

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Commerce, Division of State Fire Marshal

Regulation/Package Title: 2017 Ohio Fire Code Errata

Rule Number(s): Rescind and file new rules for OAC 1301:7-7-01, 1301:7-7-02, 1301:7-7-03, 1301:7-7-05, 1301:7-7-07, 1301:7-7-09, 1301:7-7-10, 1301:7-7-11, 1301:7-7-23, 1301:7-7-27, 1301:7-7-32, 1301:7-7-50, 1301:7-7-56, 1301:7-7-57, 1301:7-7-60, 1301:7-7-61, 1301:7-7-62

Date: September 17, 2018

Rule Type:

X New

5-Year Review

Amended

X Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Ohio Administrative Code (OAC) 1301:7-7 constitutes the Ohio Fire Code (OFC) and addresses matters of fire safety for all premises and structures in Ohio. The Ohio Department of Commerce, Division of State Fire Marshal (SFM) recently updated the OFC in its entirety to bring the regulations in line with emerging and ever evolving national standards, as well as

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to coordinate the regulations with changes made in Ohio law and to the Ohio Building Code (OBC). Now, the SFM is proposing changes only to the rules specified below. The primary purpose of the current filing is to correct language that was proposed and published to stakeholders in the most recent OFC update but that was inadvertently deleted during the filing process (hereinafter referred to as ‘inadvertently omitted language’) and to make non-substantive editorial and grammatical corrections, many of which are citation corrections due to a large reorganization and renumbering of many OFC rules during the 2017 update.

Changes are also being made to remain consistent with errata items filed by the International Code Council (ICC), which promulgates the International Fire Code (IFC) upon which the OFC is based, and with recent errata changes promulgated by the Ohio Board of Building Standards (BBS) for inclusion in the OBC.

Two substantive changes (see sec. 320 regarding mobile food units and sec. 906.1 regarding portable fire extinguishers) are also being made in accordance with SFM discussions with and input from stakeholders.

An explanation of key provisions of and an overview of the changes being made to each rule is as follows:

1301:7-7-01: This rule provides scoping and applicability provisions for the OFC. The rule outlines permitting authority, inspection authority, and enforcement authority and procedures; the rule also contains hotel and SRO facility licensing requirements and procedures; finally, the rule contains special provisions regarding loan and grant applications, administrative hearing procedures, Type-A and B daycare homes, and fire department recognition awards.

Language is being added at section **101.2.2** to reflect longstanding law in Ohio and to clarify that the provisions of the OFC do apply to 1-, 2-, and 3-family dwellings and all other residential premises; “associations” is being changed to “association”. At the request of BBS, language is being added at section **102.3.4** to acknowledge a new BBS certificate of occupancy category, namely a ‘certificate of completion.’ Language is being added at section **110.1.1** to cross-reference existing imminent hazard language and R.C. and OFC enforcement procedures for such; subsequent numbering is being edited accordingly; a comma is being inserted between “including” and “but”. Language is being added to the **Type A and Type B Child Care Facility Inspection forms** located at the end of Rule 1 to clarify that the “pass/fail” indication on the forms is specifically limited to the content of the forms and does not otherwise reflect compliance with the OFC.

In the 2017 OFC update, all definitions were moved from the front of individual rules to Rule 2 (1301:7-7-02); however, the language at the beginning of certain sections was not properly amended and still indicates that the definitions ‘are below’; language will be amended to indicate that the definitions of the listed terms have been moved to Rule 2 (**118.2, 119.1, 120.1, 122.2**). Likewise, the term “residential premises” was deleted from the listed terms in section 118.2 and the terms “licensee” and “State Fire Marshal” were deleted from the listed terms in section 122.2; these terms are being added back to the lists.

Other non-substantive, grammatical and/or formatting changes are being made at sections **101.2** (insert comma between “including” and “but”; delete periods, add semi-colons and the word ‘and’); **101.3** (change “fire fighters” to “firefighters”); **102.1.2** (insert “rule”; correct citation format); **102.3.2** (insert “rule”; delete comma between “occupancy” and “for”); **102.5** (delete common between “and” and “construction”); **102.7.3** (insert comma between “3701.” and “including”); **102.7.4** (insert comma between “3701.” and “including”); **102.7.5** (insert comma between “3701.” and “including”); **102.7.6** (insert comma between “3701.” and “including”); **102.11** (change “paragraphs” to “paragraph”); **103.1** (add period between “jurisdiction” and “A local”; change “Even” to “even”); **104.2.2.1** (insert “rule”; change “the is” to “this”); **104.2.2.2** (correct cite; change “building” to “buildings”); **104.3** (insert comma between “Code” and “shall”; insert “and” between “rule” and “which”; delete comma after “are”; correct citation format); **104.7** (delete comma between “Code” and “shall”); **104.10.2(i) and (ii)** (change “persons” to “person”; change “vehicleand” to “vehicle and”); **104.11.3** (change “Person” to “Persons”); **105.1.6.1** (change “detained” to “detailed”); **105.6.19** (delete comma after “fruit-”); **105.7.4** (insert “to be”); **105.7.7** (insert “to be”); **105.7.17** (insert “to be”); **105.7.18** (insert comma after “curtains”); **109.1.2** (insert “rule”); **109.1.3** (delete “(iii)” and align text with opening paragraph; change “paragraphs” to “paragraph” (2)); **109.1.5.1** (correct cite format (2)); **109.1.5.1.1** (correct cite format); **109.3.3** (delete “or” between “Code,” and “a copy”; delete comma between “citation” and “shall”; insert “at” between “authority” and “a location”); **109.4** (change “in” to “In”); **110.1** (change “conditions” to “condition”; insert “, as appropriate,”); **113.1/113.2** (move text currently contained at 113.2(g) and renumber as 113.1.1); **117.3** (insert “state fire” (2); insert “the” before “state fire marshal”); **118.1.1** (correct cite format); **118.3.2** (insert comma between “include” and “at”); **118.4.3, exception 7** (correct cite); **118.5.3** (correct cite); **118.5.5** (correct cite); **118.5.6** (delete commas between “unit” and “and” and between “of” and “a space”); **118.5.9** (insert commas between “and” and “at” and between “minimum” and “consist”); **118.6.1** (change “hotel” to “hotels”); **118.6.3** (correct cite); **118.6.5** (change “wash clothes” to “washcloths”); **118.7.2** (delete comma between “a” and “transient”; align terminology with defined terms contained in Rule 2); **118.7.2.5** (correct citation); **118.7.3.2** (correct citations (2); change “case” to “cease”); **118.7.4.1** (correct citation); **118.7.4.2** (delete comma between “marshal” and “to”; insert comma between “to” and “a”; change “paragraph” to “paragraphs”; delete “paragraph”; correct cite); **118.7.4.3** (insert comma between “to” and “a valid”; change “paragraph” to “paragraphs”; delete “paragraph”; correct cite); **118.7.5.1.6** (correct citations (2)); **118.7.5.3** (delete “a” between “effect” and “complete”); **118.7.5.4** (correct cite); **118.7.5.5** (correct cite); **118.8.2** (bold terms); **118.8.4** (change “paragraph” to “paragraphs” (2); correct cite); **118.8.6** (delete “state fire marshal”; insert “division’s”); **118.8.9** (change “public” to “publish”; delete “state fire marshal”; insert “division’s”); **119.7** (change “term” to “terms”); **120.4(c), (f)** (correct cite; insert comma between “fail” and “after”); **121.1.3.1** (change “homes” to “home”); **121.2.1** (insert “of the department”); **121.2.2.1** (change “an” to “and”); **121.3.1** (insert “of the department” (2)); **121.3.2.1** (change “supervisions” to “supervision”); **121.4.1.1** (correct cite); **121.4.2** (insert “of health”); **121.4.2.1** (insert language to clarify reference and enforcement authority); **121.5** (insert section number); and **122.1.3** (insert “an”); **122.6.4** (delete “rule”; insert “chapter”); **122.6.5** (change “it” to “its”); and **124.2** (correct citation format (4)).

