

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1301:7-7-03

Rule Type: New

Rule Title/Tagline: General requirements.

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? 3737.65, 3737.22, 3737.82, 3737.83
5. What statute(s) does the rule implement or amplify? 3737.83, 3737.22, 3737.65, 3737.82
6. What are the reasons for proposing the rule?

The State Fire Marshal (SFM) proposes to rescind the currently existing 2011 Ohio Fire Code (OFC) and adopt the proposed rules, to be known as the 2017 OFC, for the purpose of five year rule review and to update the rule provisions to conform to national standards, to coordinate with updates to the Ohio Building Code (OBC), and to clarify and restructure previously existing rules to better set forth RC requirements, enforcement procedures, and to align the provisions with current practice. The rules will concern all matters of fire safety and will set the minimum standards in this state for safeguarding life and property from fire and explosion.

Notwithstanding Ohioizations that have been made, the rules are (as in the past) primarily based on the incorporation of the International Fire Code (IFC), here the 2015 version. With the incorporation of the 2015 IFC, the vast majority of the OFC was reorganized. The first ten rules address the same topics. However, all other rules have been moved to new locations; in general, the rule content will not change. Non-substantive editorial changes have been made throughout the OFC to reflect the new references. Previously, the OFC contained 47 rules, with rule 47 being 'referenced standards.' The new format contains 80 rules, with Rule 80 being 'referenced standards.' The overall / total number of substantive rules, however, has not changed (with the exception of Rule 39); there are large blocks of rule numbers that have been reserved for future use.

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

This proposed rule governs the occupancy and maintenance of all structures and premises for precautions against fire and the spread of fire and general requirements for fire safety.

Non-substantive edits and clarifications were made throughout the rule. All definitions were moved to Rule 2. Language was added to clarify applicability of specific provisions to asphalt shingle recycling facilities (304.1.1). Open burning regulations were modified to provide for State Fire Marshal (SFM) authority to issue geographic and statewide bans on burning when warranted (307.1.1; 307.1.2). Extinguishment authority regarding open burning was also modified (307.3). Fire pit distance requirements were added (307.4.2.1). Sky lantern prohibitions were added (308.1.6.3). An exception to 'No smoking' signage requirements was added for I-2 occupancies (310.3). Pointer language was added regarding R.C. specific boarding requirements for properties subject to expedited foreclosure actions (311.2.1.1). Regulations for unoccupied tenant spaces in mall buildings were added (311.6). Vehicle impact protection provisions were modified (312.3). Requirements for storage underneath high-voltage transmission lines and in plenums were added (315.5-315.6). Roof obstruction language was modified (316.4). Language was added to address rooftop gardens and landscaped roofs (317.7-317.5). Section 320 was added to provide basic fire safety for mobile food units.

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 in this rule are listed in O.A.C. 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) in the following manner:

i) All text or 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 these reference materials are free and some may be purchased for a reasonable fee. O.A.C. 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.

Not applicable.

Not applicable.

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

Although changes were made throughout the rules contained in the OFC, the vast majority are not anticipated to have a cost impact. Many of the proposed rule modifications merely restructure prior rules or clarify prior OFC or R.C. requirements. The basic provisions of the OFC account for industry wide standards that have been in place for many years; the bulk of the provisions are not changing. However, all substantive changes in this rule that have been identified as having a cost impact are as follows:

Language added at section 320 is new language instituting basic fire safety measures for mobile food units. This is an emerging industry in Ohio and across the country. Unsafe operation has the potential to cause catastrophic results (i.e., fires or explosion resulting in property damage, and/or physical harm or death to operators, customers, and others). The SFM therefore determined that it was necessary to institute basic safety measures for these establishments. The national model code committees are in the process of developing rules for mobile food units but have not adopted any regulations at this time. The SFM did, however, have the opportunity to review a working draft of some of the rules being considered. The SFM determined that the inclusion of many of the provisions (as well as provisions submitted in the Petition process) were overreaching and could be overly burdensome on mobile food unit operators. Therefore, the SFM limited the scope of the new rules to basic fire safety and mandated the safe installation of piping and gas systems (in conformance with already existing and applicable industry standards) and the installation of fire extinguishers and carbon monoxide detectors. The SFM did not require more costly suppression systems (which can cost several thousands of dollars) and did not require retroactive compliance of these major construction features. Depending on the size of the mobile food unit and the type of equipment contained therein, a cost increase per truck could include \$30 per carbon monoxide detector and \$20 per smoke alarm (or \$40 for a combination alarm), \$45 for a 2A:10B-C fire extinguisher or \$40-\$100 for a Class K extinguisher. Other changes in this rule are not anticipated to have a cost impact. Mobile food businesses are not required to obtain a construction or operational permit from the SFM; therefore, the number of vendors this will affect cannot be readily determined.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
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? No**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**
 - 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? No**

This rule does not create a penalty scheme. However, violations of any provision of the Ohio Fire Code are subject to citation and civil penalty as set forth in R.C. 3737.51(B)-(F) and 1301:7-7-01(I). Additionally, pursuant to R.C. 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? No**