code language that has existed from the conception
15 of the (inaudible) --

16 COURT REPORTER: I'm sorry. That has
17 existed from the --

18 MR. HORDYK: -- from the conception of
19 the Stille-DeRossett-Hale Single State Construction Act.
20 The language has not changed from the codes available at
21 that time, but are now being deemed to contradict with
22 the Act. We believe it should not be -- the Bureau
23 should not be in the business of overruling the rule of
24 the legislators. If the writers of Public Act 230
25 objected to the language available to them when crafting

1 the legislation that adopted the Model Codes, they would
2 have written such language out within the Act.

3 Finally, we are concerned about the
4 instances where the new Administrative Rules are
5 proposing the exacting language of 2021 Model
6 International Plumbing Code. As Rule 701 proposes to
7 adopt the 2021 International Plumbing Code, we see no
8 reason for additional rules to specifically adopt
9 individual sections of the Model Code that only allow for
10 underlying errors in future sections as those rules
11 aren't reviewed when the Model Code changes. I'll submit
12 my paper comments by the deadline.

13 MR. WILLIAMSON: Thank you.

14 COURT REPORTER: Can we turn that mic on?

15 (Pause to adjust room microphone.)

16 MR. WILLIAMSON: Ken Johnson.

17 MS. JOHNSON: Good morning. My name is
18 Ken Johnson, and I am a licensed master plumber, I've
19 been in the industry for 40 years. I am here to oppose
20 the Part 7 rule changes of backflow testing. I test
21 anywheres from 3,000 to 4,000 of these assemblies a year,
22 my failure rate is 30-35 percent. To eliminate the idea
23 of testing only when they're installed or moved is not in
24 the interest of public safety. I don't have much more to
25 say to that except I'm hoping that you guys can

Penn Reporting, LLC - lori.penn@yahoo.com

1 understand what I'm trying to say and make amendment to
2 this to where we test annually like we do now. That's
3 all I got for you. Thank you.

4 MR. WILLIAMSON: Thank you. Larry
5 D'Ascenzo.

6 MR. D'ASCENZO: Good morning. Thank you
7 for the opportunity to speak to you today. My name is
8 Larry D'Ascenzo, it's D-apostrophe-A-s-c-e-n-z-o, I'm
9 speaking on behalf of my company, Guardian Plumbing and
10 Heating. We are a commercial plumbing contractor working
11 primarily in healthcare buildings throughout the Metro
12 Detroit region.

13 I'd like to address this section of the
14 proposed amendments: Specifically, the 2018 edition of
15 the Michigan Plumbing Code which is currently in effect
16 requires backflow preventers to be tested annually. This
17 reflects the language of the Code's source, which is the
18 2018 International Plumbing Code. The 2021 edition of
19 the International Plumbing Code, which is again the
20 source for the Michigan Plumbing Code, continues to show
21 that backflow preventers are required to be tested at
22 least annually; however, on page 4 of the proposed
23 amendment changes, the proposed language reads, and I
24 quote, "... backflow preventers shall be tested at the
25 time of installation, immediately after repairs or at the

1 time of relocation." The language that requires backflow
2 preventers to be tested at least annually has been
3 omitted.

4 My company tests and certifies thousands
5 of backflow assemblies annually with a failure rate that
6 hovers in the 20-percent range. When these assemblies
7 fail, they are exposing water users in the building and
8 the community at large to potential contamination of
9 their water supply. Unsuspecting officworkers could be
10 ingesting boiler chemicals when they take a drink from
11 watercoolers. In fact, this very scenario happened in
12 one of the buildings that my company works in, although
13 workers noticed that their water tasted funny.

14 My company services backflow preventers
15 on everything from boilers to dialysis systems to
16 glycol-filled fire suppression systems. To think that
17 the State of Michigan with its dedication to safe
18 drinking water would consider it acceptable for boiler
19 chemicals or glycol to potentially enter the potable
20 water system is unthinkable.

21 That being said, there can only be one of
22 two reasons for the omission of the annual testing
23 requirement in the proposed code changes: (1) it was
24 omitted by mistake, or (2) it was omitted by design. If
25 in fact it was omitted by mistake, the remedy is simple;

1 restore the language to match that of its parent
2 document, the 2021 International Plumbing Code. If it
3 was by design and the Code change is permitted to pass as
4 proposed, it would be a major setback to the cause of
5 safe water in the State of Michigan. Water purveyors
6 throughout the State are required to ensure the water is
7 delivered safely to the furthest tap.

