

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

Address: 8895 East Main St. Reynoldsburg OH 43068

Contact: Tracie Boyd

Email: tracie.boyd@com.state.oh.us **Phone:** 614-387-0106

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, 3741.14
5. **What statute(s) does the rule implement or amplify?** 3737.22, 3737.82, 3737.83, 3741.14
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 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.

Changes are being made to the following sections to amend language consistent with changes inadvertently omitted during the 2017 OFC filing process: 2304.3.11 (add exception 2.2 and correct remaining numbering); 2305.2.1 (add cross-reference for maintenance standards); 2305.6 (delete old language and insert new language regarding signage requirements consistent with requirements in the R.C.); 2306.8.2 (insert dispenser modification language consistent with other OFC provisions and prior coordination with industry). These changes were proposed to stakeholders during the 2017 OFC update.

In addition, non-substantive, grammatical and/or formatting changes are being made at sections 2302.2 (correct rule reference); 2304.3.13 (correct citation); 2306.2 (insert "Chapter" (2)); 2306.2.3 (correct citation); 2306.7.9.2.2 (correction section number); 2307.3 (correct citation); 2308.8.1.2.2 (correct section number); 2309.6.1.2 (correction section number); and 2311.2.3.2 (correct 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 in OFC 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. 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.

0

Not applicable.

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

Changes at sections 2304.3.11, 2305.6 and 2306.8.2 were proposed in the 2017 OFC update but were inadvertently deleted during filing. Provisions that were added in the 2017 OFC regarding unattended mobile fuel-dispensing facilities at airports (2304.3.11) were designed to allow airports to utilize cost saving technology without having to install costly fire suppression and detection systems. The installation of call boxes, in lieu of the costlier equipment, will result in a large cost savings for airport facilities.

Signage requirements for gasoline pumps (2305.6) were amended to conform with Ohio law; 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 (R.C. 3741.14) it was noted that the proscriptive requirements of the statute were not adequately contained in the OFC. The OFC 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 may 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 may have an impact. It is not possible to determine how many industry members may be affected by this change (many may have followed the existing R.C. provisions) or how many signs are located throughout the state. However, to alleviate this burden, the new 2017 OFC provisions provided an exception for signs installed prior to July 1, 2018 that were substantially compliant with the signage requirements to allow for the use of signs already in inventory. This language was proposed to and vetted by stakeholders as a part of the 2017 OFC update.

At section 2306.8.2 new national model code compatibility provisions were amended to allow for the modification of tanks under certain conditions. This will provide industry members a mechanism to change products without costly replacement of the entire tank and is, therefore, anticipated to have a cost savings impact.

Other proposed changes to this rule are non-substantive in nature and correct grammatical, formatting or citation errors. There is no anticipated cost impact.

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? 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? Yes**

The rules contain 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? No**

Rule Summary and Fiscal Analysis

Part B - Local Governments Questions

1. Does the rule increase costs for:

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