1301:7-7-02: This rule sets forth definitions for terms used throughout the OFC.

Previously, numerous general definitions were contained in Rule 2 and additional terms relating primarily to a particular topic were contained at the front of the rule relevant to that topic. In the 2017 OFC, all definitions (with only a few exceptions) were moved to Rule 2. A few terms and/or edits to some, in whole or in part, were inadvertently deleted and will be added back to the OFC. These include: “Efficiency unit”, “Fire code official”, “Fire department”, “Flame spread index”, “Industrialized unit”, “MARCS grant”, “Institutional Group I-2”, “Institutional Group I-4, day care facilities”, “Classification as Group E”, “Five or fewer occupants receiving care in a dwelling unit”, “Residential Group R-1”, “Residential Group R-2”, “Care facilities within a dwelling”, “Residential facility”, “Serious hazard”, and “Solvent distillation unit”.

In addition, a definition is being added for “Manufactured home” (which merely points the reader to the definition found in the Ohio Revised Code (R.C.)), and the definitions of “Order” and “State fire marshal” are being edited to clarify their applicability with regard to paragraph 122 (which is where the definitions were previously located). A citation correction is also being made to the definition of “Order.” The definition of “Explosive material” is being edited to delete duplicative verbiage.

In addition, typographical errors are being corrected in the following: “Agricultural purposes” (change “Include” to “Includes”); “Automatic-fire extinguishing system” is being edited to “Automatic fire-extinguishing system”; “DOTn” (change “State” to “States”); “1.4G Fireworks” (delete “Code”); “Business Group B” (change “student” to “students”); “High-Hazard Group H” (delete “is”; insert “it”); “Storage location” (change “parcels” to “parcel”); “Unstable (reactive) material” (change “violet” to “violent”). Citation references are being corrected in the following definitions: “Extended stay hotel”, “Fireworks incident”, “Licensed exhibitor or indoor fireworks” and “Licensed exhibitor of outdoor/indoor fireworks”.

1301:7-7-03: This 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.

Regulations regarding ‘**mobile food units**’ were new to the 2017 OFC and are located at Section 320. Substantive changes are being made to the mobile food unit rules pursuant to input and feedback received by the SFM after the publication of the 2017 OFC. Input was received from mobile food unit operators and related associations, restaurant and hotel industry representatives, and members of both Columbus and Cleveland divisions of fire. The changes provide relief to the industry with regard to some of the regulations that were adopted and will more closely align the rules with industry standards and best practices. See specifically the following sections: **320.2.1** (delete “unit”, insert “units”); **320.2.3** (edit exception to clarify that carbon monoxide detectors are not required if no fossil fuel powered equipment is present); **320.3.1** (delete reference to ‘solid fuels’ for which the use of a Class K fire extinguisher is not appropriate); **320.4** (clarify that 2 forms of egress must be accessible while the unit is in operation and not necessarily at all times); **320.6.1** (allow for the use of DOTn containers, which are more prevalently used in the industry); **320.6.2(i)** (delete unnecessary and confusing verbiage with regard to supply system placement); **320.6.2(ii)** (add pointer to new language regarding tank location (being inserted at 320.6.2(iii))); decrease clearance distance from 36” to 30” and clarify that the clearance requirement only applies to rear mounted tanks, thereby

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allowing for the placement of tanks at other locations on the unit where a 36” clearance would not be possible or necessary, such as a trailer mount); **320.6.2(iii)** (add language to clarify that tanks may be removed from the vehicle (i.e., they do not have to remain vehicle mounted or 30” off the ground) during operation activities, but must be otherwise secured and stabilized); **320.6.3** (eliminate retroactive language/applicability regarding piping requirements); **320.6.3(viii)-(xiii)** (eliminate certain regulations regarding piping and connector requirements); **320.7** (decrease separation distance for unit operation in relation to other vehicles and units; delete exception); and **320.9** (delete exposed conduit requirement and reorganize section).

Other changes to the mobile food unit provisions are being made to correct changes proposed during the 2017 OFC update but inadvertently omitted during the filing process. These include the following sections: **320.3** (add exception to fire extinguisher requirements for open air hand carts); **320.6.2(ii)** (change “container” to “containers”; add language regarding the use of non-combustible materials to secure gas containers); **320.6.2(ii)(h)** (add language regarding the use of non-combustible materials to secure gas containers); and **320.6.3(v)** (add inadvertently omitted language regarding flexible connectors). In addition, consistent with language that was inadvertently omitted during the 2017 update, language is being amended at **311.2.1.1** (delete old/insert new language consistent with R.C. changes made regarding expedited foreclosures). All of this language was proposed to stakeholders during the 2017 OFC update.