8 I strongly oppose the proposed change and
9 encourage you to restore the language from the previous
10 Code. I thank you for the opportunity.

11 MR. WILLIAMSON: Thank you, sir. Kevin
12 Roby.

13 MR. ROBY: Good morning. My name is
14 Kevin Roby, and I represent the City of Novi, Department
15 of Public Works, Water and Sewer Division, and I'm a
16 cross-connection specialist for the City of Novi.

17 Page 4, Rule 725h Testing, backflow
18 preventers. I oppose this Code change due to the removal
19 of testing it at least annually. As a water purveyor, we
20 are required to provide safe drinking water to the tap,
21 and a huge component of that is testing backflow
22 preventers, inspecting buildings, inspecting and
23 evaluating plumbing systems. This Code change
24 contradicts Section 102.3 Maintenance in the Code that
25 requires both existing and new plumbing systems to be

1 proper operating condition. The way to do that is to
2 test them, and a departure from the annual testing has a
3 direct negative impact on the health, safety, and welfare
4 of the public. These assemblies are mechanical in nature
5 and subject to failure, and they do fail. Testing
6 programs throughout the State have documented failed test
7 results throughout the State and in fact across the
8 country.

9 According to the ICC website, 2021
10 edition of the International Plumbing Code, annual
11 testing is required. These assemblies isolate cooling
12 towers, boilers, fire protection glycol systems, dental
13 equipment, a large part of it is high hazard in nature,
14 and it certainly is a step backwards from protecting the
15 health, safety, and welfare of the public.

16 And all of these assemblies when they
17 fail, it's not noticeable that they failed. The only way
18 you need to -- you need to verify that or confirm that is
19 to test them. You have -- you can have assemblies that
20 go on for a couple years based on EGLE's testing protocol
21 and they can be failed, not protecting our water supply,
22 and it's, it needs to be changed and we oppose it.

23 I oppose the same section on page 3, Rule
24 726 Inspections. It needs to be done annually.

25 And one last Code section is the page 6,
Penn Reporting, LLC - lori.penn@yahoo.com

1 Rule 727a, water meters. We need valves on each side of
2 a water meter. We've got water meters that are up in
3 ceilings where there's a valve on the downstream side,
4 and we can't fix them. Thank you.

5 MR. WILLIAMSON: Thank you, sir.

6 MR. ROBY: Can I submit these to you?

7 MR. WILLIAMSON: Yes. William Grayzar.

8 MR. GRAYZAR: Thank you. My name is
9 William Grayzar, it's G-r-a-y-z-a-r. I'm here on behalf
10 of Code Study Development Group of Southeastern Michigan
11 and on behalf of myself. We have previously submitted
12 Code changes from the Code Study, and I have some
13 additional changes that I am presenting myself.

14 First of all, I agree with my
15 predecessors, that the backflow prevention annual testing
16 needs to remain in the Code. I don't need to go further
17 into that, they've delved on that pretty well, but that
18 does need to remain in the Code.

19 I'm looking at another health and safety
20 issue, and that is under Section 727c where we list
21 emergency eye wash and tepid water limits. That is our
22 add to the Code, and by the ASSE 1071, that does not
23 belong in this section of the Code, this is for tempered
24 water -- tepid water. Tepid is different, tepid water is
25 used on emergency fixtures. That addition to the Code is

Penn Reporting, LLC - lori.penn@yahoo.com

1 the only change that's different from the ICC, and I
2 believe that should be removed. It's already covered
3 elsewhere in the Code. And that also would take away the
4 reference in Section, it's 411.3, referencing back, and
5 that would also match the ICC and neither of one those
6 would be needed. That's my first one.

7 Secondly, for a long time in the Code
8 there's been a discrepancy on the requirement between
9 cleanouts in manholes. In the sanitary section, it
10 requires manholes for eight-inch pipe and larger, and in
11 the storm section, it's ten-inch pipe and larger. We
12 need to get those resolved. The Code Study has three
13 changes in for your review, any one of those is
14 acceptable. One would put it to the eight-inch to match
15 the ICC, one puts it to ten-inch and puts in Code changes
16 for that, and the other one just modifies what we have
17 now so that they're consistent.

