

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 1301:7-7-01

**Rule Type:** New

**Rule Title/Tagline:** Scope and Administration.

**Agency Name:** Department of Commerce

**Division:** Division of State Fire Marshal

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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3737.832, 3737.83, 3737.82, 3737.17, 3731.02, 3721.07, 3721.032, 3737.22(A), 5104.051, 5104.05, 3743.07, 3743.08, 3743.18, 3743.19, 3743.20, 3743.21, 3743.40, 3743.59, 3743.68, 3737.86, 3737.85, 3737.842
5. **What statute(s) does the rule implement or amplify?** 3737.83, 5104.01, 5104.05, 3781.03, 3743.07, 3743.08, 3743.18, 3743.19, 3743.20, 3743.21, 3743.40, 3743.59, 3743.68, 3737, 3731, 3721.032, 3721.02, 3737.82, 3737.22(A)
6. **What are the reasons for proposing the rule?**

The State Fire Marshal is filing rule errata items to correct non-substantive editorial and grammatical errors in the recently enacted 2017 Ohio Fire Code and to correct errors that occurred during the filing process of the 2017 Ohio Fire Code.

**7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule provides scoping and applicability provisions for the OFC. The rule outlines permitting authority, inspection authority, and enforcement authority and procedures; the rule also contains hotel and SRO facility licensing requirements and procedures; finally, the rule contains special provisions regarding loan and grant applications, administrative hearing procedures, Type-A and B daycare homes, shale oil processing premise incident reporting, and fire department recognition awards. Specifically, language is being added at section 101.2.2 to reflect longstanding law in Ohio and to clarify that the provisions of the OFC do apply to 1-, 2-, and 3-family dwellings and all other residential premises. At the request of the Ohio Board of Building Standards (BBS), language is being added at section 102.3.4 to acknowledge a new BBS certificate of occupancy category, namely a 'certificate of completion.' Language is being added at section 110.1.1 to cross-reference existing imminent hazard language and R.C. and OFC enforcement procedures for such; subsequent numbering is being edited accordingly. Language is being added to the Type A and Type B Child Care Facility Inspection forms located at the end of Rule 1 to clarify that the "pass/fail" indication on the forms is specifically limited to the content of the forms and does not otherwise reflect compliance with the OFC.

In the 2017 OFC update, all definitions were moved from the front of individual rules to Rule 2 (1301:7-7-02); however, the language at the beginning of certain sections was not properly amended and still indicates that the definitions 'are below'; language will be amended to indicate that the definitions of the listed terms have been moved to Rule 2 (118.2, 119.1, 120.1, 122.2). Likewise, the term "residential premises" was deleted from the listed terms in section 118.2 and the terms "licensee" and "State Fire Marshal" were deleted from the listed terms in section 122.2; these terms are being added back to the lists.

Other non-substantive, grammatical and/or formatting changes are being made at sections 101.2 (delete periods, add semi-colons and "and"); 101.2.2 (change "associations" to "association"); 101.3 (change "fire fighters" to "firefighters"); 102.1.2 (insert "rule"; correct citation) 102.3.2 (insert "rule"; delete comma between "occupancy" and "for"); 102.5 (delete common between "and" and "construction"); 102.7.3 (insert comma between "3701" and "including"); 102.7.4 (insert comma between "3701" and "including"); 102.7.5 (insert comma between "3701" and "including"); 102.7.6 (insert comma between "3701" and "including"); 102.11 (change "paragraphs" to "paragraph"); 103.1 (add period between "jurisdiction" and "A local"; change "Even" to "even"); 104.2.2.1 (insert "rule" between "in" and "1301:7-7-80"; change "the is" to "this"); 104.2.2.2 (change "building" to "buildings"); 104.3 (insert comma between "Code" and "shall"; delete comma between "official" and "and"; insert "and" between "rule" and "which"; delete comma after "are"; correct citation