In addition, non-substantive, grammatical and/or formatting changes are being made at sections: **301.2** (delete “of” between “in” and “rule”); **307.1.1** (change “section” to “sections”; correct cite format); **307.1.2** (change “anytime” to “any time”); **308.1.4.1** (correct rule reference); **308.3.2** (correct rule reference); **309.1** (change “this paragraph” to “paragraphs”); **311.6** (correct section number); **312.3** (correct citation); **320.3.1** (correct citations (2)); and **320.6** (correct rule references (4)).

1301:7-7-05: This rule governs fire service features for buildings, structures and premises.

Section **508.1.6** is being amended to include clarifying nomenclature and to remain consistent with the OBC (add “interior exit” at 7., and update name of referenced standard at 17.). Sections **509.1** and **509.2** are being edited to correct inadvertently omitted changes that occurred during filing (language at 509.2 was typed twice – in both sec. 509.1 and in sec. 509.2 – and correct language for section 509.1 was omitted; the duplicated language is being deleted and the correct language for sec. 509.1 is being inserted) [With the exception of the “unobstructed access” language, this is not new language; it was contained in the 2011 OFC; this language and the ‘unobstructed access’ language was proposed to stakeholders as edited in the 2017 OFC update].

1301:7-7-07: This rule governs maintenance of the materials, systems and assemblies used for structural fire resistance and fire-resistance-rated construction separation of adjacent spaces to safeguard against the spread of fire and smoke within a building and the spread of fire to or from buildings.

Non-substantive changes are being made to section **701.2** (correct citation and add cross reference to R.C. provision).

1301:7-7-09: This rule specifies where fire protection systems are required and sets forth the design, installation, inspection, operation, testing and maintenance requirements of all fire protection systems.

Section **906.1** will be amended to reinsert language inadvertently omitted when the 2017 OFC was filed (add “R-4” and “of this rule”; these changes will also align the OFC with OBC requirements already in place); this section will also be amended to change the requirements regarding where **portable fire extinguishers** will be installed as follows: previously existing language at 1. will be deleted; language at 2. will be moved to 1., and new language will be added at 2. This change was proposed to the SFM and BBS by the Fire Equipment Manufacturer’s Association (FEMA). It was determined that the change should first be formally proposed to BBS and then, if adopted, be considered for inclusion in the OFC. BBS did approve the rule amendments and the OBC was recently amended to include the proposed changes. The new language will give educational occupancies more flexibility regarding extinguisher placement.

Amendments to the following sections were inadvertently omitted during the 2017 OFC filing process: **903.2.3** will be edited to include instances where automatic sprinklers are required and an exception thereto; **903.2.6** will be amended to include the 4th exception to the rule; **903.2.8** will be amended to include an exception for R-2 occupancies; **Table 903.2.11.6** will be edited to include a reference to section 5306.2.3 “Medical gas storage cabinet”; **903.4, exception 1** will be amended to delete language previously submitted for deletion and to renumber the remaining language; **907.4.2.6** will be added to require that manual fire alarm boxes remain unobstructed and accessible. Some of this language was in the 2011 OFC; all of it was proposed to stakeholders during the update process.

In addition, non-substantive, grammatical and/or formatting changes are being made at sections **903.2.9.1(c)** (delete “a” between “with” and “repair”); **903.2.11.1** (correct citations (2)); **Table 903.2.11.6** (correct citation); **903.3.8.1** (change “six” to “nineteen”); **904.3.2** (correct citation); **904.12.1** (delete “of” between “than” and “20”); **905.1** (delete “this”); **907.2.1** (change “apply” to “applying”); **907.2.6** (insert comma between citations); **907.3.3** (correct cited title); **907.5.2** (correct updated accessibility requirements reference); **907.6** (delete extra “(“ in citation); **908.6** (correct citation); **909.5** (delete duplicative language); **909.5.3** (change “undercutsin” to “undercuts in”); **909.6.2** (insert “Δ” (2)); **909.7.1** (change “thecalculated” to “the calculated”); **909.10.1** Exception (change “s” to subscript); **909.21** (delete extra “(“ in citation); **909.21.1 Exception 3.2** (change “floor” to “floors”); **910.1** (insert comma between “code” and “smoke”); **910.6.4** (correct cite); **913.5.2** (correct citation); **913.5.3** (correct citation); **914.3.1.1.1** (correct citation); **914.5.4** (add “)” to citation); **Table 914.8.3** (change “Typle” to “Type”); **915.1.4** (change “appliance” to “appliances”); **916.6** (insert “the” between “of” and “individual”); **916.17** (insert comma between “certification” and “all”); **916.18** (insert comma between “application” and “the”); **916.20** (change “sand” to “and”); **916.22** (change “it’s” to “its”); and **916.23(f)** (insert “a” between “of” and “change”).

1301:7-7-10: This rule controls the design, construction and arrangement of means of egress components required to provide safe and appropriate means of egress for building occupants from all portions of buildings.

Language which required interior stairways and ramps for stories above the 2nd floor is being deleted from section **1006.3** to remain consistent with the OBC and the IFC. Sections **1006.3.1**, **1010.1.4.1 #5**, and **1029.9.1** are being amended to clarify nomenclature and to remain consistent with prior OFC changes and with the OBC and the IFC. Provisions regarding basements are being deleted from section **1006.3.2.2** because they were relocated in the 2017 OFC. Section **1010.1.4.3** is being amended to clarify language and to remain consistent with the OBC and the IFC.

Changes are being made to the following sections to amend language consistent with inadvertently omitted changes in the filing of the 2017 OFC: **1010.1.9.6** (delete old/insert new language regarding controlled egress doors); and **1010.1.9.7** (insert new language regarding delayed egress locking systems). This language was proposed to stakeholders during the 2017 OFC update.

In addition, non-substantive, grammatical and/or formatting changes are being made at sections **1003.3.3** (correct conversion); **1005.3.1** (correct cite (2)); **Table 1006.2.1** (change “≥” to “≥”; correct cite in fn g (2)); **1006.3.2** (change “units’s” to “unit’s”); **1009.4** (correction title of referenced standard); **1009.5** (change “egresswhere” to “egress where”); **1010.1.4.2** (insert “)"); **1011.14.1** (correct citation); **1012.5** (correct citation); **1015.1** (correct citation); **Table 1017.2** (correct citation in footnote); **1017.2.2** (change “(c)” to “(iv)” and “(d)” to “(v)”); **1025.2.1** (insert “Exception:”); **1029.9.7** (correct citation); **1029.9.8** (correct citation); **1029.10.1** (correct citation); **1029.13.1.3** (change “paragraph” to “paragraphs” and correct citation); **1029.16.1** (change “measure” to “measured”).

