

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1301:7-7-09

Rule Type: New

Rule Title/Tagline: Fire protection systems.

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?** 3737.22, 3737.82, 3737.83
5. **What statute(s) does the rule implement or amplify?** 3737.83, 3737.65, 3737.22, 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 rules specifies where fire protection systems are required and sets forth the design, installation, inspection, operation, testing and maintenance requirements of all fire protection systems. Non-substantive edits and clarifications were made throughout the rule. All definitions were moved to Rule 2. Required fire protection system language was amended to address systems where a modification has been made (901.4.1). Language was added regarding fire areas (901.4.3). Language was added regarding pump and riser room size (901.4.6). Language regarding individuals required to be present during acceptance testing was added (901.5). Inspection, testing and maintenance requirements were amended to include mechanical smoke exhaust systems and smoke and heat vents (901.6). Equipment removal and tampering language was amended (901.8). Language regarding termination of monitoring service was added (901.9). Automatic sprinkler system requirements were amended for various occupancies (903, generally). Alternative automatic fire-extinguishing system requirements were amended (certification required for those conducting maintenance; requirements to maintain records were added) (904, generally). Standpipe system provisions were amended regarding required installations (905.3), covered and open mall buildings (905.3.3), rooftop gardens and landscaped roofs (905.3.8), and location requirements (905.4). Portable fire extinguisher requirements were amended (906, generally). Fire alarm shop drawings provisions were amended. (907.1.2) Provisions specifying when fire alarm systems and smoke detection systems and smoke alarms are required in specified occupancies were amended (907, generally). Carbon dioxide system provisions were added (908.7). Smoke control system provisions were amended (909, generally). Smoke and heat removal provisions were amended (910, generally). An exception to explosion venting in specified areas of Group H-5 occupancies was added (Table 911.1). Fire hose thread language was added to require compatible hose threads for standpipes and fire department hoses (912.3). Language was added regarding circuits supplying fire pumps (913.2.2). Testing

and maintenance records requirements were added (913.5). Provisions regarding required fire protection based on use and occupancy were amended (914, generally). Provisions were added to require carbon monoxide detection in new buildings of specified occupancies and in specified locations (915, generally). Fire protection and firefighting equipment installer certification provisions were amended to define 'company branch' (916.3), to clarify qualifications for successful applications (916.5), to allow for third party testing (916.7), to clarify who may work on specific systems (916.10), to amend fees for certification (916.15; 916.20), to clarify 'knowingly' provisions (916.23), and to clarify the effect of a certificate denial (916.25; 916.26).

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.**

The SFM is revising the instant rule to upload a correct rule draft. The previously submitted draft was not properly formatted and contained an improper formatting/time-stamp designation. This has been corrected in the revised version.

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 increase revenues.

See below.

Generally, the provisions in the proposed OFC 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. However, Rule 9 contains certification requirements for fire protection installers. Some proposed changes in these provisions will affect SFM revenues. Please see below for more detail.

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

Provisions in this rule address the overall design and construction of buildings and set forth required fire safety systems and features. The revisions herein generally do not impose new or different requirements, but rather amend previously existing requirements consistent with changes on the national level to the model codes and to the OBC. Little overall cost impact is anticipated due to the varied installations that can be utilized in structures. However, regarding significant changes, the Board of Building Standards identified the following changes as ones that may increase the cost of construction:

* Carbon monoxide alarms will be required in new buildings (see generally, section 915) and in certain locations of certain existing occupancies (Group I, R and E occupancies that have fuel fired appliances). The alarms will cost approximately \$30-\$40 per device. (See also sections 1101.1 and 1103.9)

* Language has been added to the OFC regarding elevator hoistway pressurization measurements (909.21). These systems are not mandatory, but rather are delineated as an alternative to other systems. Therefore, any costs associated with the system would be analyzed at the design phase and could be avoided if other systems are more economically feasible.

Section 908.7 was added as a part of the adoption of the IFC to require carbon dioxide alarm systems in certain instances. These alarm systems are generally used throughout the affected industry to signal any system malfunction or when carbon dioxide may be being released into the atmosphere. However, the provisions now require such alarms. See Rule 53 for further analysis.

In addition, the SFM made specific amendments to provisions in Rule 9, regarding fire protection installers that will have a cost impact on industry members. Fire protection

installers are required to be certified by the SFM for each type of work that they will perform (there are 10 certification categories including, fire pumps, portable fire extinguishers, fire alarm and detection equipment, etc.) (916.4). Certification is dependent upon successful completion of a test for each category of work that the individual wants to be certified to do (any one or all of the categories). There are currently 20,000 certified fire protection installers in this state that could potentially be impacted by the following:

- * Provisions were added to the OFC to allow the SFM to administer certification tests through third party vendors. This will benefit certificate holders in that testing can be offered more frequently and at many more locations throughout the state at more convenient locations for test takers. However, third party vendors will impose additional testing fees that will have to be paid by the test taker. Testing costs can range from \$45 - \$65 per certification test.

- * Fees for original individual certifications were \$50 and are being reduced to \$35 (916.15(a)); this will result in a \$15 cost savings for applicants upon their initial certification application.

