

1301:7-7-56 Explosives and fireworks.**(A) Section 5601 General**

(1) **5601.1 Scope.** *The provisions of paragraphs (A)(5601) to (G)(5607) of this rule shall govern 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. The provisions referencing fireworks in paragraphs (A)(5601) to (E)(5605), (H)(5608) to (J)(5610) and (L)(5612) to ~~(Y)(5625)~~(BB)(5628) of this rule shall govern the possession, manufacture, storage, handling, sale and use of fireworks. The provisions of paragraph (K)(5611) of this rule shall govern the operation of flame effects. The provisions in paragraph (Z)(5626) of this rule shall govern the possession, storage, handling, discharge and use of 1.4G fireworks purchased pursuant to sections 3743.27, 3743.45 and 3743.451 of the Revised Code. The provisions in paragraphs (Z)(5626) and (AA)(5627) of this rule shall be incorporated into and considered part of the state fire code adopted pursuant to section 3737.82 of the Revised Code and may be enforced pursuant to the provisions of chapters 3737. and 3743. of the Revised Code and rule 1301:7-7-01 of the Administrative Code.*

Exceptions:

1. The Armed Forces of the United States, Coast Guard or National Guard.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.
3. The possession, storage and use of small arms ammunition where packaged in accordance with DOTn packaging requirements.
4. The possession, storage and use of not more than 1 pound (0.454 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption.
5. The use of explosive materials by federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities.
6. Special industrial explosive devices that in the aggregate contain less than 50 pounds (23 kg) of explosive materials.
7. The possession, storage and use of blank industrial–power load cartridges where packaged in accordance with DOTn packaging regulations.
8. Transportation in accordance with DOTn 49 CFR Parts 100-185 *as listed in rule 1301:7-7-80 of the Administrative Code.*
9. Items preempted by federal regulations.

(a) **5601.1.1 Explosive material standard.** In addition to the requirements of this *rule*, NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code* shall govern the manufacture, transportation, storage, sale, handling and use of explosive materials.

(b) **5601.1.2 Explosive material terminals.** In addition to the requirements of this *rule*, the operation of explosive material terminals shall conform to the provisions of NFPA 498 *as listed in rule 1301:7-7-80 of the Administrative Code.*

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(c) **5601.1.3 Fireworks.** The possession, manufacture, storage, sale, handling, *exhibition* and use of fireworks are prohibited *except as permitted in accordance with Chapter 3743. of the Revised Code and this rule. Matters relating to the construction and operation of a fireworks retail showroom subject to sections 3743.04(B) or 3743.25 of the Revised Code, including matters not addressed in NFPA 1124 (2015 edition 2017 Edition) shall comply with NFPA 1124 (2006 Edition) as listed in rule 1301:7-7-80 of the Administrative Code. All other references to NFPA 1124 in this rule shall mean NFPA 1124 (2015 2017 Edition) as listed in rule 1301:7-7-80 of the Administrative Code.*

(i) **5601.1.3.1 Fireworks variances by state fire marshal.** *In addition to the authority to grant modifications in accordance with paragraph (D)(8)(104.8) of rule 1301:7-7-01 of the Administrative Code, the state fire marshal may grant a variance to any provision of this code promulgated under the authority of Chapter 3743. of the Revised Code upon written application by an affected party and upon demonstration by that party of all of the following:*

(a) *That a literal enforcement of the provision will result in a practical difficulty in complying with the requirements of this code; and*

(b) *That the variance will not threaten the public health, safety or welfare.*

(ii) **5601.1.3.2.** *A request for variance submitted pursuant to this rule shall only be considered upon production of any information or documentation requested by the state fire marshal. The particulars of such variance when granted shall be in writing, entered upon the records of the state fire marshal and furnished to the applicant and the authority having jurisdiction, if said authority is other than the state fire marshal.*

(iii) **5601.1.3.3.** *Unless otherwise stipulated by the state fire marshal upon the granting of a variance, each variance granted pursuant to this rule shall automatically terminate one year from the date of its issuance.*

(iv) **5601.1.3.4.** *There shall be no automatic renewals of any variance granted pursuant to this rule. Each variance shall be specifically applied for in writing by the requesting party and independently considered by the state fire marshal.*

(d) **5601.1.4 Rocketry.** The storage, handling and use of model and high-power rockets shall comply with the requirements of NFPA 1122, NFPA 1125 and NFPA 1127 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(e) **5601.1.5 Ammonium nitrate.** The storage and handling of ammonium nitrate shall comply with the requirements of NFPA 400 *as listed in rule 1301:7-7-80 of the Administrative Code and rule 1301:7-7-63 of the Administrative Code.*

Exception: Storage of ammonium nitrate in magazines with blasting agents shall comply with the requirements of NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(2) **5601.2 Permit required.** Permits shall be required as set forth in *rule 1301:7-7-01 of the Administrative Code* and regulated in accordance with *this rule. Permits required for manufacture, processing and explosives storage and explosive material storage as set forth in rule 1301:7-7-01 of the Administrative Code shall be obtained from the state fire marshal. No permit shall be required under this code for any actions by a law enforcement agency taken pursuant to section 3743.68 of the Revised Code, including the confiscation, verification and testing, storage, or destruction of fireworks.*

(a) **5601.2.1 Conditions for the issuance of a permit to manufacture, process or store explosives or explosive materials.** *No permit shall be issued for the manufacturing, processing or storage of explosives or explosive materials unless the following conditions are met:*

(i) *The applicant submits an application for permit on a form prescribed by the state fire marshal.*

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- (ii) *The applicant pays the required fees and satisfies the background check and financial responsibility requirements as required by this rule.*
- (iii) *The applicant provides a list of all explosives and explosive materials to be manufactured, processed or stored under the permit.*
- (iv) *The applicant provides a map showing the distances between the locations of the activities subject to the permit and any adjacent structures, lot lines, railroads and roadways.*
- (v) *The activities and locations subject to the permit have been inspected by the fire code official having jurisdiction and found to be in compliance with NFPA 495 as listed in rule 1301:7-7-80 of the Administrative Code and this code.*

(b) **5601.2.2 Residential uses.** Persons shall not keep or store, nor shall any permit be issued to keep or store, any explosives at any place of habitation, or within 100 feet (30 480 mm) thereof.