1301:7-7-11: The provisions of this rule govern construction requirements for buildings constructed prior to the adoption of the rule where existing conditions constitute a distinct hazard to the life of building occupants or to property.

Section **1103.5** and **Table 1103.1** are being amended in accordance with an IFC errata package and to make the provisions consistent with other changes made in the most recent IFC and OFC updates. Specifically, sprinkler requirements are being deleted for Group A-2 occupancies and the remaining sections are being renumbered accordingly; consistent with these changes, the reference in the table for 1103.5.2 is being corrected and the table is being edited to reflect the changes. Other edits are being made to the table in accordance with prior changes to relevant provisions.

Table 1104.18 is being amended to reinsert language regarding “Group M” occupancies that was inadvertently omitted in the filing of the 2017 OFC; this will align the OFC with prior OFC and industry standards and the requirements in the IFC; a typographical error is also being corrected (change “400” to “250”). **Table 1104.18 fn g** is being amended to delete language that is a duplication of fn f and to insert correct language for fn g that was inadvertently omitted when the 2017 OFC was filed. **1105.6.1.1** is being amended to add inadvertently omitted language which clarifies refuge area calculations. All of this language was proposed to stakeholders during the 2017 OFC update.

In addition, non-substantive, grammatical and/or formatting changes are being made at sections **1103.5.2** (correct citation); **1103.8.1** (change “protected” to “provided”); **1103.9** (italicize date to indicate it is an Ohio-zation; un-bold the “e” in “existing”); **1105.1** (change “provision” to “provisions”); **Table 1105.2** (change “system1111” to “system”); **1105.5**

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(change “paragraph” to “paragraphs”); **1105.5.1** (change “Exist” to “Exit”); **1105.6** (correct citation); **1105.7** (correct citations); **1105.9** (correct citation).

1301:7-7-23: 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 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 citation); **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).

1301:7-7-27: This rule sets forth fire safety regulations and equipment requirements for semiconductor fabrication facilities and comparable research and development areas classified as Group H-5 occupancies.

Table 2705.2.2 fn b is being amended to correct a typographical error (change “note b” to “note a”).

1301:7-7-32: This rule sets forth fire safety regulations for high piled combustible storage.

Non-substantive changes are being made to **Figure 3203.7.4** (correct table heading and identifiers); **Table 3208.3** (change “<” to “≤”); and to sections **3206.3.2.1** (delete “walls”); **3208.3.1** (change “single-,double-or” to “single-, double- or”); **3209.2** (correct table reference) and **3210** (change “Speciality” to Specialty”).

1301:7-7-50: This rule prescribes general fire safety regulations for the prevention, control and mitigation of dangerous conditions related to the storage, dispensing, use and handling of hazardous materials.

Non-substantive changes are being made to sections **5001.4** (correct cite); **5002.1** (change “termsare” to “terms are”); **5003.2.9** (correct citation); **5003.8** (correct citation); **5004.7** (correct cite); and to **Table 5003.1.1(1)** (edit table per ICC errata and correct typographical errors so chart reflects OFC provisions).

1301:7-7-56: This rule prescribes fire safety regulations for the possession, manufacture, storage, handling, sale and use of explosives, explosive materials, matters described in section 3743.80 of the Revised Code and small arms ammunition. It also addresses the possession, manufacture, storage, handling, sale and use of fireworks and the operation of flame effects.

The following sections are being amended to reinsert language that was contained in the 2011 OFC and that was intended for inclusion in the 2017 OFC; it was inadvertently omitted during the filing process: **5611.2(g)(i)** (reinsert an exception to lighted candle restrictions); **5611.15.1** (reinsert flame effect documentation requirements); and **5611.16** (reinsert flame effect operating instruction availability requirements). These provisions are not new and were contained in the 2011 OFC; they were proposed to stakeholders for inclusion in the 2017 OFC update.

Section **5601.2.5** is being amended to clarify previously confusing language regarding bonding requirements. The edits will conform to national language and will also clarify Ohio-izations made to these requirements and their applicability.

Non-substantive changes are being made to sections **5601.1** (correct cites (2)); **5601.8** (correct citation); **5605.2** (correct section number); **5606.5** (delete “this”); **5606.5.2.1(d)** (edit citations (3)); **5606.5.2.3(c)** (edit citations (2)); **5608.1** (delete “a”; insert “)”)”; **5609.1** (insert “)”)”; **5611.7** (insert “as”); **5611.9** (correct citation format); **5611.13.1-5611.13.3** (correct section numbers (3)); **5612.1.1** (correct citations); **5612.3.3** (insert comma; delete “shall”; delete “may”; insert “shall”); **5614.1.4** (correct citation); **5614.1.4.1** (change “for” to “For”); **5619.4.1.1** (insert “is”); **5619.4.1.2** (insert “is”); **5619.4.1.3** (insert “is”); **5619.4.2** (delete period; insert “if.”; delete periods, add semicolons, add “or”); **5621.3** (add section heading); **5621.3.2** (correct citation format); **5622.1.1** (correct citation); **5622.4.2** (correct cite); and **5623.1.9** (change “buildings” to “building”), and to **Table 5601.8.1(1) fn c** (correct citation format) and **Table 5604.5.2(3)** (add legend).

1301:7-7-57: This rule prescribes fire safety regulations for the prevention, control and mitigation of dangerous conditions related to the storage, use, dispensing, mixing and handling of flammable and combustible liquids.

Section **5704.2.9.5.1** is being amended to add and edit exceptions consistent with language that was inadvertently omitted during the filing of the 2017 OFC. The language to now be reinserted contains and clarifies exceptions to the prohibitions on tank placement. This language was proposed to stakeholders during the 2017 OFC update.

