



TED STRICKLAND
GOVERNOR
STATE OF OHIO

Executive Order 2008-06S

Immediate Amendment of Rules to Implement the 2003 International Energy Conservation Code and the 2005 National Electric Code

- 1. Ohio is Committed to Ensuring the Energy Efficiency and Structural Integrity of Residential Buildings Around the State.** The Residential Code of Ohio for 1-, 2- and 3-Family Dwellings (RCO) governs the erection, construction, repair, alteration, and maintenance of residential buildings around the State. The RCO not only provides uniform standards for the residential contractors who erect homes, but it also provides guidance to the building officials who are responsible for enforcing those standards, so that decisions regarding compliance with the RCO are consistent across the State.
- 2. Administration and Creation of the Residential Code of Ohio.** Ohio law requires the RCO to be formulated by the Board of Building Standards (BBS), within the Ohio Department of Commerce, after it considers recommendations made by the Residential Construction Advisory Committee (RCAC). Ohio law further requires the RCAC to develop its recommendations by starting with a residential building code that a national model code organization issues, making adaptations necessary to implement the code effectively in Ohio. Two of the most significant sections of the RCO focus on appropriate energy and electric standards.
- 3. The Energy and Electric Standards Originally Promulgated Under the RCO.** When the BBS first promulgated rules regarding the RCO, it adopted the 2003 International Energy Conservation Code and the 2005 National Electric Code. Ohio's residential contractors and building officials who enforce the RCO believed that the 2003 energy code and 2005 electric code provided the most consistent and economically feasible standards for residential buildings. However, as new technological advancements were made and environmental standards changed, so, too,

did industry standards for energy and electric consumption and conservation, and for developing concepts that increase safety from faulty electrical wiring and other potential hazards.

4. **The Promulgation of More Recent Energy and Electric Standards for the RCO Has Raised Concerns Regarding the Economic Impact of those New Standards.** In January 2008, the BBS adopted rules integrating the 2006 International Energy Conservation Code and the 2008 National Electric Code into the RCO, notwithstanding the recommendation of the RCAC. These changes were intended to facilitate meeting environmentally-friendly standards, as well as energy and electrical conservation. However, residential contractors and other industry stakeholders have expressed concerns to BBS regarding the economic reasonableness of these new standards. Specifically, questions have been raised about whether the standards increase the health, safety and welfare of Ohioans whose residential dwellings are constructed, altered, or maintained consistent with the new requirements and whether the costs associated with implementing the requirements has created a disincentive for residential contractors to build homes that necessitate more expensive materials, and for homebuyers to purchase homes that cost more. Because of these concerns, BBS has agreed to work collaboratively with residential contractors and other industry stakeholders to develop a compromise that addresses the needs of homebuilders, is consistent with BBS requirements, and protects Ohio consumers.
5. **Making the Amended Rules Effective March 31, 2008.** In order for the BBS to enforce the RCO based upon standards with which both residential contractors and building officials can agree, until both groups have engaged in good-faith negotiations in an effort to reach a consensus on a new standard for energy and electric requirements in Ohio, amendment of existing rules in the Ohio Administrative Code must occur immediately so that there is a consistent standard and enforcement mechanism that is applicable to the entire State.
6. **Procedure for Immediate Enactment of Rule Changes.** Ohio law, at Section 119.03(F) of the Ohio Revised Code, authorizes the Governor, on the request of an agency, to suspend the normal procedures with respect to a specific rule when an emergency exists necessitating the immediate adoption, amendment, or rescission of the rule. When such a determination is made, the agency may immediately adopt, amend, or rescind that rule, but the adoption, amendment, or rescission is valid for only ninety (90) days.

7. **Determination of an Emergency.** I believe that an emergency exists justifying the suspension of the normal rulemaking processes when failure to act immediately would negatively impact the citizens of Ohio. The BBS, within the Ohio Department of Commerce, has asked me to determine, and I have determined, that the failure to amend the rules relating to the energy and electric standards contained within the RCO will negatively impact many Ohioans because of the economic impact that continued enforcement of the current rules may create. Therefore, an emergency exists necessitating the immediate amendment of administrative rules in this regard.

8. **Authorization for Immediate Rule Amendment.** Accordingly, the normal rulemaking procedures are suspended with respect to the amendment of rules 4101:1-35-01, 4101:2-15-01, 4101:3-13-01, and 4101:8-43-01.2 of the Ohio Administrative Code regarding the *Residential Code of Ohio for 1-, 2-, and 3-Family Dwellings*. These amendments will implement the 2003 International Energy Conservation Code and the 2005 National Electric Code within the RCO. These amended rules were filed electronically by the Board of Building Standards with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review. The Board of Building Standards may, therefore, amend these rules immediately. Additionally, the Board of Building Standards will file regular rules with JCARR, consistent with these emergency rules, implementing the 2003 energy and 2005 electric standards. It is anticipated that the compromise rules adopting the agreed-upon energy and electric codes will be submitted to JCARR on or before October 1, 2008. If the parties are not able to reach a compromise and submit rules by October 1, 2008, then the Board of Building Standards may submit its own permanent rules for implementation.

9. I signed this Executive Order on March 31, 2008. It will expire at the end of the ninetieth day it is in effect, June 29, 2008.



Ted Strickland

Ted Strickland, Governor

ATTEST:

Jennifer Brunner, Secretary of State