Exception: Storage of smokeless propellant, black powder and small arms primers for personal use and not for resale in accordance with *paragraph (F)(5606) of this rule.*

(c) **5601.2.3 Sale and retail display.** Persons shall not construct a retail display nor offer for sale explosives, explosive materials or fireworks upon highways, sidewalks, public property or in Group A or E occupancies.

(d) **5601.2.4 Permit restrictions.** The fire code official is authorized to limit the quantity of explosives, explosive materials or fireworks permitted at a given location. Persons, possessing a permit for storage of explosives at any place, shall not keep or store an amount greater than authorized in such permit. Only the kind of explosive specified in such a permit shall be kept or stored.

Exception: *Permit limitations on the quantity of fireworks possessed or stored at a licensed premises for fireworks, as that term is defined in section 3743.01(BB) of the Revised Code, shall be approved by the state fire marshal before any enforcement of such provisions by a local fire code official.*

(e) **5601.2.5 Financial responsibility.** Before a permit for the storage of explosives or explosive materials is issued, as required by *paragraph (A)(2)(5601.2) of this rule*, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$100,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property that arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. *Before a permit for the manufacture or processing of explosives or explosive materials, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$1,000,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property that arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results.* The fire code official is authorized to specify a greater or lesser amount when, in his or her opinion, conditions at the location of use indicate a greater or lesser amount is required. Government entities shall be exempt from *the requirements of paragraph(A)(2)(e)(5601.2.5) of this rule, but are not exempt from the blasting or fireworks exhibition requirements of paragraph (A)(2)(e)(i)(5601.2.5.1) or (A)(2)(e)(ii)(5601.2.5.2).*

(i) **5601.2.5.1 Blasting.** Before approval to do blasting is issued, the applicant for approval shall file a bond or submit a certificate of insurance in such form, amount and coverage as determined by the legal department of the jurisdiction to be adequate in each case to indemnify the jurisdiction against any and all damages arising from permitted blasting.

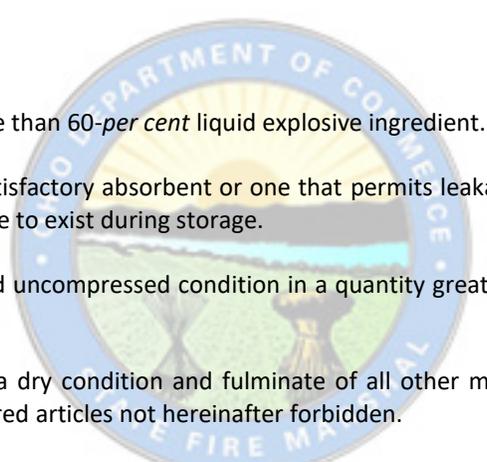
(ii) **5601.2.5.2 Fireworks exhibition.** *The applicant for a fireworks exhibition permit shall provide to the local fire official and law enforcement officer an indemnity bond in the amount of at least one million dollars with*

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surety satisfactory to the fire official and law enforcement officer of the jurisdiction, conditioned for payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss to persons or property emanating from the fireworks exhibition.

(f) 5601.2.6 Prohibition on permits and background check requirements. *No person shall be eligible for a permit for the manufacture, processing or storage of explosives under this code if the individual has been convicted of or pled guilty to a felony under the laws of this state, another state, or the United States. All persons seeking a permit for the storage of explosives or explosive materials shall complete a civilian background check for criminal history as administered or approved by the state fire marshal. The state fire marshal may accept a currently valid "Certificate of Clearance" or other similar documentation issued by the bureau of alcohol, tobacco, firearms and explosives as satisfactory documentation of a person's criminal history. Applicants shall, upon request of the state fire marshal, provide the state fire marshal with certified copies, or other similar documentation, relating to the individual's civilian criminal background check.*

(3) 5601.3 Prohibited explosives. Permits shall not be issued or renewed for possession, manufacture, storage, handling, sale or use of the following materials and such materials currently in storage or use shall be disposed of in an approved manner.

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- (a) Liquid nitroglycerin.
 - (b) Dynamite containing more than 60-per cent liquid explosive ingredient.
 - (c) Dynamite having an unsatisfactory absorbent or one that permits leakage of a liquid explosive ingredient under any conditions liable to exist during storage.
 - (d) Nitrocellulose in a dry and uncompressed condition in a quantity greater than 10 pounds (4.54 kg) of net weight in one package.
 - (e) Fulminate of mercury in a dry condition and fulminate of all other metals in any condition except as a component of manufactured articles not hereinafter forbidden.
 - (f) Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products of their use more hazardous, when subjected for 48 consecutive hours or less to a temperature of 167°F (75°C).
 - (g) New explosive materials until approved by DOTn, except that permits are allowed to be issued to educational, governmental or industrial laboratories for instructional or research purposes.
 - (h) Explosive materials forbidden for transport by DOTn.
 - (i) Explosive materials containing an ammonium salt and a chlorate.
 - (j) Explosives not packed or marked as required by DOTn 49 CFR, Parts 100-185 as listed in rule 1301:7-7-80 of the Administrative Code.