- * Individual annual renewal application fees are, and will remain, \$40 (916.15(b)). However, the previous grace period and late fee (10% of the renewal fee or \$4) will be eliminated. Applications submitted after the expiration date will be considered new applications and licensees will have to recertify (916.17). Therefore, late applicants will pay \$35 per certification category, rather than the prior \$4 late fee. This may impact over 700 individuals; however, the SFM will be diligent to communicate this change to industry members to help reduce this number. The prior 10% late fee was not a deterrent to late certification renewals, was not collectible, and resulted in unlicensed individuals conducting work throughout the state.

- * In addition to individual certifications, companies must also be certified. Original company certification application fees are \$200; this fee is not changing (916.2). However, individuals operating as a company (sole proprietors) were not previously required to also pay the company fee (in addition to their individual certification fee). They will now have to do so. The fee, however, will be discounted to a fee of \$50 when the 'company' is an individual (916.20(a)).

- * After the initial application, annual renewal fees are associated with company certification. Company renewal fees are, and will remain, \$150 (916.20(b)). Individuals operating as a company, however, did not previously also pay the annual company renewal fee (in addition to their individual certification renewal fee). They will now be required to pay a company renewal fee as well. The annual renewal fee for an individual operating as a company, however, will be discounted to a fee of \$25 (916.20(b)). There are currently 178 individuals operating as a business who will be affected by this fee change. The \$4,450 increase in SFM revenue will offset the cost of processing certification applications.

- * Like with renewals for individuals, prior fees for late company renewal applications (also 10% of the renewal fee, or \$15) will be eliminated. Late applications will be

treated as new applications and original application fees will apply (916.20(b)) . For the company, this will effectively result in a \$150 late fee (a \$135 increase). For the individual acting as a company this will effectively result in a late fee of \$25 (a \$25 increase, since they were not previously required to pay company fees). The late fees, however, will only affect those who do not submit their renewal applications in a timely manner. Currently, approximately 187 companies and 25 sole proprietors file their applications late. The changes in the fees for individual company applications are being instituted because the application information and the necessary processing for companies and for individuals acting as a company is the same. There is no justification for having no fee for sole proprietors, other than to economically aid smaller business owners. The SFM took this into account by instituting reduced fees for these individuals. There are currently 178 active sole proprietor licensees who could be affected by this change. They will now pay annual individual renewal fees of \$40 (like before) and annual company renewal fees of \$25, for an annual increase in fees of \$25. This will result in an estimated \$4,450 increase in SFM revenues annually which, again, will offset the costs of application processing.

* Company branch certificates will now also be required and will cost \$10; however, companies will not have to pay separate annual company branch certificate renewal fees (916.20(d)-916.20.1). Branch certification is necessary because company branches are becoming more prevalent for larger fire protection companies and it is imperative that the SFM be aware of the locations out of which certified individuals are operating. There are currently 131 certified company branches.

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

Yes. As discussed above and pursuant to Ohio Revised Code requirements, some provisions of this rule address licensure requirements for fire protection equipment installers. (See R.C. 3737.65(A)-(B); OFC 916.)

- 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? Yes**

Pursuant to the provisions of this rule, acceptance testing reports must be filed with the fire code and building code officials for all smoke control systems that are required to be installed in new buildings. (See OFC sec. 909.18.)

Rule Summary and Fiscal Analysis

Part B - Local Governments Questions

1. Does the rule increase costs for:

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| A. Public School Districts | Yes |
| B. County Government | No |
| C. Township Government | No |
| D. City and Village Governments | No |

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.

New provisions require the installation of carbon monoxide detectors in educational occupancies that have fuel fired appliances (1103.9; 915.1.1-915.1.4). Devices will not have to be interconnected, however, and will, therefore, be lower in cost (1103.9). An average cost per device is estimated to be around \$30.00. However, the devices will not have to be placed in every school or in every room of every school. Devices will only be required in specified locations where there are communicating openings between fuel fired appliances and specific rooms that will be occupied (915.1.4). The devices will only have to be placed in the rooms where the appliances are located and/or the initial rooms communicated. The expenditure for schools will depend on whether or not the school has fuel fired appliances and, if so, how many locations are affected by the limited scope of the provisions.

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 regarding carbon monoxide detectors that will be required. The detectors will only be required in certain limited areas. School that do not have fuel fed appliances will not be affected by the requirement. For schools that do have such appliances, no additional personnel will be required or necessitated by the rule. However, there will be an expenditure of personnel time to obtain and install the detectors. Thereafter, maintenance and battery exchange time should be minimal. As stated above, the detectors should cost only around \$30 per device. The devices will only have to be placed in the rooms where the appliances are located and/or the initial rooms communicated. The expenditure for schools will depend on whether or not the school has fuel fired appliances and, if so, how many locations are affected by the limited scope of the provisions.

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

Because the required carbon monoxide detectors will only be required in certain locations (not in every room) and because they will be permitted to be only battery operated (as opposed to being tied in to an alarm system), costs will be as minimal as possible. Schools will need to budget costs into affected buildings. However, per OFC 1103.9, CO detectors will not have to be installed in existing buildings until January 1, 2019.

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

There will not be any impact on economic development.