Non-substantive changes are being made to the following sections and tables: **5702.1** (correct section number); **5702.2** (correct section number); **Table 5703.1.1** (insert “a” between “within” and “Division”; correct formatting/alignment); **5703.6.2.1** (un-indent language in paragraph beginning “In all cases...”); **5704.1.2** (insert pointer language to existing fence requirements); **5704.2.6** (correct rule reference); **5704.2.7.3.2** (delete citation); **5704.2.7.5.8** (correct citations (2)); **5704.2.9** (correct citation); **5704.2.9.1.2.1** (correct section number); **5704.2.9.4.2** (correct citation); **5704.2.9.5.1.2** (correct citation); **5704.2.9.6.6** (correct section number); **5704.3.4.1** (correct rule reference); **Table 5704.3.6.3(4)** (insert “and” between “IB, IC” and “II”); **Table 5704.3.6.3(5)** (delete “Not applicable” which appears twice); **Table 5704.3.6.3(6)** (insert “at” between “six sprinklers” and “each level”); **Table 5704.3.6.3(8)** (merge cells and insert title: “In-rack sprinkler arrangement and demand”; insert “of”); **5704.4.2.4** (edit citations (3)); **5705.2.4** (un-indent exception); **Table 5705.3.4(1)** (change “Locationa Stable liquids” to “Location^a”; insert “Stable liquids” in proper cell); **5705.3.5.1** (correct rule reference); **Table 5705.3.8.2** (correct cite in fn a); **5705.4** (correct citation); **5705.4.2** (delete duplicated text); **5705.5 ##6 and 7** (correct numbering); **5706.2.5.1 #1** (delete

period, insert “; or”); **5706.2.5.2** (un-indent paragraph beginning “The gravity discharge outlet...”); **5706.4.7** (correction section number); **5706.5.4.5** (change “within” to “with”).

1301:7-7-60: This rule governs the storage and use of highly toxic and toxic materials.

Non-substantive language is being added at section **6004.3.1.3** (add language to cross reference outdoor use of ozone gas-generating equipment provisions located at section 6005). This language was in the 2011 OFC and was proposed to stakeholders for inclusion in the 2017 OFC, but was inadvertently omitted during the filing process.

1301:7-7-61: This rule prescribes fire safety regulations for the storage, handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such uses.

Non-substantive changes are being made to sections: **6102.1** (change “termsare” to “terms are”); **6103.2.1.2** (correct reference section cite); **6104.3.2** (correct reference section cite); **6104.4** (change “180, 000” to “180,000”; correct reference section cite); **6107.2** (correct reference section cite); **6108.1** (correct reference section cite); **6109.1** (delete “)”)”; **6109.11.2** (correct reference section cite); **6111.2** (change “vehicle” to “vehicles”).

1301:7-7-62: This rule prescribes fire safety regulations for the storage and use of organic peroxides.

Section **6202.1** is being amended to change “termis” to “term is” and **Table 6204.1.7** is being edited for formatting issues that occurred during filing of the 2017 OFC.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. §§ 3721.032, 3721.07(D), 3731.02(A) & (E), 3737.17(D), 3737.22(A), 3737.65(A), 3737.73(A) & (F), 3737.82, 3737.83(A)-(F), 3737.832(B), 3737.842(A), 3737.85, 3737.86, 3739.13, 3741.14(B), 3743.02(B), 3743.04(F) & (H), 3743.05, 3743.15(B), 3743.17(E), (I) & (K), 3743.18, 3743.25(A) & (B), 3743.40(F), 3743.53(A), (B) & (E), 3743.54(G), 3743.56, 3743.58, 3743.70, 3781.03 and 5104.05(A) & (B).

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The purpose of the OFC is to provide minimum standards for safeguarding life and property from fire and explosion in this state. Longstanding policy and legislative directives

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have dictated that the SFM enact a fire code to address matters of fire safety throughout the state. Pursuant to R.C. section 3737.82 the SFM shall adopt a state fire code consisting of “rules relating to all aspects of fire safety.” The OFC must include rules relating to the movable contents of any building, or class of buildings, the transportation, storage, location, and use of flammable or explosive materials, the procedures to be employed by persons in the event of fire, the installation and location of fire protection equipment, and other similar matters. Further associated rule requirements are derived from R.C. sections 3737.17(D), 3737.22(A), 3737.65(A), 3737.73(A) & (F), 3737.82, 3737.83(A)-(F), 3737.832(B), 3737.842(A), 3737.85, 3737.86, 3701.82(E), 3721.032, 3721.07(D), 3739.13, 3741.14(B), and 5104.05(A) & (B). R.C. section 3737.83 also lists general topics that must be included in the OFC (for example, minimum standards of performance for fire protection equipment and fire-fighting equipment; minimum standards of training, qualification and certification for those engaged in the business of installing, testing, repairing, or maintaining fire protection equipment, minimum standards of flammability for consumer goods, minimum standards for fire prevention and fire safety in child day-care centers and in type A family day-care homes, minimum standards for fire prevention and safety in certain residential facilities, etc.).

In addition, R.C. section 3731.02 requires the SFM to make rules establishing requirements for hotel licensure and inspection. R.C. sections 3743.02(B), 3743.04(F) & (H), 3743.05, 3743.15(B), 3743.17(E), (I) & (K), 3743.18, 3743.25(A) & (B), 3743.40(F), 3743.53(A), (B) & (E), 3743.54(G), 3743.56, 3743.58, and 3743.70 state that the SFM shall adopt rules regarding the classification, manufacture, storage, sales, shipping, and exhibition of fireworks.

The majority of the proposed amendments are being submitted to correct non-substantive and grammatical errors that were contained in the most recent update of the OFC which became effective on December 15, 2017. The only new substantive changes being submitted herein (regarding mobile food units and portable fire extinguishers) are being submitted at the direct request of stakeholders. Language in Rule 10 is being amended to delete required stairways and ramps (thereby alleviating construction requirements and costs) and to clarify nomenclature changes already made to the OFC (and the OBC). All other changes are being submitted to correct language that was inadvertently omitted when the 2017 OFC was filed. While some of these changes were new from the 2011 to the 2017 OFC, many of the edits here reflect language that was contained in the 2011 OFC and was intended to be carried forward into the 2017 OFC. Regardless, these changes were previously published to stakeholders as proposed language to be included in the 2017 OFC.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

In addition to regulations regarding matters of fire safety, the OFC contains enforcement mechanisms. The promulgated rules can be enforced by local fire code officials and certified fire safety inspectors from local departments as well as the SFM’s Code Enforcement Bureau.

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Inspections will determine compliance with the imposed regulations. Where deficiencies are found, citations and penalties can be imposed to ensure compliance will be attained.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

New substantive provisions or changes are being promulgated herein regarding only two regulations: those regarding mobile food units (see OAC 1301:7-7-03(T); OFC sec. 320) and those regarding portable fire extinguishers (see OAC 1301:7-7-09(F)(1); OFC sec. 906.1). Both of these amendments are a direct result of stakeholder input and petition.