Exception: Gelatin dynamite.

(4) 5601.4 Qualifications. Persons in charge of magazines, blasting, fireworks exhibition or pyrotechnic special effect operations shall not be under the influence of alcohol or drugs that impair sensory or motor skills, shall be not less than 21 years of age and shall demonstrate knowledge of all safety precautions related to the storage, handling or use of explosives, explosive materials or fireworks.

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(5) **5601.5 Supervision.** The fire code official is authorized to require operations permitted under the provisions of *paragraph (A)(2)(5601.2) of this rule* to be supervised at any time by the fire code official in order to determine compliance with all safety and fire regulations.

(6) **5601.6 Notification.** Whenever a new explosive material storage or manufacturing site is established, including a temporary job site, the local law enforcement agency, fire department and local emergency planning committee shall be notified 48 hours in advance, not including Saturdays, Sundays and holidays, of the type, quantity and location of explosive materials at the site.

(7) **5601.7 Seizure.** The fire code official is authorized to remove or cause to be removed or disposed of in an approved manner, at the expense of the owner, explosives, explosive materials offered or exposed for sale, stored, possessed or used in violation of this rule. *The fire code official may seize fireworks in accordance with division (B) of section 3743.68 of the Revised Code.*

(a) **5601.7.1 Seizure of fireworks.** *The authority seizing any fireworks shall notify the state fire marshal not more than three days following the date of the seizure and shall state the reason for the seizure, as well as the quantity, type, and location of the fireworks. Any fireworks seized pursuant to division (B) of section 3743.68 of the Revised Code shall be made in accordance with statutory and constitutional provisions governing searches and seizures by law enforcement officers. The state fire marshal's or certified fire safety inspector's office shall keep the seized fireworks pending the time they are no longer needed as evidence. A sample of the seized fireworks is sufficient for evidentiary purposes. The remainder of the seized fireworks may be disposed of pursuant to an order from a court of competent jurisdiction after notice and a hearing. The state fire marshal's or certified fire safety inspector's office may impound seized fireworks at the site where they were seized and cause them to be secured and held pending the time they are no longer needed as evidence.*

(b) **5601.7.2 Disposal of unneeded fireworks.** *Fireworks disposed of by the state fire marshal or certified fire safety inspector or law enforcement officer shall be in a manner prescribed by the state fire marshal after final determination by the court or upon final termination of proceedings, whichever is later and the state fire marshal or that office is not liable for claims for the loss of or damages to the seized fireworks. If no proceedings are commenced pursuant to the rule, the state fire marshal may dispose of or order the disposal of the fireworks pursuant to Chapter 2981. of the Revised Code after all of the following:*

- (i) *A random sampling of the fireworks has been taken.*
- (ii) *An inventory list has been taken of all types and kinds of fireworks.*
- (iii) *An analysis of the random sampling has been completed by the state fire marshal.*
- (iv) *Photographs have been taken of the fireworks to be destroyed.*
- (v) *The state fire marshal has given written approval for the destruction of the fireworks at least ten days prior to the date of disposal.*
- (vi) *A disposal form shall be provided by the state fire marshal and such form shall be completed and state the specific total weight of the fireworks seized, the total weight of fireworks to be destroyed, and the total weight of the fireworks not to be destroyed.*

(8) **5601.8 Establishment of quantity of explosives and distances.** The quantity of explosives and distances shall be in accordance with *paragraphs (A)(8)(a)(5601.8.1) to (A)(8)(a)(iv)(5601.8.1.4) of this rule.*

(a) **5601.8.1 Quantity of explosives.** The quantity-distance (Q-D) tables in *paragraphs (D)(5)(5604.5) and (E)(3)(5605.3) of this rule* shall be used to provide the minimum separation distances from potential explosion

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sites as set forth in Tables 5601.8.1(1) to 5601.8.1(3) of this rule. The classification and the weight of the explosives are primary characteristics governing the use of these tables. The net explosive weight shall be determined in accordance with paragraphs (A)(8)(a)(i)(5601.8.1.1) to (A)(8)(a)(iv)(5601.8.1.4) of this rule.

Table 5601.8.1(1)
Application of separation distance (Q-D) tables-Division 1.1, 1.2 and 1.5 explosives^{a,b,c}

Item	Magazine	Q-D	Operating building	Q-D	Inhabited building	Q-D	Public traffic route	Q-D
Magazine	Table 5604.5.2(1) of this rule	IMD	Table 5605.3 of this rule	ILD or IPD	Table 5604.5.2(1) of this rule	IBD	Table 5604.5.2(1) of this rule	PTR
Operating building	Table 5604.5.2(1) of this rule	ILD or IPD	Table 5605.3 of this rule	ILD or IPD	Table 5604.5.2(1) of this rule	IBD	Table 5604.5.2(1) of this rule	PTR
Inhabited building	Table 5604.5.2(1) of this rule	IBD	Table 5604.5.2(1) of this rule	IBD	Not applicable	Not applicable	Not applicable	Not applicable
Public traffic route	Table 5604.5.2(1) of this rule	PTR	Table 5604.5.2(1) of this rule	PTR	Not applicable	Not applicable	Not applicable	Not applicable

For SI: 1 foot = 304.8 mm.

