



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce; Division of Industrial Compliance; Bureau of Building Code Compliance

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Regulation/Package Title (a general description of the rules' substantive content):

Chapter 1301:3-2 of the Ohio Administrative Code: currently entitled "Plumbing Permit, Reinspection fees" and proposed to be entitled "Building Code Compliance Fees"

Rule Number(s): O.A.C. 1301:3-2-01 through 1301:3-2-04; O.A.C. 1301:3-2-06 through 1301:3-2-10

Date of Submission for CSI Review: 3/24/2025

Public Comment Period End Date: 4/07/2025

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR?)

Amended/1 rules (FYR? N)

Rescinded/8 rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. Requires specific expenditures or the report of information as a condition of compliance.
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Chapter 1301:3-2 of the Ohio Administrative Code is currently entitled “Plumbing Permit, Reinspection fees” and, in its current form, deals with plumbing inspector certification issued by the Division of Industrial Compliance (the “Division”). Previously, both the Division as well as the Board of Building Standards (the “Board”) administered separate, but related, plumbing inspector certification programs. The Division certified plumbing inspectors working on behalf of health districts, while the Board certified plumbing inspectors for certified building departments. To avoid confusion in the industry by having two similar, though distinct, certification programs, and to reduce administrative inefficiencies in having two separate programs, the Division’s plumbing inspector certification program was terminated and the Board assumed sole responsibility for certification of all plumbing inspectors in Ohio. As a result, rules contained in Chapter 1301:3-2 of the Ohio Administrative Code that deal exclusively with plumbing inspector certification administered by the Division (rules 1301:3-2-02 through 1301:3-2-04 and 1301:3-2-06 through 1301:3-2-10) are no longer needed, and, therefore, are proposed to be rescinded.

Additionally, the amount of fees collected by the Division for matters dealing with building code compliance was previously set out in rule 4101:7-7-01 of the Ohio Administrative Code, which fell under the Board’s administrative rules. Given that the fee was ultimately collected by the Division for services rendered pertaining to building code compliance, placing the rule that sets the amount for such fees within the Ohio Administrative Code under

the Division of Industrial Compliance's division-level rules was more intuitive organizationally speaking. The Board, therefore, has filed a rescission of this rule and the Division proposes to amend rule 1301:3-2-01, currently entitled "Permit fees," to transfer fee authority contained in rule 4101:7-7-01 to rule 1301:3-2-01. Because this rule will now cover more fees than only plumbing permit fees, titles for both *Chapter* 1301:3-2 and *rule* 1301:3-2-01 are proposed to be changed.

In addition to maintaining fee-collecting authority for the Division through the enactment of this rule, the Division is also seeking to increase the amount collected for certain services offered by the Division regarding administration of its bureau of building code compliance. The proposed increases are necessary because the costs borne by the Division in rendering these services specifically, and in its operations generally, have increased since the time that these fees were originally established in rule 4101:7-7-01 of the Ohio Administrative Code. The amount of the fees previously set in rule 4101:7-7-01 of the Ohio Administrative Code and the proposed amount are set forth in the attached spreadsheet (*see* Attachment A).

Please note that the remainder of the BIA form addresses only the proposed amendment of rule 1301:3-2-01 to establish the amount of fees for building code compliance. The rescission of rules 1301:3-2-02 through 1301:3-2-10 that dealt exclusively with the now terminated plumbing inspector program previously administered by the Division have no business impact.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

R.C. 3791.07.

