



Department of Commerce

Division of State Fire Marshal
John R. Kasich, Governor
David Goodman, Director



MEMORANDUM

Date: November 1, 2011
To: All Fire and Law Enforcement Officials
From: Larry Flowers, State Fire Marshal of Ohio
Subject: The Investigation of Major Fires and Explosions

The new 2011 Ohio Fire Code (OFC) was enacted on November 1, 2011. An important change in the new OFC is the addition of a definition of “major fire” for the purpose of investigations and that such a fire should be immediately reported to the Division of State Fire Marshal (SFM). This change to the OFC, coupled with the language of the Ohio Revised Code, means that all major fires and explosions – as defined below – must now be immediately reported to the Division of State Fire Marshal by fire chiefs and similar officials.

Upon notification, the SFM Fire and Explosion Investigations Bureau (FEIB) will evaluate the situation with the fire chief or similar official to determine if an FEIB response is needed to assist in the investigation. The intent is to coordinate a team effort with fire departments and law enforcement agencies to provide all the necessary resources to investigate, prosecute and achieve convictions for the crime of arson.

O.R.C. 3737.24 requires that the SFM and local fire chiefs and similar officials, “...investigate the cause, origin, and circumstances of each major fire, as determined by the rules of the fire marshal...” These rules, also known as the OFC include Ohio Administrative Code (OAC) 1301:7-7-01(D)(10). This section of the OFC has recently been revised to clarify the definition of “major fire” for the purpose of investigations. It states:

104.10.2 Major fire definition. For the purposes of section 3737.24 of the Revised Code, a “major fire or explosion” means:

- (i) A fire or explosion that caused or had a substantial risk of causing death or serious physical harm to any persons or damage to or the destruction of any occupancy, property or vehicle;

O.R.C. 3737.24 also requires that, “An officer making an investigation of a fire...shall *forthwith* notify the [state fire] marshal...” “Forthwith” here means “immediately.”

All fires and explosions that cause (a) death or serious injury or (b) large property loss fires and explosions (“large” for the community in which they occur) must now be immediately reported to the Division of State Fire Marshal via phone by calling 800-589-2728.

Questions? Contact SFM FEIB Chief Tim Spradlin at 800-589-2728.



Department of Commerce

Division of State Fire Marshal
John R. Kasich, Governor
David Goodman, Director

Date: January 10, 2012
To: The Ohio Fire Service, Ohio Law Enforcement Officers
From: Larry L. Flowers, State Fire Marshal
Re: The new definition of a “Major Fire” in the Ohio Fire Code

In response to the feedback the Division of State Fire Marshal (SFM) has received about its recently issued letter about the new definition of a “Major Fire” in the 2011 Ohio Fire Code (OFC), effective November 1, 2011, I offer the following clarifications:

1. **PURPOSE OF RULE:** The purpose of the section is to fulfill the requirement contained in R.C. 3737.24 that the SFM promulgate official rules defining a “Major Fire”— something the SFM can only do (but had not done in the past) through administrative rules like the OFC.
2. **INTENT OF RULE:** The SFM’s intent, interpretation and application of this new section is NOT designed to significantly change existing practices in the fire service in Ohio. The section is designed to codify, as much as possible, existing practices of local fire departments and clarify what the Ohio Revised Code already required local fire departments to do: the reporting of major fires to the SFM. This new section is a notification requirement only. It is not intended to and does not mean that the SFM is taking over or disbanding any local fire investigation units or increasing the percentage of fires in Ohio or total number of fires investigated by the SFM’s Fire and Explosion Investigations Bureau.
3. **HISTORY OF RULE:** As this is the first time such a rule has been written, the SFM encourages your continued feedback into ways to improve this rule. The initial version of this rule was published to the fire service in February 2010 and republished in February 2011. Although no comments were received for this particular rule prior to its effective date, the SFM looks forward to working with you to make any necessary improvements to the rule.
4. **GOING FORWARD:** Similar to past practices, fires that need **immediately** reported to the SFM (by calling the SFM’s Fire and Explosion Investigation Bureau at 1-800-589-2728) are:
 - A. A fire or explosion that caused, or had a very high probability of actually causing, death or serious physical harm to any person(s);
 - B. A fire or explosion that causes damage to or the destruction of any occupancy, property or vehicle AND the estimated or actual value of the damage to such occupancy, property or vehicle is greater than \$500,000;

- C. A fire or explosion that causes damage to or the destruction of any occupancy, property or vehicle that is owned, leased or directly controlled by the United States of America, the State of Ohio or any political subdivision of the State, including schools and other educational institutions; or
- D. A fire or explosion that any Fire Chief determines, in that Chief's discretion, to be a significant fire within that Chief's jurisdiction, regardless of the actual value of the damage caused by a fire or whether the Fire Chief seeks the assistance of the SFM in investigating the fire.