- The minimum separation distance (D_0) shall be 60 feet. Where a building or magazine containing explosives is barricaded, the minimum distance shall be 30 feet.
- Linear interpolation between tabular values in the referenced Q-D tables shall not be allowed. Nonlinear interpolation of the values shall be allowed subject to an approved technical opinion and report prepared in accordance with paragraph (D)(7)(b)(104.7.2) of rule 1301:7-7-01 of the Administrative Code.
- For definitions of Quantity-Distance abbreviations IBD, ILD, IMD, IPD and PTR, see rule 1301:7-7-02 of the Administrative Code.

Table 5601.8.1(2)
Application of separation distance (Q-D) tables-Division 1.3 explosives^{a,b,c}

Item	Magazine	Q-D	Operating building	Q-D	Inhabited building	Q-D	Public traffic route	Q-D
Magazine	Table 5604.5.2(2) of this rule	IMD	Table 5604.5.2(2) of this rule	ILD or IPD	Table 5604.5.2(2) of this rule	IBD	Table 5604.5.2(2) of this rule	PTR
Operating building	Table 5604.5.2(2) of this rule	ILD or IPD	Table 5604.5.2(2) of this rule	ILD or IPD	Table 5604.5.2(2) of this rule	IBD	Table 5604.5.2(2) of this rule	PTR
Inhabited building	Table 5604.5.2(2) of this rule	IBD	Table 5604.5.2(2) of this rule	IBD	Not applicable	Not applicable	Not applicable	Not applicable
Public traffic route	Table 5604.5.2(2) of this rule	PTR	Table 5604.5.2(2) of this rule	PTR	Not applicable	Not applicable	Not applicable	Not applicable

For SI: 1 foot = 304.8 mm.

- The minimum separation distance (D_0) shall be not less than 50 feet.
- Linear interpolation between tabular values in the referenced Q-D table shall be allowed.
- For definitions of Quantity-Distance abbreviations IBD, ILD, IMD, IPD and PTR, see rule 1301:7-7-02 of the Administrative Code.

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Table 5601.8.1(3)
Application of separation distance (Q-D) tables-Division 1.4 explosives^{a,b,c,d}

Item	Magazine	Q-D	Operating building	Q-D	Inhabited building	Q-D	Public traffic route	Q-D
Magazine	Table 5604.5.2(3) of this rule	IMD	Table 5604.5.2(3) of this rule	ILD or IPD	Table 5604.5.2(3) of this rule	IBD	Table 5604.5.2(3) of this rule	PTR
Operating building	Table 5604.5.2(3) of this rule	ILD or IPD	Table 5604.5.2(3) of this rule	ILD or IPD	Table 5604.5.2(3) of this rule	IBD	Table 5604.5.2(3) of this rule	PTR
Inhabited building	Table 5604.5.2(3) of this rule	IBD	Table 5604.5.2(3) of this rule	IBD	Not applicable	Not applicable	Not applicable	Not applicable
Public traffic route	Table 5604.5.2(3) of this rule	PTR	Table 5604.5.2(3) of this rule	PTR	Not applicable	Not applicable	Not applicable	Not applicable

For SI: 1 foot = 304.8 mm.

- The minimum separation distance (D_0) shall be not less than 50 feet.
- Linear interpolation between tabular values in the referenced (Q-D) table shall not be allowed.
- For definitions of Quantity-Distance abbreviations IBD, ILD, IMD, IPD and PTR, see rule 1301:7-7-02 of the Administrative Code.
- This table shall not apply to consumer fireworks, 1.4G.

(i) **5601.8.1.1 Mass-detonating explosives (Division 1.1, 1.2 or 1.5).** The total net explosive weight of mass-detonating explosives (Division 1.1, 1.2 or 1.5) shall be used. See Table 5604.5.2(1) or Table 5605.3 of this rule as appropriate.

Exception: Where the TNT equivalence of the explosive material has been determined, the equivalence is allowed to be used to establish the net explosive weight.

(ii) **5601.8.1.2 Nonmass-detonating explosives (excluding Division 1.4).** Nonmass-detonating explosives (excluding Division 1.4) shall be as follows:

- Division 1.3 propellants. The total weight of the propellants alone shall be the net explosive weight. The net weight of propellant shall be used. See Table 5604.5.2(2) of this rule.
- Combinations of bulk metal powder and pyrotechnic compositions. The sum of the net weights of metal powders and pyrotechnic compositions in the containers shall be the net explosive weight. See Table 5604.5.2(2) of this rule.

(iii) **5601.8.1.3 Combinations of mass-detonating and nonmass-detonating explosives (excluding Division 1.4).** Combination of mass-detonating and nonmass-detonating explosives (excluding Division 1.4) shall be as follows:

- Where Division 1.1 and 1.2 explosives are located in the same site, determine the distance for the total quantity considered first as 1.1 and then as 1.2. The required distance is the greater of the two. Where the Division 1.1 requirements are controlling and the TNT equivalence of the 1.2 is known, the TNT equivalent weight of the 1.2 items shall be allowed to be added to the total explosive weight of Division 1.1 items to determine the net explosive weight for Division 1.1 distance determination. See Table 5604.5.2(2) or Table 5605.3 of this rule as appropriate.
- Where Division 1.1 and 1.3 explosives are located in the same site, determine the distances for the total quantity considered first as 1.1 and then as 1.3. The required distance is the greater of the two. Where the Division 1.1 requirements are controlling and the TNT equivalence of the 1.3 is known, the TNT equivalent weight of the 1.3 items shall be allowed to be added to the total explosive weight of

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Division 1.1 items to determine the net explosive weight for Division 1.1 distance determination. See Table 5604.5.2(1), 5604.5.2(2) or 5605.3 *of this rule*, as appropriate.

