

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 1301:7-7-23

**Rule Type:** New

**Rule Title/Tagline:** Motor fuel-dispensing facilities and repair garages.

**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?** 3741.14, 3737.83, 3737.82, 3737.22
5. **What statute(s) does the rule implement or amplify?** 3737.22, 3741.14, 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 22) sets forth fire safety regulations at automotive motor fuel-dispensing facilities, marine motor fuel-dispensing facilities, fleet vehicle motor fuel-dispensing facilities, service stations at bulk plants, aircraft motor-vehicle fuel-dispensing facilities and repair garages. Non-substantive edits and clarifications were made throughout the rule. All definitions were moved to Rule 2. Language regarding emergency disconnect switches was modified (2303.2). Quantity limits were eliminated for specified fixed dispensers at airport facilities (2304.3.7). Provisions setting forth required fire protection at unmanned, open to the public facilities were modified regarding airports and compressed natural gas facilities (2304.3.11; 2304.3.11.1). Records maintenance language was added (2305.2.1). Warning sign requirements were amended (2305.6). Above ground storage tank requirements were amended (2306.2.2-2306.2.3). Compatibility provisions were amended (2306.8.2). Provisions regarding the location of dispensing operations and equipment were amended (2307.4). Additional requirements for LP-gas dispensers and equipment were amended (2307.5). LP-gas dispensing devices and equipment provisions were amended (2307.6). Public motor vehicle fueling provisions were amended (2307.7). Overfilling provisions were amended (2307.8). Provisions regarding rubbish containers were amended (2310.5.3). Repair garage provisions regarding vehicles fueled by lighter than air fuels were amended (2311.7). Gas detection system components provisions were added (2311.7.2.1.1). Language regarding defueling equipment required at vehicle maintenance and repair facilities was amended (2311.8).

**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?**

Generally, the cost impact of provisions modified in this rule will be a savings to mobile fuel-dispensing facility industry members. Changes regarding fixed dispensers at unattended airport motor fuel-dispensing facilities (2304.3.11) will allow airports to utilize cost saving technology without having to install costly fire suppression and detection systems. Current OFC provisions require unattended facilities that are open

to the public to have such systems unless there is an attendant on duty. The new exception for airports will allow them to operate using automatic credit card readers, saving personnel time and costs, without the necessity of installing the detection and suppression equipment. Call boxes, in lieu of automatic detection manned at a monitored facility, will provide emergency response notification options at a much lower cost for the facility. The changes were made pursuant to discussions with municipal airport representatives.

Similarly, suppression requirements were amended for compressed natural gas (CNG) facilities. Market trends for this industry are moving toward fuel-dispensing locations that are not attended but open to the public. Again, current rules would require suppression for such facilities. The current rules were written for liquid fuels; CNG however, behaves differently and current suppression methods (which generally mean a suppression / deluge type system within a canopy structure) are not as effective for CNG product. The canopy/suppression systems can add several thousands of dollars to construction costs. After much input from the industry the SFM amended the requirements to eliminate the automatic suppression systems for unattended CNG facilities that meet specified conditions (2304.3.11.1). Industry members originally proposed several different options to address this issue and were ultimately extremely happy with the modified language now contained in the proposed rules. The change will result in substantial cost savings for affected facilities.

New national model code compatibility provisions were amended to allow for the modification of tanks under certain conditions. This will help industry members change products without costly tank replacement (2306.8.2).

Location separation distances for dispensing operations have been increased (2307.4). This will affect locations where dispensing operations can occur, and may have an initial impact when operations are designed and sites are planned; however, there will not be an overall large cost increase because separation distance requirements have always been in place. Likewise, changes to LP-gas dispensing devices and equipment (2307.6) will occur at the design phase and existing facilities will be exempt from these provisions under many circumstances.

Signage requirements for gasoline pumps were amended to conform with Ohio law (2305.6); this change may have a cost impact. The requirement for signage, and the general content thereof, is not new. However, in reviewing the relevant R.C. provisions (3741.14) it was noted that the proscriptive requirements of the statute were not adequately contained in the OFC. The language was amended to remedy this. Because the R.C. provisions are definitive on the content and layout of the signs, industry members that have signs already printed/posted will be affected by having to have signs replaced. The signs are not anticipated to cost any more or less than signs already required, but to the extent signs are already in place or in inventory, the provisions will have an impact. It is not possible to determine how many industry members may be affected by this change or how many signs are located throughout the state. However,

to alleviate this burden, the new OFC provisions provide an exception for signs installed prior to July 1, 2018 that substantially comply with the signage requirements.

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?** Yes

R.C. provisions set forth very specific language that must be contained on gasoline pump signage. See R.C. 3741.14. The provisions of this rule previously required the signage but did not adequately set forth the exact language prescribed in the R.C. Now, language has been added to this rule to require that the signage contain exact verbiage (see OFC sec. 2305.6). This will result in an expenditure for new signage. However, in order to minimize the affect of this language, the rule contains an exception for signs installed prior to July 1, 2018 that substantially comply with the signage requirements. Please see above (estimated costs of compliance) for further information.