



NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

**TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY**

[R15-65]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Articles, Parts, and Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R4-36-201 | Amend |
| R4-36-301 | Amend |
| R4-36-302 | Amend |
| R4-36-303 | Amend |
| R4-36-304 | Amend |
| R4-36-305 | Amend |
| R4-36-307 | Amend |
| R4-36-308 | Amend |
| R4-36-309 | Amend |
| R4-36-310 | Amend |
| R4-36-311 | Repeal |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 41-2146(C)
 Implementing statute: A.R.S. § 41-2163
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 21 A.A.R. 1123, July 17, 2015 (*in this issue*).
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Frederick Durham, Assistant State Fire Marshal
 Address: 1110 W. Washington St., Suite 100
 Phoenix, AZ 85007-2935
 Telephone: (602) 364-1080
 Fax: (602) 364-1052
 E-mail: Frederick.durham@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:**
 The State Fire Safety Committee is updating the State Fire Code to the 2012 edition of the International Fire Code. The State Fire Code is designed to reduce hazards to life, property, and public welfare arising from fire, explosions, or dangerous conditions in new and existing buildings, structures, and premises and to provide safety to fire fighters and emergency responders. The state's current fire code is the 2003 edition of the International Fire Code. Some of the requirements in the 2003 edition are no longer consistent with current industry standards regarding best practices.



The adoption of the new code is necessary to achieve the objective of protecting public safety.

An exemption from Executive Order 2015-01 was provided for this rulemaking by Ted Vogt, Chief of Operations in the Governor’s office, in an e-mail dated May 7, 2015.

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:

The Committee does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

7. 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 of this state:

Not applicable

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

The economic impact of the new fire code is minimized because the construction and design provisions of the new fire code apply only to structures, facilities, and conditions arising after or not legally in existence when the new fire code is adopted. The costs from complying with the new fire code in new construction is greatly outweighed by the benefits of protecting life, property, and public welfare.

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

Name: Frederick Durham, Assistant State Fire Marshal
Address: 1110 W. Washington St., Suite 100
Phoenix, AZ 85007-2935
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Fax: (602) 364-1052
E-mail: Frederick.durham@dfbls.az.gov
Web site: www.dfbls.az.gov

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

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

Date: Thursday, August 20, 2015
Time: 10 a.m.
Location: 1110 W. Washington St., Room 250
Phoenix, AZ 85007

11. 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:

The permits required under the State Fire Code and described in R4-36-303 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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 rules are not more stringent than federal law. There are numerous federal laws relating to some of the same subject matter as the State Fire Code. For example, there are federal laws dealing with hazardous materials, protection of certain categories of individuals, consumer protections, and environmental protection. However, the International Code Council, which developed the International Fire Code, has ensured that the code is consistent with federal law.

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 was submitted.

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

The following is incorporated by reference in R4-36-201:

International Fire Code, 2012 edition, published by the International Code Council, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795

**13. The full text of the rules follows:****TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY****ARTICLE 2. ARIZONA STATE FIRE CODE**

Section
R4-36-201. Incorporation by Reference of the International Fire Code

ARTICLE 3. INTERNATIONAL FIRE CODE MODIFICATIONS

Section
R4-36-301. Definitions
R4-36-302. Appendices
R4-36-303. Permits
R4-36-304. Inspections and Enforcement
R4-36-305. General Precautions Against Fire
R4-36-307. Fire Service Features
R4-36-308. Building Services and Systems
R4-36-309. Fire Protection Systems
R4-36-310. Explosives and Fireworks
R4-36-311. ~~Referenced Standards Repealed~~

ARTICLE 2. ARIZONA STATE FIRE CODE**R4-36-201. Incorporation by Reference of the International Fire Code**

Unless otherwise provided by law, any person residing, doing business, or who is physically present within the state of Arizona shall comply with the provisions of the International Fire Code (2003 2012 Edition), including D102.1 and D107.1 of Appendix D and all provisions of Appendices B, C, E, F, ~~and G, H, I, and J,~~ which is published by the International Code Council, incorporated by reference as the State Fire Code, and modified by Article 3. The incorporated material does not include any later amendments or editions. Copies of the International Fire Code are available from the International Code Council, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795 and a copy is available for inspection at the Office of the State Fire Marshal.