(c) Where Division 1.1, 1.2 and 1.3 explosives are located in the same site, determine the distances for the total quantity considered first as 1.1, next as 1.2 and finally as 1.3. The required distance is the greatest of the three. As allowed by *paragraphs (A)(8)(a)(iii)(a) and (A)(8)(a)(iii)(b) above of this rule*, TNT equivalent weights for 1.2 and 1.3 items are allowed to be used to determine the net weight of explosives for Division 1.1 distance determination. Table 5604.5.2(1) or 5605.3 *of this rule* shall be used where TNT equivalency is used to establish the net explosive weight.

(d) For composite pyrotechnic items Division 1.1 and Division 1.3, the sum of the net weights of the pyrotechnic composition and the explosives involved shall be used. See Tables 5604.5.2(1) and 5604.5.2(2) *of this rule*.

(iv) **5601.8.1.4 Moderate fire-no blast hazards (Division 1.4).** For Division 1.4 explosives the total weight of the explosive material alone is the net weight. The net weight of the explosive material shall be used.

(B) Section 5602 Definitions

(1) **5602.1 Definitions.** The following terms are defined in *rule 1301:7-7-02 of the Administrative Code*.

“Ammonium nitrate.”

“Authority having jurisdiction.”

“Barricade.”

“Artificial barricade.”

“Natural barricade.”

“Barricaded.”

“Beer and intoxicating liquor.”

“Black match.”

“Blast area.”

“Blast site.”

“Blaster.”

“Blasting agent.”

“Booby trap.”

“Break.”

“Bullet resistant.”

“Cigarette load.”



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“Controlled substance.”

“CPSC.”

“Detonating cord.”

“Detonation.”

“Detonator.”

“Discharge site.”

“Display site.”

“DOTn.”

“Explosive.”

“High explosive.”

“Low explosive.”

“Mass-detonating explosives.”

“UN/DOTn Class 1 explosives.”

“Division 1.1.”

“Division 1.2.”

“Division 1.3.”

“Division 1.4.”

“Division 1.5.”

“Division 1.6.”

“Explosive material.”

“Fallout area.”

“Fireworks.”

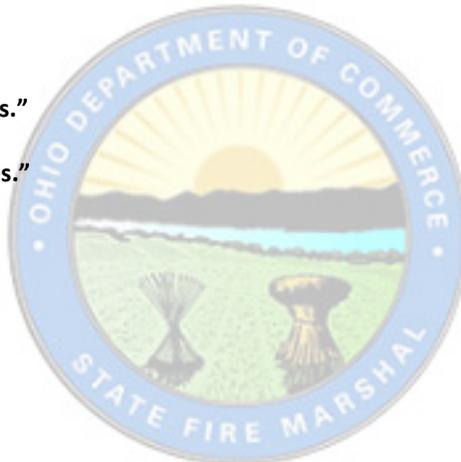
“1.1G Fireworks.”

“1.2G Fireworks.”

“1.3G Fireworks.”

“1.4G Fireworks.”

“1.4G Special effects fireworks.”



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“1.4S Fireworks.”

“1.4S Special effects fireworks.”

“Fireworks exhibition.”

“Fireworks incident.”

“Fireworks incident site.”

“Fireworks plant.”

“Flame effect.”

“Highway.”

“Inhabited building.”

“Interlinked fire detection.”

“Licensed building.”

“Licensed exhibitor of fireworks or licensed exhibitor.”

“Licensed exhibitor of indoor fireworks.”

“Licensed exhibitor of outdoor/indoor fireworks.”

“Licensed manufacturer of fireworks or licensed manufacturer.”

“Licensed premises.”

“Licensed wholesaler of fireworks or licensed wholesaler.”

“List of licensed exhibitors.”

“List of licensed manufacturers.”

“List of licensed wholesalers.”

“Magazine.”

“Indoor.”

“Type 1.”

“Type 2.”

“Type 3.”

“Type 4.”



“Type 5.”

“Manufacturing of fireworks.”

“Mortar.”

“Navigable waters.”

“Net explosive weight (net weight).”

“Novelties and trick noisemakers.”

“Operating building.”

“Operating line.”

“Party popper.”

“Plosphoric material.”

“Processing of fireworks.”

“Proximate audience.”

“Public Traffic Route (PTR).”

“Pyrotechnic article.”

“Pyrotechnic composition.”

“Pyrotechnic special effect.”

“Pyrotechnic special-effect material.”

“Pyrotechnics.”

“Quantity-Distance (Q-D).”

“Inhabited Building Distance (IBD).”

“Intermagazine Distance (IMD).”

“Intraline Distance (ILD) or Intraplant Distance (IPD).”

“Minimum separation distance (D₀).”

“Railroad.”

“Railway.”

“Ready box.”

“Representative sample showroom.”



“Retail sale or sell at retail.”

“Small arms ammunition.”

“Small arms primers.”

“Smoke device.”

“Smokeless propellants.”

“Snake or glow worm.”

“Snapper.”

“Special industrial explosive device.”

“Storage location.”

“Theft resistant.”

“Trick match.”