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No. No.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Administration of the Division's Bureau of Building Code Compliance requires the Division to collect fees in order to offer such services. Given that authority for collecting, and the amount to be collected for these services, was previously granted in rule 4101:7-7-01 of the Ohio Administrative Code, when that rule was proposed to be rescinded by the Board, it was necessary for the amount of fees to be set in a different chapter of the Ohio Administrative Code.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Given that the rule is being placed in the Ohio Administrative Code in division-level rules that make more intuitive sense to a user seeking out such information, and also given that the language of the rules is nearly identical to that from rule 4101:7-7-01 of the Ohio Administrative Code, which this rule is replacing, the Division is confident that this regulation will be implemented successfully. The Division will also monitor its costs associated with the administration of its code enforcement responsibilities and how those costs compare to the fees collected as set forth in the proposed rule.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Because a rescission of rule 4101:7-7-01 of the Ohio Administrative Code, which previously granted fee authority to the Division for building code compliance services, has already been filed, it was necessary to promulgate a rule to ensure continuity for fee authority prior to the rescission taking effect. The Division, therefore, will gather stakeholder input during the rule-review process.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

TBD

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The proposed rule sets the amount of fees to be collected by the Division in its administration of building code compliance. As such, scientific data was not applicable to its implementation. The Division, however, did rely on staff with fiscal and accounting expertise, as well as expertise in the industry of code compliance, in determining what amount should be set for the fees listed in the rule.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

Broadly speaking, alternative regulations were not possible given that fee-authority previously contained in rule 4101:7-7-01 of the Ohio Administrative Code were being rescinded and it was necessary for such authority to be established in a replacement rule. With regard to the amount charged for such fees, the Division maintained the amount of fees charged for services where fiscal requirements would permit no increase. In the event an increase in fees was necessary, the amount of the increase was set at an amount that would cover the increased costs associated with providing those services but endeavored to limit the amount of increase so as to avoid unnecessary adverse impact to the regulated community. The Division also considered what amount was charged for such services by local certified building departments offering similar services in the industry of building code compliance to ensure the Division remained competitive in the industry.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Division reviewed relevant portions of the Revised Code and the Ohio Administrative Code to confirm that no duplication of existing regulations occurred. Moreover, given that the only other authority for collection of fees for services offered by the Division in building code compliance was contained in rule 4101:7-7-01 of the Ohio Administrative Code, and that rule was being rescinded, there was no risk of duplication of an existing Ohio regulation.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The amount of fees charged for services offered by the Division pertaining to building code compliance are listed on the Department's website and included in documents required to be submitted to the Division for such services, for example in an application for certificate of plan approval. Any increase in these fees will be communicated to stakeholders prior to the effective date of the proposed fee increase.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The scope of the impacted business community includes owners and developers of buildings or structures subject to the requirements of the Ohio Building Code pursuant to section 3781.06 of the Revised Code, as well as individuals working on behalf of such owners that are responsible for submitting plans to the Division, such as design professionals, architects, and engineers.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a

representative business. Please include the source for your information/estimated impact.

The amount of the adverse impact is set forth in the language of the proposed rule directly. The proposed increase in the fees is set forth in the attached spreadsheet (see Attachment A).

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).

No. N/A

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Section 3791.07 of the Revised Code provides, “[t]he superintendent of industrial compliance shall establish such reasonable inspection fee schedules as the superintendent determines necessary or desirable relating to the inspection of all plans and specifications submitted for approval to the division of industrial compliance, and all industrialized units inspected at the point of origin and at the construction site of the building. The inspection fee schedule shall be adopted by rule, in accordance with Chapter 119. of the Revised Code, and shall bear some reasonable relationship to the cost of administering and enforcing the provisions of Chapters 3781. and 3791. of the Revised Code.” R.C. 3791.07(A). Given that this fee schedule was previously established in rule 4101:7-7-01 of the Ohio Administrative Code, when that rule was proposed to be rescinded, it became necessary to establish a fee schedule under the Division’s administrative rules. The impact on the regulated business community was justified as the amount charged in these fees is commensurate with the amount charged for such services within the building code compliance industry and is set at an amount bearing a reasonable relationship with the cost of administering and enforcing Chapters 3781. and 3791 of the Revised Code.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Not directly. The regulation does not provide any exemptions or alternative means of compliance for small businesses as the Ohio Building Code and related regulations set minimum standards of safety necessary for construction and modification of buildings and structures subject to the requirements of section 3781.06 of the Revised Code and the safety concerns addressed by these rules do not provide for modification of these requirements for such parties. The requirements of the Ohio Building Code, however, may be subject to a variance issued by the Board of Building Appeals, or a local certified board of building appeals, if the applicant can demonstrate that strict compliance with the requirements of the Code would result in an undue burden. In the event a variance is granted, this could result in

a change in how the fee schedule contained in amended rule 1301:3-2-01 would apply to the particular project.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

While the proposed rule provides for collection of a late fee of twenty-five percent when payment is not received within forty-five days after an inspection is conducted; the Division customarily offers waivers of fines and penalties for first-time offenses and paperwork violations.

