

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

Editor's Note: The following Notice of Supplemental Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2270.) The Governor's Office authorized the notice to proceed through the rulemaking process on July 18, 2013.

[R14-117]

PREAMBLE

1. Citations to the agency's Notice of Rulemaking Docket Opening, Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking (if applicable) as published in the Register as specified in R1-1-409(A). A list of any other related notices published in the Register as specified in R1-1-409(A):

Notice of Rulemaking Docket Opening: 19 A.A.R. 2824, September 13, 2013

Notice of Proposed Rulemaking: 19 A.A.R. 3409, November 1, 2013

2. Articles, Parts, or Sections Affected (as applicable) Rulemaking Action

R4-36-401

Amend

3. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 36-1609(A)

Implementing statute: A.R.S. §§ 36-1601 through 36-1610

4. The agency's contact person who can answer questions about the rulemaking:

Name: Holly Textor

Address: Department of Fire, Building and Life Safety
1110 W. Washington St., Suite 100
Phoenix, AZ 85007

Telephone: (602) 364-1009

Fax: (602) 364-1052

E-mail: holly.textor@dfbls.az.gov

Web site: www.dfbls.az.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

During the first regular session, the 51st Legislature enacted HB 2461, updating the 2006 NFPA 1124 code to the 2013 edition as published in August, 2012. Therefore, the State Fire Marshal is promulgating rules to conform to the changes in A.R.S. § 36-1609 (A).

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. An explanation of the substantial change that resulted in this supplemental notice:

The following statement appears on the NFPA's website:

Arizona Administrative Register / Secretary of State
Notices of Supplemental Proposed Rulemaking

“The 2013 edition of *NFPA 1124: Code for The Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles*, is provided for historical reference only. This edition of *NFPA 1124* was temporarily withdrawn by Standards Council Decision #14-1. In Decision #14-1, the Standards Council directed that NFPA® cease all standards development activity regarding the retail sale and storage of consumer fireworks and that the Technical Committee on Pyrotechnics revise *NFPA 1124* in accordance with the newly revised committee and document scopes. The Standards Council will consider the reissuance of *NFPA 1124* once the Technical Committee has completed this work.”

Due to NFPA’S above referenced actions, the Department decided to cease promulgating rules addressing fireworks. Upon further research and review the Department is re-opening the record to allow more public comment relating to this rule adoption.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision:

Not applicable

9. The preliminary summary of the economic, small business, and consumer impact:

These rules incorporate by reference the NFPA 1124 code from the 2006 edition to the 2013 edition as specified by the legislature, and will have minimal economic impact.

10. The agency’s contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Holly Textor
Address: Department of Fire, Building and Life Safety
1110 W. Washington St., Suite 100
Phoenix, AZ 85007
Telephone: (602) 364-1009
Fax: (602) 364-1052
E-mail: holly.textor@dfbls.az.gov
Web site: www.dfbls.az.gov

11. The time, place, and nature of the proceedings to make, amend, renumber, or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule:

An oral proceeding regarding the proposed supplemental rules will be held as follows:

Date: Monday, September 27, 2014
Time: 9:00 a.m.
Location: 1110 W. Washington St., Room 250
Phoenix, AZ 85007
Nature: Oral and written comments

The rulemaking record will close at 5:00 p.m. on Friday, October 3, 2014.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rule incorporates, but is not more stringent than, the following federal laws:

Child Safety Act of 1966

Title XI, “Regulation of Explosives, of the Crime Control Act of 1970,” 1970.

Title 16, Code of Federal Regulations, Part 1500 and Part 1507, U.S. Consumer Product Safety Commission.

Title 18, United States Code, Chapter 40, “Importation, Manufacture, Distribution, and Storage of Explosive Materials,” 1970

Title 27, Code of Federal Regulations, Part 555, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice

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Title 29, code of Federal Regulations, Part 1910.1200, "Hazard Communication,; U.S. Department of Labor.

Title 49, Code of Federal Regulations, Part 100 to end, U.S. Department of Transportation.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis comparing the rule's impact of competitiveness of business in the state to the impact on business in other states has been submitted as of the date of this Notice of Proposed Rulemaking.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail sales of Fireworks and Pyrotechnic Articles, 2013 Edition, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471 or www.nfpa.org is incorporated at R4-36-401

14. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

ARTICLE 4. PERMISSIBLE CONSUMER FIREWORKS

Section

R4-36-401. Material Incorporated by Reference

ARTICLE 4. PERMISSIBLE CONSUMER FIREWORKS

R4-36-401. Material Incorporated by Reference

As required by A.R.S. § 36-1609(A), the State Fire Marshal incorporates by this reference NFPA 1124, Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, ~~2006~~ 2013 edition effective AS PUBLISHED August 29, 2012, which is published by the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02169-7471 and is available from NFPA at www.nfpa.org and the Office of the State Fire Marshal. The incorporated material does not include a later amendment or edition but is modified as specified in R4-36-402.