

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 1301:7-7-22

**Rule Type:** New

**Rule Title/Tagline:** Combustible dust-producing operations.

**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? 3737.83, 3737.82, 3737.22
5. What statute(s) does the rule implement or amplify? 3737.22, 3737.83, 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, 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 (previously Rule 13) sets forth fire safety requirements for equipment, processes and operations involving dust explosion hazards. Non-substantive edits and clarifications were made throughout the rule. All definitions were moved to Rule 2. No substantive changes were made to the rule.

**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?**

Not applicable.

- 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 OFC are subject to citation and civil penalty as set forth in R.C. 3737.51(B)-(F) and 1301:7-7-01(I), OFC 109. Additionally, pursuant to Ohio

Revised Code sec. 3737.51(A) there is a criminal penalty for knowingly violating any provision of the OFC.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**