“Wholesale sale or sell at wholesale.”

“Wire sparkler.”

(2) **5602.2 Terms used for paragraph (P)(10)(5616.10) of this rule.** In accordance with section 3743.75 of the Revised Code, the following terms, only as used in paragraph (P)(10)(5616.10), have the following exclusive meanings:

“Particular location.” A licensed premises and, regardless of when approved, any storage location approved in accordance with section 3743.04 or 3743.17 of the Revised Code and this rule.

“Person.” Any person or entity, in whatever form or name, that acquires possession of a manufacturer or wholesaler of fireworks license issued pursuant to this rule by transfer of possession of license, whether that transfer occurs by purchase, assignment, inheritance, bequest, stock transfer, or any other type of transfer, on the condition that the transfer is in accordance with division (D) of section 3743.04 of the Revised Code or division (D) of section 3743.17 of the Revised Code and is approved by the state fire marshal.

(C) Section 5603 Record keeping and reporting

(1) **5603.1 General.** Records of the receipt, handling, use or disposal of explosive materials, and reports of any accidents, thefts or unauthorized activities involving explosive materials shall conform to the requirements of this paragraph. Records relating to the manufacturing, sale, transportation, shipping, storage and possession of fireworks shall be created, maintained and disposed of in accordance with the Revised Code and this rule.

(2) **5603.2 Transaction record.** The permittee shall maintain a record of all transactions involving receipt, removal, use or disposal of explosive materials. Such records shall be maintained for a period of 5 years.

Exception: Where only Division 1.4G (consumer fireworks) are handled, records need only be maintained for a period of 3 years.

Note: for copyright claim information, please see the notice on the last page of this rule.

(3) **5603.3 Loss, theft or unauthorized removal.** The loss, theft or unauthorized removal of explosive materials from a magazine or permitted facility shall be reported to the fire code official, local law enforcement authorities and the U.S. Department of Treasury, Bureau of Alcohol, Tobacco, Firearms and Explosives within 24 hours.

Exception: Loss of Division 1.4G (consumer fireworks) need not be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(a) **5603.3.1 Fireworks.** *Manufacturers, wholesalers, shippers and exhibitors shall report any theft or loss of any fireworks to the local law enforcement agency within twenty-four hours after the discovery of the theft or loss and shall send a copy of the report prepared by the local law enforcement agency to the state fire marshal. If such report is unavailable, the manufacturer, wholesaler, shipper or exhibitor shall notify the state fire marshal of the investigating law enforcement agency. In the event of such theft or loss of any fireworks or pyrotechnic devices, the local fire code official shall cooperate with the state fire marshal in conducting a joint investigation of the circumstances.*

(4) **5603.4 Accidents.** Accidents involving the use of explosives, explosive materials and fireworks that result in injuries or property damage shall be reported to the fire code official immediately.

(a) **5603.4.1 Injury or damage report.** *The local fire code official shall immediately make a report to the state fire marshal when any fireworks related fire, explosion, unauthorized discharge, personal injury, or other significant fireworks incident occurs, including all fires, explosions, personal injuries received or resulting from fireworks at a manufacturing plant, wholesale facility, from a shipment of fireworks in transit, or from fireworks at an exhibition. The report shall provide the location where the fire, explosion, or injury occurred and the name, address and telephone number of any person injured as a result when such information is available. The scene must be held until released by the state fire marshal.*

(5) **5603.5 Misfires.** The licensed exhibitor of fireworks or blaster in charge shall keep a record of all aerial shells that fail to fire or charges that fail to detonate.

(6) **5603.6 Hazard communication.** Manufacturers of explosive materials and fireworks shall maintain records of chemicals, chemical compounds and mixtures required by DOL 29 CFR, Part 1910.1200 as listed in rule 1301:7-7-80 of the Administrative Code, and paragraph (G)(407) of rule 1301:7-7-04 of the Administrative Code.

(7) **5603.7 Safety rules.** Current safety rules covering the operation of magazines, as described in paragraph (D)(7)(5604.7) of this rule, shall be posted on the interior of the magazine in a visible location.

(D) Section 5604 Explosive materials storage and handling

(1) **5604.1 General.** Storage of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines shall comply with the provisions of this paragraph.

(2) **5604.2 Magazine required.** Explosives and explosive materials, and Division 1.3G fireworks shall be stored in magazines constructed, located, operated and maintained in accordance with the provisions of paragraph (D)(5604) of this rule and NFPA 495 or NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code.

Exceptions:

1. Storage of fireworks at display sites in accordance with paragraph (J)(5610) of this rule and NFPA 1123 or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.

2. Portable or mobile magazines not exceeding 120 square feet (11 m²) in area shall not be required to comply with the requirements of the *building code as listed in rule 1301:7-7-80 of the Administrative Code*.

(3) **5604.3 Magazines.** The storage of explosives and explosive materials in magazines shall comply with Table 5604.3 of this rule.

Table 5604.3
Storage amounts and magazine requirements for explosives, explosive materials and fireworks, 1.3G maximum allowable quantity per control area

New UN/DOtn division	Old DOTn class	ATF/OSHA class	Indoor ^a (pounds)				Outdoor (pounds)	Magazine type required				
			Unprotected	Cabinet	Sprinklers	Sprinklers & cabinet		1	2	3	4	5
1.1 ^b	A	High	0	0	1	2	1	X	X	X	-	-
1.2	A	High	0	0	1	2	1	X	X	X	-	-
1.2	B	Low	0	0	1	1	1	X	X	X	X	-
1.3	B	Low	0	0	5	10	1	X	X	X	X	-
1.4 ^c	B	Low	0	0	50	100	1	X	X	X	X	-
1.5	C	Low	0	0	1	2	1	X	X	X	X	-
1.5	Blasting agent	Blasting agent	0	0	1	2	1	X	X	X	X	X
1.6	Not applicable	Not applicable	0	0	1	2	1	X	X	X	X	X

For SI: 1 pound = 0.454 kg, 1 pound per gallon = 0.12 kg per liter, 1 ounce = 28.35 g.