20. What resources are available to assist small businesses with compliance of the regulation?

Guidance on building code compliance and related matters can be found on the Department's website, and the Division is available by phone, email, and in-person to address any questions that may arise as a result of this proposed rule or other regulations administered by the Division.

<u>Fee Name</u>	<u>Fee Description</u>	<u>Current Fee</u>	<u>Proposed Fee</u>	<u>Prior Legal Authority</u>
BCC Inspection Fee	The division of industrial compliance may establish a written policy for the maximum number of inspections required by sections 108.2 and 105.1.5 of rule 4101:1-1-01 of the Administrative Code that may be included in the fees set forth in Table B1. Inspections in excess of the maximum number established by the division of industrial compliance shall be subject to fee of one hundred fifty dollars per inspection.	\$150.00	\$200.00	O.A.C. 4101:7-7-01(B)(2)
BCC Construction Document Processing Fee	Fee charged for examination and processing of construction documents for each of the following scopes of work: Structural, Mechanical, Electrical, Fire Alarm Systems, and Automatic Sprinkler and Other Fire Suppression Systems (all suppressed areas).	\$275.00	\$370.00	O.A.C. 4101:7-7-01(B) (Table B1)

BCC Construction Document Square footage rate fee	Charged in addition to BCC Construction Document Processing Fee above. Applicable to following scopes of work: Mechanical, Electrical, Fire Alarm Systems, and Automatic sprinkler and other fire suppression systems (Not structural).	\$6.50/100 sq. ft	\$9/100 sq. ft	O.A.C. 4101:7-7-01(B) (Table B1)
BCC Construction Document Square Footage rate (Structural)	Charged in addition to BCC Construction Document Processing Fee above. Applicable to structural scope of work. Not other scopes.	\$10.50/100 sq. ft.	\$14/100 sq. ft.	O.A.C. 4101:7-7-01(B) (Table B1)
Industrial Unit Processing fee	Analogous to BCC Construction Document Processing Fee above, but applicable to Industrial Units. Charged in addition to Industrial Unit Square Footage Rate below.	\$200.00	\$270.00	O.A.C. 4101:7-7-01(B) (Table B1)
Industrial Unit Square Footage Rate	Charged in addition to Industrial Unit Processing fee above.	\$1.75	\$2.50	O.A.C. 4101:7-7-01(B) (Table B1)
BCC Additional Inspection Fee	Charged for additional inspections beyond those incorporated into BCC Construction Document Processing Fee	\$150.00	\$200.00	O.A.C. 4101:7-7-01(B)(2)
After hours inspection Fee	Charged for inspections performed after normal business hours.	\$130/hour	\$175/hour	O.A.C. 4101:7-7-01(B)(8)-(10)
Certificate of Occupancy or Certificate of Completion	Charged for issuance of CofO or CofC	\$65.00	\$90.00	O.A.C. 4101:7-7-01(B)(14)

Annual Approval for Alterations	"The fee for each annual approval for an individual applicant issued in accordance with section 105.1.5 of rule 4101:1-1-01 of the Administrative Code . . ." O.A.C. 4101:7-7-01(B)(15).	\$650.00	\$880.00	O.A.C. 4101:7-7-01(B)(15)
Preliminary Plan Review Rate	"The fee for preliminary construction document examination for the purpose of determining compliance with the provisions of the rules of the board by the division of industrial compliance . . ." O.A.C. 4101:7-7-01(B)(9).	\$130/hour	\$175/hour	O.A.C. 4101:7-7-01(B)(9)
Resubmissions	BCC construction document processing fee allows for one initial plan review and up to two resubmission plan reviews. This fee charged for each plan review after the second submission.	\$100/ each additional resubmission	\$135/ each additional resubmission	O.A.C. 4101:7-7-01(B)(3)
Re-stamping	Processing fee for re-stamping additional sets of construction documents after initial plan approval	\$100.00	\$135.00	O.A.C. 4101:7-7-01(B)(4)