To ensure that this practice is consistent with the requirements of the 2011 OFC, I have issued a variance (attached) to the applicability of OAC 1301:7-7-01(D)(10)(b), OFC 104.10.2. This variance specifies that the notification requirements of OFC 104.10.2 only apply to the types of fires listed in items #A-D above. All other fires or explosions must be reported to the SFM in accordance with the requirements of OAC 1301:7-7-01 (D)(6)(c)(i), OFC 104.6.3.1 (the NFIRS system);

My office should have done better at making sure that this message was fully and efficiently distributed to the fire service. I apologize for that unintentional oversight. The SFM will do better next time.

If you have any questions, please call the SFM's Fire and Explosion Investigation Bureau at 1-800-589-2728.



Department of Commerce

Division of State Fire Marshal
John R. Kasich, Governor
David Goodman, Director

Date: January 4, 2012
To: Political Subdivision Fire Departments subject to R.C. 3737.24
Re: Variance ID Number: V11ed.-428
Variance for relief from notification requirements for certain types of “major fires”

The Ohio Department of Commerce, Division of State Fire Marshal (SFM) has received multiple written requests from political subdivision fire departments (including entities providing fire protection services via a contract or mutual aid agreement) seeking clarification of the definition of a “major fire”, as that term is used in Ohio Administrative Code (OAC) 1301:7-7-01(D)(10)(b), Ohio Fire Code (OFC) 104.10.2 [effective November 1, 2011]. Although the SFM could issue an OFC interpretation letter, I have determined that the following variance is the most effective method to offer both a clarification and long term resolution to this matter. Therefore, in accordance with the following provision of the OAC:

OAC 1301:7-7-01(D)(8), OFC 104.8 Variances (modifications) by state fire marshal.

Whenever there are practical difficulties involved in carrying out the provisions of the state fire code, the state fire marshal, in the state fire marshal's discretion, may modify any provision of the state fire code or any other administrative rule promulgated by the state fire marshal upon written application by an affected party and upon demonstration by that party of both of the following:

- 1. That the variance will not threaten the public health, safety or welfare; and*
- 2. That the party will provide measures to protect the public health, safety and welfare that are substantially equivalent to the measures otherwise required under the state fire code.*

I make the following finding in response to the request to revise the application of OAC 1301:7-7-01(D)(10)(b), OFC 104.10.2 so that every fire causing “damage to or the destruction of any occupancy, property or vehicle” does not need immediately reported to the SFM:

1. granting such a variance would not threaten the public health, safety or welfare; and
2. measures will be taken to protect public health, safety and welfare that are substantially equivalent to the requirements otherwise required under the state fire code.

Therefore, the request to modify the application of OAC 1301:7-7-01(D)(10)(b), OFC 104.10.2 is hereby **granted** with the following stipulations:

1. This variance applies to all political subdivision fire departments, including entities providing fire protection services via a contract or mutual aid agreement.

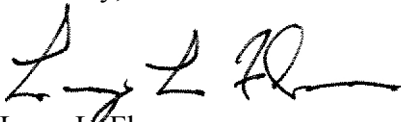
2. Political subdivision fire departments must immediately report to the SFM any fire or explosion occurring within its jurisdiction that caused or had a substantial risk of causing death or serious physical harm to any person(s). The phrases “substantial risk” and “serious physical harm” have the same meaning as the definitions of such phrases in R.C. 2901.01(A)(6) and (A)(8).
3. The application of the phrase “damage to or the destruction of any occupancy, property or vehicle” as stated in OAC 1301:7-7-01(D)(10)(b), OFC 104.10.2 is now limited to requiring political subdivision fire departments to immediately report only the following types of fires or explosions to SFM:
 - A. A fire or explosion that causes damage to or the destruction of any occupancy, property or vehicle AND the estimated or actual value of the damage to such occupancy, property or vehicle is greater than \$500,000;
 - B. A fire or explosion that causes damage to or the destruction of any occupancy, property or vehicle that is owned, leased or directly controlled by the United States of America, the State of Ohio or any political subdivision of the State, including schools and other educational institutions; or
 - C. A fire or explosion that any political subdivision Fire Chief determines, in that Chief’s discretion, to be a significant fire within that Chief’s jurisdiction. (This applies regardless of the actual value of the damage caused by a fire or whether the Fire Chief seeks the assistance of the SFM in investigating the fire.)
4. All other fires or explosions must be reported to the SFM in accordance with the requirements of OAC 1301:7-7-01 (D)(6)(c)(i), OFC 104.6.3.1 (the NFIRS system);

The SFM shall distribute a copy of this variance to all fire departments across the state, maintain a copy of this variance at the SFM’s office and make it available to any fire department upon request.

I further stipulate that this variance will not automatically terminate one year from the date of its issuance. Instead, it may be terminated or revised at any time in the discretion of the SFM. This variance will automatically terminate upon the revision of OAC 1301:7-7-01(D)(10)(b), OFC 104.10.2 in accordance with the procedures established in Chapter 119 of the Revised Code.

Should you have any questions regarding this variance or anticipate experiencing difficulty in complying with the stipulations listed above, please do not hesitate to contact Tim Spradlin, Chief of the SFM’s Fire and Explosion Investigation Bureau at 1-800-589-2728.

Sincerely,



Larry L. Flowers
State Fire Marshal

cc: file