- a. A factor of 10 pounds per gallon shall be used for converting pounds (solid) to gallons (liquid) in accordance with *paragraph (C)(1)(b)(5003.1.2) of rule 1301:7-7-50 of the Administrative Code*.
- b. Black powder shall be stored in a Type 1, 2, 3 or 4 magazine as provided for in *paragraph (D)(3)(a)(5604.3.1) of this rule*.
- c. This table shall not apply to consumer fireworks, 1.4G.

(a) **5604.3.1 High explosives.** Explosive materials classified as Division 1.1 or 1.2 or formerly classified as Class A by the U.S. Department of Transportation shall be stored in Type 1, 2 or 3 magazines.

Exceptions:

1. Black powder shall be stored in a Type 1, 2, 3 or 4 magazine.
2. Cap-sensitive explosive material that is demonstrated not to be bullet sensitive shall be stored in a Type 1, 2, 3, 4 or 5 magazine.

(b) **5604.3.2 Low explosives.** Explosive materials that are not cap sensitive shall be stored in a Type 1, 2, 3, 4 or 5 magazine.

(c) **5604.3.3 Detonating cord.** For quantity and distance purposes, detonating cord of 50 grains per foot shall be calculated as equivalent to 8 pounds (4 kg) of high explosives per 1,000 feet (305 m). Heavier or lighter core loads shall be rated proportionally.

(4) **5604.4 Prohibited storage.** Detonators shall be stored in a separate magazine for blasting supplies and shall not be stored in a magazine with other explosive materials.

(5) **5604.5 Location.** The use of magazines for storage of explosives and explosive materials shall comply with *paragraphs (D)(5)(a)(5604.5.1) to (D)(5)(c)(iii)(5604.5.3.3) of this rule*.

Note: for copyright claim information, please see the notice on the last page of this rule.

(a) **5604.5.1 Indoor magazines.** The use of indoor magazines for storage of explosives and explosive materials shall comply with the requirements of *paragraphs (D)(5)(a)(i)(5604.5.1.1) to (D)(5)(a)(vii)(5604.5.1.7) of this rule.*

(i) **5604.5.1.1 Use.** The use of indoor magazines for storage of explosives and explosive materials shall be limited to occupancies in Group F, H, M or S, and research and development laboratories.

(ii) **5604.5.1.2 Construction.** Indoor magazines shall comply with the following construction requirements:

(a) Construction shall be fire resistant and theft resistant.

(b) Exterior shall be painted red.

(c) Base shall be fitted with wheels, casters or rollers to facilitate removal from the building in an emergency.

(d) Lid or door shall be marked with conspicuous white lettering not less than 3 inches (76 mm) high and minimum ½ inch (12.7 mm) stroke, reading "EXPLOSIVES-KEEP FIRE AWAY."

(e) The least horizontal dimension shall not exceed the clear width of the entrance door.

(iii) **5604.5.1.3 Quantity limit.** Not more than 50 pounds (23 kg) of explosives or explosive materials shall be stored within an indoor magazine.

Exception: Day boxes used for the storage of in-process material in accordance with *paragraph (E)(6)(d)(i)(5605.6.4.1) of this rule.*

(iv) **5604.5.1.4 Prohibited use.** Indoor magazines shall not be used within buildings containing Group R occupancies.

(v) **5604.5.1.5 Location.** Indoor magazines shall be located within 10 feet (3048 mm) of an entrance and only on floors at or having ramp access to the exterior grade level.

(vi) **5604.5.1.6 Number.** Not more than two indoor magazines shall be located in the same building. Where two such magazines are located in the same building, one magazine shall be used solely for the storage of not more than 5,000 detonators.

(vii) **5604.5.1.7 Separation distance.** Where two magazines are located in the same building, they shall be separated by a distance of not less than 10 feet (3048 mm).

(b) **5604.5.2 Outdoor magazines.** Outdoor magazines other than Type 3 shall be located so as to comply with Table 5604.5.2(2) or Table 5604.5.2(3) *of this rule* as set forth in Tables 5601.8.1(1) to 5601.8.1(3) *of this rule.* Where a magazine or group of magazines, as described in *paragraph (D)(5)(b)(ii)(5604.5.2.2) of this rule,* contains different classes of explosive materials, and Division 1.1 materials are present, the required separations for the magazine or magazine group as a whole shall comply with Table 5604.5.2(2) *of this rule.*

Table 5604.5.2(1)
American table of distances for storage of explosives as approved by the Institute of makers of explosives and revised June 1991^a

Quantity of explosive materials ^c		Distances in feet							
		Inhabited buildings		Public highways with traffic volume less than 3,000 vehicles per day		Public highways with traffic volume greater than 3,000 vehicles per day and passenger railways		Separation of magazines ^d	
Pounds over	Pounds not over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
0	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	208	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	480	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280

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55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000 ^b	2,275	2,275	690	1,380	2,000	2,000	385	770

For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg.