format); 104.7 (delete comma between "code" and "shall"); 104.10.2(i) and (ii) (change "persons" to "person"; change "vehicleand" to "vehicle and"); 104.11.3 (change "Person" to "Persons"); 105.1.6.1 (change "detained" to "detailed"); 105.6.19 (delete comma after "fruit-"); 105.7.4 (insert "to be"); 105.7.7 (insert "to be"); 105.7.17 (insert "to be"); 105.7.18, Exception 2 (insert comma between "curtains" and "or"); 109.1.2 (insert "rule" between "in" and "1301:7-7-80"); 109.1.3 (change "paragraphs" to "paragraph" (2); delete "(iii)" and align text with opening paragraph); 109.1.5.1 (correct citation format (2)); 109.1.5.1.1 (correct citation format); 109.3.3 (delete "or" between "Revised Code," and "a copy"; delete comma between "citation" and "shall"; insert "at" between "authority" and "a location"); 109.4 (change "in" to "In"); 110.1 (change "conditions" to "condition"; insert ", as appropriate,"); 113.1/113.2 (move text currently contained at 113.2(g) to 113.1.1); 117.3 (insert "state fire" (2); insert "the" before "state fire marshal"); 118.1.1 (correct citation format); 118.3.2 (insert comma between "include" and "at"); 118.4.3 (correct cite); 118.5.3 (correct cite); 118.5.5 (correct cite); 118.5.6 (delete commas between "unit" and "and" and between "of" and "a space"); 118.5.9 (insert a comma between "and" and "at" and between "minimum" and "consist"); 118.6.1 (change "hotel" to "hotels"); 118.6.3 (correct cite); 118.6.5 (change "wash clothes" to "washcloths"); 118.7.2 (delete comma between "a" and ""transient"; edit text to align with defined terms"; correct citation); 118.7.2.5 (correct citation); 118.7.3.2 (correct citations (2); change "case" to "cease"); 118.7.4.1 (correct citation); 118.7.4.2 (delete comma between "marshal" and "to"; insert comma between "to" and "a"; change "paragraphs" to "paragraph"; correct cite); 118.7.4.3 (insert comma between "to" and "a"; correct cite); 118.7.5.1.6 (correct citations (2)); 118.7.5.3 (delete "a" between "effect" and "complete"); 118.7.5.4 (correct cite); 118.7.5.5 (correct cite); 118.8.2 (bold terms); 118.8.4 (change "paragraph" to "paragraphs"; correct cite); 118.8.6 (delete "state fire marshal"; insert "division's"); 118.8.9 (change "public" to "publish"; delete "state fire marshal"; insert "division's"); 119.7 (change "term" to "terms"); 120.4 (c. correct cite; f. insert comma between "fail" and "after"); 121.1.3.1 (change "homes" to "home"); 121.2.2.1 (change "an" to "and"); 121.3.2.1 (change "supervisions" to "supervision"); and 122.1.3 (insert "an" between "failure of" and "applicant"); 121.5 (insert section number).

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

It is infeasible for the SFM to file referenced material electronically due to copyright laws held by the relevant standards making associations.

Materials incorporated by reference are listed in Ohio Administrative Code (OAC) section 1301:7-7-80 and are generally available to affected persons (including

members of the fire service, persons responsible for life safety in public occupancies, and design professionals) via the following:

i) All referenced text and materials are published by either other governmental agencies, private organizations or industry associations. All of these publications may be obtained by the publishing companies that distribute this material nationally or by any person, without any restriction, from the organization that promulgated the material or text. Some of the referenced materials are free and some may be purchased for a reasonable fee. OAC 1301:7-7-80 lists the incorporated material and contact information for each of the organizations that publish the listed incorporated material.

ii) Most of the incorporated material is also available at Ohio public libraries, the Division of State Fire Marshal, the Board of Building Standards, or at local government offices, including fire departments.