ARTICLE 3. INTERNATIONAL FIRE CODE MODIFICATIONS**R4-36-301. Definitions**

The following terms apply to the ~~state fire code~~ State Fire Code established in this Chapter:

1. ~~Wherever “International Plumbing Code” is used within the International Fire Code, substitute the term “State Plumbing Code.”~~
- 2.1. Wherever the terms “fire chief” or “fire code official” are used in the International Fire Code, these terms include the State Fire Marshal or the State Fire Marshal’s designated representative, unless the context otherwise requires.
- 3.2. Wherever the terms “fire department” or “department of fire prevention” are used in the International Fire Code, these terms include the State Fire Marshal or the State Fire Marshal’s designated representative unless the context otherwise requires.
- 4.3. Section 202, the definition of Occupancy Classification for R-3 within the Residential Group is modified to read: Residential occupancies where the occupancies are primarily permanent in nature and not classified as R-1, R-2, R-4, or I and where buildings do not contain adult or child care facilities or more than five dwelling units. including:
 - a. Boarding houses (non-transient) with 16 or fewer occupants
 - b. Boarding houses (transient) with 10 or fewer occupants
 - c. Building that do not contain more than four dwelling units
 - d. Care facilities that provide accommodations for five or fewer persons receiving care
 - e. Congregate living facilities (non-transient) with 16 or fewer occupants
 - f. Congregate living facilities (transient) with 10 or fewer occupants
 - g. Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code* provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the *International Residential Code*.

R4-36-302. Appendices

The International Fire Code (2003 2012 Edition), which is incorporated by reference at R4-36-201, is published by the Inter-



national Code Council and available from the International Code Council, 4051 W. Flossmoor Road, Country Club Hills, IL, 60478-5795, and modified as shown in Exhibit A.

EXHIBIT A. Incorporated Appendices

Section 101.2.1 The following appendices are adopted as part of this Code:

- B: Fire-Flow Requirements for Buildings
- C: Fire Hydrant Locations and Distribution
- ~~D: Fire Apparatus Access and Loading~~
 - D102.1 or the minimum requirement of the local fire response agency;
 - D107.1 or the minimum requirement of the local building~~g~~ or subdivision authority;
- E: Hazard Categories
- F: Hazard Ranking
- G: Cryogenic Fluids – Weight and Volume Equivalents
- H. Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) Instructions
- I. Fire Protection Systems—Noncompliant Conditions
- J. Building Information Sign

R4-36-303. Permits

- A.** The following time-frames are established for permits issued under the ~~state fire code~~ State Fire Code:
 1. The Office of the State Fire Marshal shall determine within five business days ~~from~~ after receipt of a permit application and plan submission whether the permit application and plan are administratively complete and ready for review.
 2. The Office of the State Fire Marshal shall either grant or deny the permit within 60 calendar days ~~from the date that~~ after the documents are determined to be administratively complete.
 3. ~~The~~ A permittee shall commence work within 180 days ~~of the issuance of a~~ after the permit is issued or apply in writing for an extension ~~in writing~~ from the State Fire Marshal. Without an extension, the permit is valid only for 180 days from the date of issuance.
- B.** The holder of an operational or construction permit is entitled to inspections as prescribed in this Chapter. ~~Reinspection because of~~ The Office of the State Fire Marshal shall invoice a re-inspection caused by a violation or cancellation without 24 hours 24-hours notice ~~shall be invoiced~~ at a rate established in the fee schedule; and shall not conduct the reinspection ~~shall not be conducted~~ re-inspection until the fee is paid.
- C.** Section 105.1.1 is modified to read: Permits required. Any property owner or authorized agent that intends to conduct an operation or business, install or modify systems and equipment that are regulated by this code, or cause any such work to be done, shall first make application to the fire code official and obtain the required permit. The fire code official is authorized to waive requiring any permit listed in sections 105.6.1 through 105.6.46 and 105.7.1 through 107.16.
- ~~C.~~ **D.** Section 105.1.2 is modified to read: Types of permits. There shall be two types of permits as follows:
 1. Operational permit. An operational permit allows the applicant to conduct an operation for which a permit is required by Section 105.6 for a period that does not exceed 180 days from the date of issuance.
 2. Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by Section 105.7.
- ~~D.~~ **E.** Section 105.2.4, the first sentence is modified to read: The fire code official shall examine or cause to be examined each application for a permit or a permit amendment.
- ~~E.~~ **F.** Section 105.3.1, the first sentence is modified to read: An operational permit shall remain in effect until reissued, renewed, or revoked or for a period of time that does not exceed 180 days.
- ~~F.~~ **G.** Section 105.3.3; the sentence is modified to read: Occupancy prohibited before approval. The building or structure shall not be occupied prior to the fire code official issuing a report indicating that applicable provisions of this code have been met.
- G.** ~~Sections 105.6.1 through 105.6.3 are deleted.~~
- H.** ~~Sections 105.6.5 through 105.6.13 are deleted.~~
- I.** ~~Sections 105.6.16 through 105.6.26 are deleted.~~
- J.** ~~Sections 105.6.28 through 105.6.32 are deleted.~~
- K.** ~~Sections 105.6.34 through 105.6.36 are deleted.~~
- L.** ~~Sections 105.6.38 through 105.6.42 are deleted.~~
- M.** ~~Sections 105.6.45 through 105.6.47 are deleted.~~
- N.** ~~Section 105.7.5.1 is deleted.~~
- O.** ~~Section 105.7.5.2 is modified to read: To install, construct, or alter, equipment, tanks, plants, terminals, wells, fuel dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are processed, transported, stored, dispensed, or used.~~