The **mobile food unit** (MFU) rule changes are being promulgated in response to input from industry stakeholders and fire service personnel. Subsequent to the effective date of the 2017 OFC, the SFM was approached by several entities regarding the MFU rules; these included mobile food unit operators and related associations, restaurant and hotel industry representatives, and members of the fire service, including members from both Columbus and Cleveland Divisions of Fire. During the course of these discussions, many suggestions were made regarding the MFU rules and the majority of the suggestions were incorporated into the rules now being submitted. The changes generally relax prior provisions and align the rules with common practices and safety standards while balancing industry needs and safety. Prior to filing with CSI, the SFM promulgated draft changes and submitted those changes to key stakeholders/industry groups and fire service personnel. No additional changes were proposed or made.

Changes being made regarding **portable fire extinguisher** regulations are directly the result of stakeholder petition. In the final stages of the rule adoption process for the 2017 OFC, the SFM was approached by representatives from the Fire Equipment Manufacturer's Association (FEMA). FEMA expressed concern regarding the regulations and proposed the rule changes now being submitted. At the time the SFM was initially approached, it was decided and discussed with FEMA that the proposed changes should more properly first be presented to BBS for consideration before being included in the OFC. Because the 2017 OFC adoption process was almost complete, the SFM explained to FEMA that the proposed changes would not be included in the 2017 OFC, but that the SFM would work with FEMA and BBS and told FEMA that if BBS did adopt the rule changes, the SFM would be willing to then consider them for inclusion in the OFC. Thereafter, SFM, BBS, and FEMA representatives met and FEMA agreed to propose the changes first to BBS for inclusion in the OBC. The rules were proposed to BBS and were adopted into the OBC. FEMA also formally submitted a

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petition to the SFM for inclusion of the changes into the OFC. The changes proposed herein reflect FEMA's petitioned changes and are consistent with the changes made by BBS that are now contained in the OBC.

Non-substantive and grammatical changes needed were determined by SFM staff when proofreading OFC copy prior to initiating the printing of hard copy books. IFC and OBC errata items were promulgated by the rule amendment processes of each of those entities. Typically, prior to the filing of a rule change, the SFM follows an extensive revision process which includes multiple opportunities for stakeholder input. Please note, however, that since all OFC rules were recently updated pursuant to the SFM's standard process of accepting petitions and comments from and vetting proposed changes with stakeholders, the SFM did not open the current rule changes for public comment prior to CSI filing. In addition, the majority of the corrections being made to the rules in the instant rule package constitute an errata package to correct errors in grammar and citations or references (caused in large part by the extensive reorganization of the rules in the 2017 OFC update). Other changes merely reflect language that was proposed to and vetted by stakeholders during the 2017 OFC update process and are only necessary to correct errors that occurred during the filing process.

Stakeholders will have an opportunity to review and comment on all of the changes proposed by this rule package during the CSI process. The SFM maintains a list of stakeholders which contains individuals and entities that the SFM has identified as having an interest in the provisions of the OFC as well as any other interested party that has requested to be on the SMF stakeholder list. The SFM's stakeholder list includes, *inter alia*, individuals and entities from the petroleum and fuel and gas industries, the hotel industry, convenience store operators and grocer's associations, the fire service and building industry, planning commissions and associations, the fireworks industry, the healthcare industry, educational departments and associations, and numerous governmental agencies from the federal, state and local levels.

In conjunction with the filing of the rules with CSI, the SFM will send an electronic mail notification to all stakeholders announcing that the SFM is filing specified rules to correct non-substantive and grammatical errors inadvertently contained in the recently enacted 2017 OFC, as well as proposed substantive changes based on IFC and OBC errata/changes, filing errors and issues raised by various stakeholders since the effective date of the 2017 OFC. The notification will announce that the SFM will take comments regarding the proposed amendments for at least one week. The SFM will also make an announcement and publish the text of the rules with proposed changes on the SFM's website and/or social media accounts as applicable. The SFM has also made a quick-reference chart of all of the changes being proposed; this will also be published on the SFM's website and stakeholders will be notified of its availability.

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8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The SFM received input regarding mobile food units and portable fire extinguishers as outlined above. The stakeholder input directly affected the rules being substantively amended herein and proposed changes were incorporated into the rules.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Much of the language in the OFC is based on national language. Like the BBS, the SFM relies on the expertise of the ICC which promulgates the IFC. The ICC updates the IFC (and its other national standards) every three years through a petitioning, public hearing, and membership voting process. Proposals and submissions on the national level are routinely substantiated with argument and scientific data when appropriate. The submissions are open for public comment by all industry leaders and interested parties. Reports are published on all submissions and their supporting documentation. Further review and comments are made prior to voting and adoption.

After the ICC publishes the IFC, the SFM's internal work group reviews the changes. As the changes are made on a national level and are available for all interested parties, they are also often reviewed by SFM stakeholders as well. The SFM incorporates relevant portions of the IFC (excluding or amending portions when necessary to conform to Ohio law, to continue previously coordinated work with the BBS, or to carry forward provisions previously amended subsequent to stakeholder input). The last major revision of the OFC occurred last year and used the 2015 IFC as a baseline.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The SFM is charged with the duty of promulgating an Ohio fire code. In order to accomplish this directive, the SFM can either write the entire code internally or look to national and international standards as a baseline. The SFM, as stated above, has opted to use the IFC as a baseline. Other recognized standards that the SFM could have used are NFPA 101 and/or NFPA 5000 (promulgated by the National Fire Protection Association). The SFM did not institute these standards as its baseline due in large part to the significant costs of implementation involved with them. Also, BBS uses the ICC's International Building Code as a baseline for the OBC. Using the companion IFC as a baseline for the OFC helps maintain uniformity between the two codes and maintains an efficiency of training, enforcement, and future code development.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

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Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. Regarding general matters contained in the OFC, performance based regulations are not feasible due to the nature of materials covered, i.e., the manufacturing, processing and storing of explosives and hazardous materials, or the installing, servicing and testing a fire protection systems. With regard to construction related safety measures covered in the OFC, performance based guidelines from the building code would apply. As stated by BBS in its' most recent full update of the OBC:

The rules [OBC] permit a registered design professional's alternative engineered design to be a compliance alternative method to prescriptive requirements of the code. Section 106.5 of the OBC permits a registered design professional to submit sufficient technical data to substantiate that performance of the proposed alternative engineered design meets the intent of the code. Additionally, section 107.4.3 provides that when construction documents have been prepared by an Ohio registered design professional conforming to the requirements of the rules of the Board pertaining to design loads, stresses, strength, and stability and other requirements involving technical analysis, the documents need only be examined to the extent necessary to determine conformity with other requirements of the rules of the Board.