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

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The proposed amendments to the OFC provisions will not significantly increase or decrease either the revenues or the expenditures for the SFM because the OFC creates a regulatory scheme that applies to entities throughout the state. Although Rule 1 contains licensure requirements for hotel and SRO facilities, the proposed changes to this rule do not affect licensure requirements or fees. Therefore, the proposed changes will not affect SFM expenditures or revenues. Likewise, this rule requires that some mandatory permits must be obtained from the SFM (see below). However, the proposed changes in the instant rule package do not substantively change existing permit categories or create any new permit categories. The proposed changes also do not change permit fees. Therefore, the proposed non-substantive, grammatical changes will not affect SFM revenues or expenditures.

**12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Changes being made to this rule are all non-substantive in nature. The proposed changes are either grammatical, formatting or citation corrections or are being made to clarify already existing requirements or procedures. There is no anticipated cost impact. This rule does contain licensure requirements for hotel and SRO facilities as well as certain required permits. However, the proposed changes to this rule are non-substantive and do not affect the already existing licensure, permitting and/or fee requirements.

**13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**

**14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

### **III. Common Sense Initiative (CSI) Questions**

**15. Was this rule filed with the Common Sense Initiative Office? Yes**

**16. Does this rule have an adverse impact on business? Yes**

**A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

Pursuant to Ohio Revised Code requirements, OFC provisions in this rule address licensure requirements for hotel and SRO facilities (R.C. 3731.03(B); OFC 118.1, 118.7.1).

In addition this rule requires some mandatory permits: for the manufacture, processing and storage of explosives (105.1.1.1), the installation, alteration, removal, abandonment, or placement out of service of an above ground storage tank (101.1.1.1.2), for fireworks exhibitions (105.1.1.1.6), and for the storage, use, manufacture, processing or handling of ammonium nitrate (105.1.1.1.7). Discretionary permits for other activities are also provided for (105.6 and 105.7).

However, the provisions in the OFC that affect these licensure and/or permitting rules have been in place for many years and are not being substantively changed herein.

**B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes**

There are general civil penalties for violations of the Ohio Fire Code as specified in R.C. 3737.51(B)-(F); additionally, pursuant to the Ohio Revised Code sec. 3737.51(A) there is a criminal penalty for knowingly violating any provision of the Ohio Fire Code.

**C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

Fire departments are required to report fire investigations and to report certain fire incident related information to the State Fire Marshal (R.C. 3737.23-3734.24; OFC 104.6.3.1). Responsible persons are required to report all shale incidents to the "One Call" hotline in accordance with OFC 124.3 (see also R.C. 3737.832 and Executive Order 2016-04K).

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	No
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	Yes
<b>D. City and Village Governments</b>	Yes

**2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.**

Counties, townships and municipal corporations will be affected to the extent that fire service members will need to be educated regarding the new rules and will generally have to determine whether to obtain new code book errata packages for their staff. The code changes will also be available on-line, at no cost, through Lawriter and the SFM website. However, if jurisdictions opt to purchase hard copy errata publications, the cost will be established by the publishing company. It is not known how much the publisher may charge for this service, but purchase of a hard-copy publication of the entire printed Ohio Fire Code ranges from \$75 to \$125 depending on membership status. Of course, each jurisdiction will have to determine the quantity that will be purchased.

**3. Is this rule the result of a federal government requirement? No**

**A. If yes, does this rule do more than the federal government requires? *Not Applicable***

**B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

*Not Applicable*

**4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**

**A. Personnel Costs**

Not applicable.

**B. New Equipment or Other Capital Costs**

Not applicable.

**C. Operating Costs**

Not applicable.

**D. Any Indirect Central Service Costs**

Not applicable.

**E. Other Costs**

Please see above.

**5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

Please see above. There are no mandated costs associated with this rule. Any textbooks or training that an entity engages in would be elective. Free on-line texts are available and free on-line training is available.

**6. What will be the impact on economic development, if any, as the result of this rule?**

This rule does not impact economic development.