R4-36-304. Inspections and Enforcement

- ~~A.~~ Sections 103.1 through 103.4.1 are deleted.
- ~~B.~~ Sections 108.1 through 108.3 are deleted. Section 108.1 is modified to read: Board of appeals established. To hear and



decide appeals of orders, decisions, or other determinations made by the fire code official regarding application or interpretation of this code, the authority having jurisdiction may establish a board of appeals. If established, the board of appeals shall be appointed by and hold office at the pleasure of the governing body. The fire code official shall be an ex officio member of the board of appeal with no vote on any matter before the board. The board of appeals shall adopt rules of procedure for conducting its business. The board of appeals shall provide a written copy of the findings and decision in an appeal to the appellant and fire code official.

- ~~C.B.~~ Section 109.3 is modified to read: Violation penalties. If a person violates a provision of this code or fails to comply with any of the requirements of the code, the State Fire Marshal shall proceed in accordance with A.R.S. § 41-2196.
- ~~D.C.~~ Section 111.2 is modified to read: Issuance. The State Fire Marshal shall issue a stop work order, referred to in statute as a cease and desist order, in accordance with A.R.S. § 41-2196.
- ~~E.D.~~ Section 111.4 is modified to read: Failure to Comply. Any person who shall continue any work having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, is subject to the provisions of A.R.S. § 41-2196.

R4-36-305. General Precautions Against Fire

- A. Section 307.2 is modified to read: Permit required. A When required by the fire code official, a permit shall be obtained in accordance with requirements of the Department of Environmental Quality Section 105.6 before kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for the required permit shall only be made by and a permit issued to the owner of the land upon which the fire is to be kindled.
- B. Section 311.1.1 is modified to read: Abandoned premises. Abatement of abandoned structures and premises shall be conducted Buildings, structures, and premises for which an owner cannot be identified or located by dispatch of a certificate of mailing to the last known or registered address, which persistently or repeatedly become unprotected or unsecured, which have been occupied by unauthorized persons or for illegal purposes, or which present a danger of structural collapse or fire spread to adjacent properties shall be considered abandoned, declared unsafe, and abated in accordance with state law.

R4-36-307. Fire Service Features

- A. Section 501.2 is modified to read: Permits. A permit shall be required as set forth in Sections 105.6 and 105.7 as modified by this Article.
- B. Section 509.1, the second sentence is modified to read: Location and access. The location and accessibility of the fire command center shall be approved by a local authorized emergency response provider.