Language has been added to the OFC to state that when fire code officials have an opportunity to engage in the plans review process during construction of a facility, any modification or alternately approved design provision will be deemed in conformance with like provisions contained in the OFC. Finally, the OFC contains provisions for the approval of 'alternative' products and processes where warranted. When warranted the local fire code official, with some measure of discretion when enforcing the OFC, has the flexibility to implement alternative process approvals so long as such officials work with the SFM to ensure statewide uniformity in application of such processes to others that may benefit.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The SFM has exclusive authority to promulgate the Ohio Fire Code and regulations regarding minimum standards of fire safety throughout the state. The SFM also has exclusive licensing authority, which includes the ability to promulgate rules regarding hotel licensure and sanitary standards and regulations regarding the manufacture, sale, possession, exhibition, and shipping of fireworks. The SFM has not promulgated any other provisions regarding these matters.

In addition, to the extent rules contained in the OFC and OBC overlap, the SFM and BBS make every effort to ensure that relevant construction provisions contained in the two codes

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work in tandem. The OBC primarily focuses on rules regarding the safe construction of a building for its intended purpose, while the OFC primarily addresses how the building will be safely operated once it is occupied. Of course, some safety measures (like the installation of a fire protection system) must be addressed at the design and construction phase. Therefore, the SFM and BBS diligently work to coordinate the two codes.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The 2017 OFC has been published in book format and made available to the general public in book format and in an on-line publication through the ICC. A red-lined version of the 2017 OFC was posted on the SFM’s website and a red-lined version of the changes proposed herein are being posted in conjunction with the submission of Rules to CSI. In March and April 2018, the SFM hosted a series of six regional meetings at various locations throughout the state to offer live training sessions regarding the significant changes to the code. The SFM also published on-line training modules regarding significant changes made to the OFC for the use of generally interested parties, code enforcement officers, and for those seeking continuing education credits. Those courses are still available on-line. In addition, SFM staff is available to provide clarification when necessary, to host other training sessions on an as requested or as needed basis for specific topics (as the SFM did for hotel industry stakeholders and for fire officials). Finally, the SFM often issues ‘guidance documents’ (called Technical Bulletins or “TBs”) which clarify or amplify OFC provisions, offer interpretations of provisions, and/or provide guidance on the application or enforcement of certain provisions of the OFC. The SFM has issued several Technical Bulletins regarding the 2017 OFC update and will continue to edit and/or issue further TBs as warranted to provide guidance with regard to OFC content, particularly regarding the new substantive provisions proposed herein.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

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Although changes are being made throughout many rules contained in the OFC, they are not generally anticipated to have a cost impact. As stated above, the majority of the proposed rule modifications merely correct non-substantive and/or grammatical errors in the previously submitted/enacted provisions of the 2017 OFC. The basic provisions of the OFC account for industry wide standards that have been in place for many years and are not changing. To the extent that specific new substantive changes are being made, it is anticipated that they will result in a cost savings. A breakdown by rule of all changes anticipated to have a cost impact is as follows:

1301:7-7-01:

Changes being made to this rule are all non-substantive in nature. The proposed changes are either grammatical, formatting or citation corrections or are being made to clarify already existing requirements or procedures. There is no anticipated cost impact.

1301:7-7-02:

The proposed definitional additions and corrections being made to Rule 2 merely add or edit terms that have been in use industry wide for a long time. Some terms were inadvertently omitted during the re-organization and filing of the 2017 OFC. Other changes were previously proposed to coordinate with the OBC and are, again, not new to the industry. There is no anticipated cost impact.

1301:7-7-03:

Language in section 320 was new language in the 2017 OFC update and instituted basic fire safety measures for mobile food units in response to a submitted petition and to get ahead of this emerging industry that has the potential for catastrophic results if unsafe operation occurs. While the SFM limited in scope the provisions that were enacted in the 2017 OFC, the SFM was thereafter approached by fire safety officials and industry members to make additional amendments to the rules. Based on their input, the SFM is now relaxing some of the previously enacted provisions. The changes proposed herein will allow the use of additional LP-gas containers to now include those most generally used in the industry (see section 320.6.1), will eliminate the need for portable fire extinguishers for certain units where such equipment is not warranted (see section 320.3), and will eliminate prior retroactivity provisions with regard to piping systems (see section 320.6.3). In addition, some piping requirements are being eliminated and provisions requiring electrical wiring to be contained in exposed conduit are being eliminated (see sections 320.6.3(viii)-(xiii) and 320.9, respectively). All of these changes will result in a cost savings to unit owners when configuring the layout of their vehicles and / or will eliminate the need for costly upgrades. Finally, separation requirements with regard to the proximity of one mobile food unit to another are being lessened (see section 320.7). This will allow more vendors to participate in events like fairs and festivals (because with lesser required separation more units can fit in the space allotted for the event) and will

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result in increased business for unit owners if they choose to participate in a particular event rather than being precluded from participation due solely to space restrictions.

Section 311.2.1.1 is being amended to add language that was proposed in the 2017 OFC update but that was inadvertently omitted during filing. The change is in accordance with legislative changes to boarding requirements for vacant structures contained in the R.C.). To the extent that the OFC will require boarding, no cost impact is anticipated because such is already required in the R.C. To the extent that the OFC will require a ‘quick release device’ when and if such a device is available, minimal cost impact is anticipated and will be voluntary for the user since the user will have the option to board with material that does not have the device. Further, the boarding and quick release device provisions only affect those vacant structures that are subject to an expedited foreclosure process under the cited R.C. provisions; these requirements do not affect the vast majority of foreclosed structures. If an affected user does opt to use a boarding material for which a quick release device is available, devices can range in price from \$10 to \$50 each.

Other proposed changes to the mobile food unit rules and other provisions of Rule 3 are non-substantive in nature and correct grammatical, formatting or citation errors or are being made to clarify already existing requirements or procedures. There is no anticipated cost impact for these changes.