18 I have another change in that's just
19 editorial. There's many links that are broken in the
20 2018 Code, as many of you know. What they did in the
21 International Code, they renumbered the sections in the
22 fixture section to be alphabetical and the Code
23 references were not updated.

24 Lastly, I have a change that's a cross-
25 connection that I do not believe belongs in the

1 Commercial Code, it's acceptable in the Residential Code,
2 but it is the end-of-use water recirculation systems.
3 They are in the International Code, I plan to argue that
4 point there, and they're in this Code. The problem is
5 they allow the cold water line to serve as a recirc line,
6 and there's two problems with that; it raises the
7 temperature of the cold water line into the Legionella
8 area, and the cold water is not protected like hot water
9 for Legionella, you've got problems there, and it's a
10 direct cross-connection between the hot and cold water
11 systems in a building. Like I said, residence, it's
12 okay, but in a commercial building where you have
13 multiple tenants, this could lead to an elevated high
14 temperature limit and added scalding. And in addition,
15 the 1070 devices that are required to protect public
16 safety require a maximum to have 80-degree water to
17 supply to those fixtures. Thanks you.

18 MR. WILLIAMSON: Thank you. Now calling
19 our last speaker, Scott Hamilton.

20 MR. HAMILTON: Good morning. I'm Scott
21 Hamilton, H-a-m-i-l-t-o-n, senior director at ASSE
22 International representing ASSE International Code
23 Committee.

24 I have submitted in writing, it's posted
25 on the site, but I just want to emphasize the importance
Penn Reporting, LLC - lori.penn@yahoo.com

1 of a couple of our standards that we have developed
2 through the industry using subject matter experts
3 regarding ASSE 1082, 1084, both allowing water heaters to
4 do the part of what typically the 1017 and 1070 mixing
5 valves would do. Both of them are great standards, went
6 through the ANSI process, and when used in the correct
7 application according to the scope and purpose will
8 protect the end users like they say they will. But
9 there's a misapplication in there thinking that the 1082
10 and 1084 are similar. The difference between the two,
11 and the standards have been submitted for your review,
12 the difference between the two, 1082 is similar to the
13 1017, it will modulate the temperature in the hot water
14 distribution system, it is not intended to control the
15 temperature at point of use, that is the 1084. The 1084
16 heater is going through a special testing, Section 3.3,
17 to ensure that if any fluctuation takes place with those
18 heaters, they not produce water above 120. The 1082
19 heater will produce water above 120, and it could lead to
20 scalding to the end user. So we want to make sure, and
21 we have a series of them on your site, so where the
22 misapplication took place, so we just wanted to emphasize
23 that again, both great standards when used in the correct
24 application to their sole intent and purpose.

25 As far at the backflow annual testing,

Penn Reporting, LLC - lori.penn@yahoo.com

1 again, we developed the standards for the backflow, we
2 used industry experts, which include the manufacturers,
3 and all of them will say that they use mechanical parts.
4 Mechanical parts fail over time, they need to be tested
5 annually. All of the Model Codes throughout the country
6 require the testing annually, along with everything else
7 that you have in the Code. So thank you.

8 MR. WILLIAMSON: Thank you. If there are
9 no other further comments at this time, I hereby declare
10 this hearing closed. The record will remain open until
11 today at 5:00 p.m. for any other comments you may wish to
12 share about the proposed rules. Thank you for attending.

13 (Public hearing concluded at 9:27 a.m.)

14 - - -

1 STATE OF MICHIGAN)
)
2 COUNTY OF MACOMB)

3 I, Lori Anne Penn, certify that this
4 transcript consisting of 18 pages is a complete, true,
5 and correct record of the Public Hearing held in the
6 captioned matter on Friday, September 8, 2023.

7 I further certify that I am not
8 responsible for any copies of this transcript not made
9 under my direction or control and bearing my original
10 signature.

11 I also certify that I am not a relative
12 or employee of or an attorney for a party; or a relative
13 or employee of an attorney for a party; or financially
14 interested in the action.

15
16
17 September 13, 2023
Date

Lori Anne Penn

Lori Anne Penn, CSR-1315
Notary Public, Macomb County, Michigan
My Commission Expires June 15, 2025