R4-36-308. Building Services and Systems

- ~~A.~~ Section 601.2 is deleted.
- ~~B.A.~~ Section 606.2 is modified to read: Refrigerants. The use and purity of new, recovered, and reclaimed refrigerants shall be in accordance with state law.
- ~~C.B.~~ Section ~~606.13~~ 606.14 is modified to read: Notification of refrigerant discharges. The fire department shall be notified immediately when a discharge becomes reportable under state, federal, or local regulations in accordance with Section ~~2703.3.1~~ 5003.3.1.
- ~~D.C.~~ Sections ~~2703.3.1~~ 5003.3.1 and ~~2703.3.1.4~~ 5003.3.1.4 replace “fire code official” with “fire department.”

R4-36-309. Fire Protection Systems

- ~~A.~~ Section 901.1 is modified to read: Scope. The provisions of this Chapter shall specify where fire protection systems are required and shall apply to the design, installation, inspection, operation, testing, and maintenance of all fire protection systems. Absent specific statutory authority to the contrary, these provisions provide the minimum protective standards relating to fire protection systems.
- ~~B.~~ Section ~~903.3.5~~ is modified to read: Monitoring. Where a building fire alarm system is installed, automatic fire extinguishing systems shall be monitored by the building fire alarm system in accordance with state law.

R4-36-310. Explosives and Fireworks

- ~~A.~~ Section ~~3301.1.3, 5601.1.3~~ the first paragraph is modified to read: Fireworks. *Except as otherwise provided by A.R.S., Title 36, Chapter 13, Article 1, it is unlawful to sell, offer or expose for sale, use, explode, or possess any fireworks.* A.R.S. § 36-1602(A). The possession, manufacture, storage, sale, handling, and use of fireworks are prohibited.
- Exceptions:
1. Storage and handling of fireworks as allowed in Section 5603.
 2. Manufacture, assembly and testing of fireworks as allowed in Section 5605.
 3. The use of fireworks for fireworks displays as allowed in Section 5608.
 4. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by A.R.S. Title 36, Chapter 13, Article 1 or local ordinances and regulations, provide the fireworks comply with 16 CFR Parts 1500 and 1507 and 49 CFR Parts 100-185, for consumer fireworks.
- ~~B.~~ Section ~~3301.1.3~~, exception 4 is deleted and replaced as follows: *This section shall not be construed to prohibit or restrict the manufacture or possession, by a qualified pyrotechnic expert, of aerial set pieces designed for use in pyrotechnic displays, or the display of such set pieces in accordance with the terms of A.R.S., Title 36, Chapter 13, Article 1.* A.R.S. § 36-1602(B).
- ~~C.~~ Section ~~3301.1.3~~, exception 5 is added to read: 5. Additional uses are permitted as provided by law.
- ~~D.~~ Section ~~3301.2.4.2~~ is modified to read: Fireworks display. The permit holder shall furnish a bond or certificate of insurance in the amount of one million dollars for the payment of all potential damages to a person or persons or to property



by reason of the permitted display, and arising from any acts of the permit holder, the agency, employees, or subcontractors.

- E. Section 3302.1 is modified to substitute the following definition of “FIREWORKS” for the existing definition: *“Fireworks” (a) Means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and toy cannons in which explosives are used, the type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers or other fireworks of like construction, fireworks containing any explosive or combustible compound, and any tablet or other device containing an explosive substance. (b) Does not include: (i) Toy pistols, toy canes, toy guns or other devices in which paper caps containing not more than twenty-five hundredths grains of explosive compound are used if constructed so that the hand cannot come in contact with the cap when in place for the explosion. (ii) Toy pistol paper caps that contain less than twenty-hundredths grains of explosive mixture, or fixed ammunition or primers therefore. (iii) Federally deregulated novelty items known as snap-pers, snap caps, party poppers or glow worms that contain less than twenty-five hundredths grains of explosive compound.”* A.R.S. § 36-1601(1).

R4-36-311. Referenced Standards Repealed

Chapter 45 of the International Fire Code, 2003 Edition, incorporated by reference, is modified to substitute the following: National Fire Protection Association (NFPA) Installation of Sprinkler Systems, Standard 13, 1999 edition, is replaced by NFPA Installation of Sprinkler Systems, Standard 13, 2002 edition; National Fire Protection Association (NFPA) National Fire Alarm Code, Standard 72, 1999 edition, is replaced by NFPA National Fire Alarm Code, Standard 72, 2002 edition.