Amended construction documents.	"The processing fee for amended construction documents submitted to the division of industrial compliance in accordance with section 106.3 of rule 4101:1-1-01 of the Administrative Code . . ." O.A.C. 4101:7-7-01(B)(5).	\$250 plus \$100 per hour for each submission	\$335 plus \$135 per hour for each submission	O.A.C. 4101:7-7-01(B)(5)
Phased Plan Approval	"The fees for plan examination and processing of a phased plan approval request per section 105.1.4 of rule 4101:1-1-01 of the Administrative Code shall be in accordance with Table B1 and paragraph (B)(1) for the initial phase submission of each scope of work." O.A.C. 4101:7-7-01(B)(6).	\$250.00	\$335.00	O.A.C. 4101:7-7-01(B)(6)
Medical Gas Piping System Permit Processing Fee and Plans Examination Fee	Fee includes a minimum of two inspections. \$275.00 for processing and separate \$275.00 for Plans examination. Charged in addition to Medical Gas Fee rate below.	\$275.00	\$370.00	O.A.C. 4101:7-7-01(B)(7) (Table B2)
Medical Gas fee rate	Charged in addition to Medical Gas Piping System Permit Processing Fee and Plans Examination Fee above, as applicable.	\$10/room (with outlets) and equipment rooms; \$25/ zone valve assembly; \$25/ system; \$25/ "tie-in"	\$14/room (with outlets) and equipment rooms; \$34/ zone valve assembly; \$34/ system; \$34/ "tie-in"	O.A.C. 4101:7-7-01(B)(7) (Table B2)
Temporary structure fee	Fee for the review and inspection of temporary structures for each scope of work.	\$150.00	\$200.00	O.A.C. 4101:7-7-01(B)(8)

Attachment B

Design Professional Organizations:

Structural Engineers Association of Ohio

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American Institute of Architects – Ohio

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Ohio Society of Professional Engineers

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Ohio Association of Consulting Engineers

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Society of Fire Protection Engineers – Central Ohio Chapter

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American Council of Engineering Companies of Ohio

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Ohio Design Professionals & Code Administrators, Inc.

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National Institute for Certification and Engineering Technologies (NICET)

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Contractor/Builder Organizations:

Associated Builders and Contractors (ABC)

Bryan Williams

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Associated General Contractors of Ohio (AGC)

membership@agcohio.com

Mechanical Contractors Association of Central Ohio (MCA)

mcaco@assnsoffice.com

Attachment B

Plumbing Heating Cooling Contractors of Ohio
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Ohio State Building & Construction Trades Council
Mike Knisley
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The Building Industry Association of Central Ohio
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National Electrical Contractors Association (NECA)
publicaffairs@necanet.org

Building Owner Organizations:

Ohio Apartment Association

Building Owners and Managers Association
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Colleges and Universities:

Wright State University
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Dyke College

The University of Akron
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Central State University
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The University of Toledo
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Miami University
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Attachment B

Bowling Green State University
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The Ohio State University
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State Agencies:

Ohio Department of Natural Resources
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Ohio Environmental Protection Agency
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Ohio Department of Health
Lance Himes
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Ohio Department of Jobs and Family Services
Help-desk-ocf@jfs.ohio.gov
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Ohio Department of Development, Ohio Energy Office
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Ohio Department of Rehabilitation and Corrections
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Ohio Department of Developmental Disabilities
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Ohio Department of Public Safety, Emergency Management Agency
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Ohio Board of Landscape Architect Examiners
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