1301:7-7-05:

Changes being made to this rule are not new and/or are non-substantive in nature. Changes in section 508.1.6 merely address nomenclature clarification and provide the proper full name of the cited reference. The added language in section 509.1 is not new; the language was in the 2011 version of the OFC and was inadvertently omitted during the filing of the 2017 OFC. There is no anticipated cost impact.

1301:7-7-07:

Changes to section 701.2 do not create new substantive language. The language being added merely cross-references already existing provisions in the R.C. and OFC and provides the user a more accurate accounting of enforcement tools and procedures. There is no anticipated cost impact.

1301:7-7-09

Proposed changes in this rule at sections 903.2.3, 903.2.6, and 903.2.8 were proposed in but inadvertently omitted from the 2017 OFC during the filing process. The changes coordinate language and equipment requirements consistent with recent changes to the OBC. Because the requirements (or in some cases the exceptions to equipment requirements) are already in place in the OBC, no cost impact is anticipated.

As discussed above, the substantive changes in section 906.1 are being added as a direct result of a petition from FEMA and to coordinate with like provisions now contained in the OBC. The change in language will allow more flexibility regarding extinguisher placement in Group E occupancies and will allow them to configure portable fire extinguisher placement in the most cost effective manner meeting their needs. Other changes to this section are non-substantive and/or reflect national code language and OBC requirements and, therefore, no cost impact is anticipated.

Other proposed changes to this rule are non-substantive in nature and correct grammatical, formatting or citation errors or are being made to clarify already existing requirements or procedures. There is no anticipated cost impact.

1301:7-7-10:

The majority of changes being proposed in this rule are non-substantive in nature and correct grammatical, formatting or citation errors, or clarify provisions or nomenclature. There is no anticipated cost impact.

The deletion of language at section 1006.3 (which required stairways or ramps) will align the OFC with recently changed requirements in the OBC and will result in a cost savings during construction. The language to be included at sections 1010.1.9.6 and 1010.1.9.7 reflects language that was contained in the 2011 OFC and was intended to be carried forward into the 2017 OFC (it was proposed to stakeholders); however, it was inadvertently omitted during the filing of the 2017 OFC. These edits will keep the OFC aligned with the OBC and constitute industry standards already in place pursuant to the prior OFC requirements. Because these requirements were already in the code and/or merely harmonize with OBC provisions, no cost impact is anticipated.

1301:7-7-11:

Changes to section 1103.5 are being updated to conform to national code changes made to the IFC. The changes reflect other changes made in the IFC and the 2017 OFC. The deletion of the language eliminates these automatic sprinkler requirements for Group A-2 occupancies and are, therefore, anticipated to result in a cost savings for this group. Table 1103.1 is merely being amended to reflect the updated provisions. Language is being added in Table 1104.18 for Group M occupancies. This language is not new; it was contained in the 2011 OFC and proposed for inclusion in the 2017 OFC but was inadvertently omitted during the filing process. The footnote being added to the table and language being added at section 1105.6.1.1 were likewise proposed in the 2017 OFC but inadvertently deleted during the filing process. However, the language merely clarifies terminology. Because the language being amended here only reflects other recent updates and/or reinserts language consistent with prior provisions and that have long constituted industry standards, there is no cost impact anticipated for these changes.

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

1301:7-7-23:

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 OFC provisions provide an exception for signs installed prior to July 1, 2018 that substantially comply with the signage requirements which will 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.

1301:7-7-27:

The proposed change to this rule is non-substantive in nature and corrects a typographical error. There is no anticipated cost impact.

1301:7-7-32:

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

1301:7-7-50:

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

1301:7-7-56:

The language to be added at sections 5611.12 (inserting an exception to lighted candle restrictions), 5611.15.1 (regarding flame effect documentation requirements) and 5611.16 (regarding flame effect operating instructions) are not new. They were contained in the 2011 OFC and were proposed for inclusion in the 2017 OFC but were inadvertently deleted during the filing process. Because these provisions are not new and merely contain an exception and/or documentation availability requirements, no cost impact is anticipated.

Language being added at 5601.2.5 merely clarifies previously confusing language regarding bonding requirements. The edits will conform to national language and will also clarify Ohio-zations made to these requirements and their applicability. These changes will reflect intent and provide options for those required to have bonds or insurance.

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

1301:7-7-57:

Language being added at section 5704.2.9.5.1 was contained in the 2011 OFC and was proposed for inclusion in the 2017 OFC but inadvertently deleted during filing process. There is no anticipated cost impact because the language to be added constitute exceptions to tank placement prohibitions and have been industry standard for many years.

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

1301:7-7-60:

The proposed change to this rule is non-substantive in nature and merely adds a cross reference to another OFC provision. There is no anticipated cost impact.

1301:7-7-61:

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

1301:7-7-62:

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

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Please see response to question 14.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. The provisions of the Ohio Fire Code are applicable for all facilities on an equal basis to ensure the safest accommodations possible for all building occupants and guests.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Generally, the SFM enforces the provisions of the OFC through a citation process. The goal of the process is to gain compliance with the safety standards contained on the OFC. Fines and penalties are generally imposed, but often waived if a responsible party brings their facility or property into compliance with the OFC provisions. Commonly, however, such fines center around other violations, not those focused on paperwork. Furthermore, fines would only be imposed upon issuance of a citation; the SFM typically issues citations for less than 1% of all facilities that it inspects. For most facilities, the SFM identifies fire code violations and provides an immediate notification of the deficiencies (via a report) and gives the owner an opportunity to cure. A citation is issued only if the building owner fails to cure the violations in a timely manner. An appeal process is built into the citation process.

Notwithstanding the above, there is an OFC provision that requires responsible persons to keep maintenance records so that compliance with testing and maintenance provisions can be verified. Failure to maintain such records could constitute a violation of OFC requirements and could result in the imposition of fines or penalties. Again, however, such are generally waived if compliance is attained. The SFM generally prefers that any funds that must be expended by a responsible person be expended on achieving compliance rather than on paying fines. Fines and penalties are largely reserved for the worst offenders who are either routinely non-compliant or who obstruct or refuse compliance. Again, there is an appeal process built into the citation process.

18. What resources are available to assist small businesses with compliance of the regulation?

Please see question 13. All training opportunities will be made available to all entities. In addition, as stated above, SFM staff and Code Enforcement Bureau inspectors are available to discuss relevant code provisions and changes with anyone affected by the rules.