- This table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles or other heavily encased explosives.
- Storage in excess of 300,000 pounds of explosive materials in one magazine is not allowed.
- Where a manufacturing building on an explosive materials plant site is designed to contain explosive materials, such building shall be located with respect to its proximity to inhabited buildings, public highways and passenger railways based on the maximum quantity of explosive materials permitted to be in the building at one time.
- Where two or more storage magazines are located on the same property, each magazine shall comply with the minimum distances specified from inhabited buildings, railways and highways, and, in addition, they should be separated from each other by not less than the distances shown for separation of magazines, except that the quantity of explosives in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosive materials. Where any two or more magazines are separated from each other by less than the specified separation of magazine distances, then two or more such magazines, as a group, shall be considered as one magazine, and the total quantity of explosive materials stored in such group shall be treated as if stored in a single magazine located on the site of any magazine in the group and shall comply with the minimum distances specified from other magazines, inhabited buildings, railways and highways.

Table 5604.5.2(2)
Table of distances (Q-D) for buildings and magazines containing explosives-
Division 1.3 mass-fire hazard^{a,b,c}

Quantity of Division 1.3 explosives (net explosives weight)		Distances in feet			
Pounds over	Pounds not over	Inhabited building distance (IBD)	Distance to public traffic route (PTR)	Intermagazine distance (IMD)	Intraline distance (ILD) or Intraplant distance (IPD)
0	1,000	75	75	50	50
1,000	5,000	115	115	75	75
5,000	10,000	150	150	100	100
10,000	20,000	190	190	125	125
20,000	30,000	215	215	145	145
30,000	40,000	235	235	155	155
40,000	50,000	250	250	165	165
50,000	60,000	260	260	175	175

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60,000	70,000	270	270	185	185
70,000	80,000	280	280	190	190
80,000	90,000	295	295	195	195
90,000	100,000	300	300	200	200
100,000	200,000	375	375	250	250
200,000	300,000	450	450	300	300

For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg.

- a. Black powder, when stored in magazines, is defined as low explosive by the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF).
- b. For quantities less than 1,000 pounds, the required distances are those specified for 1,000 pounds. The use of lesser distances is allowed where supported by approved test data and/or analysis.
- c. Linear interpolation of explosive quantities between table entries is allowed.

Table 5604.5.2(3)
Table of distances (Q-D) for buildings and magazines containing explosives-Division 1.4^c

Quantity of Division 1.4 explosives (net explosives weight)		Distances in feet			
Pounds over	Pounds not over	Inhabited building distance (IBD)	Distance to public traffic route (PTR)	Intermagazine distance ^{a,b} (IMD)	Intraline distance (ILD) or Intraplant distance ^a (IPD)
50	Not limited	100	100	50	50

For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg.

- a. A separation distance of 100 feet is required for buildings other than Type I or Type II construction as defined in the *building code listed in rule 1301:7-7-80 of the Administrative Code*.
- b. For earth-covered magazines, specific separation is not required.
 1. Earth cover material used for magazines shall be relatively cohesive. Solid or wet clay and similar types of soil are too cohesive and shall not be used. Soil shall be free from unsanitary organic matter, trash, debris and stones heavier than 10 pounds or larger than 6 inches in diameter. Compaction and surface preparation shall be provided, as necessary, to maintain structural integrity and avoid erosion. Where cohesive material cannot be used, as in sandy soil, the earth cover over magazines shall be finished with a suitable material to ensure structural integrity.
 2. The earth fill or earth cover between earth-covered magazines shall be either solid or sloped, in accordance with the requirements of other construction features, but not less than 2 feet of earth cover shall be maintained over the top of each magazine. To reduce erosion and facilitate maintenance operations, the cover shall have a slope of 2 horizontal to 1 vertical.
- c. Restricted to articles, including articles packaged for shipment, that are not regulated as an explosive under Bureau of Alcohol, Tobacco, Firearms and Explosives regulations, or unpacked articles used in process operations that do not propagate a detonation or deflagration between articles. This table shall not apply to consumer fireworks, 1.4G.

(i) **5604.5.2.1 Separation.** Where two or more storage magazines are located on the same property, each magazine shall comply with the minimum distances specified from inhabited buildings, public transportation routes and operating buildings. Magazines shall be separated from each other by not less than the intermagazine distances (IMD) shown for the separation of magazines.

(ii) **5604.5.2.2 Grouped magazines.** Where two or more magazines are separated from each other by less than the intermagazine distances (IMD), such magazines as a group shall be considered as one magazine and the total quantity of explosive materials stored in the group shall be treated as if stored in a single magazine. The location of the group of magazines shall comply with the intermagazine distances (IMD) specified from other magazines or magazine groups, inhabited buildings (IBD), public transportation routes (PTR) and operating buildings (ILD or IPD) as required.

(c) **5604.5.3 Special requirements for Type 3 magazines.** Type 3 magazines shall comply with *paragraphs (D)(5)(c)(i)(5604.5.3.1) to (D)(5)(c)(iii)(5604.5.3.3) of this rule*.

(i) **5604.5.3.1 Location.** Wherever practicable, Type 3 magazines shall be located away from neighboring inhabited buildings, railways, highways and other magazines in accordance with Table 5604.5.2(2) or 5604.5.2(3) *of this rule* as applicable.

(ii) **5604.5.3.2 Supervision.** Type 3 magazines shall be attended when explosive materials are stored within. Explosive materials shall be removed to appropriate storage magazines for unattended storage at the end of the work day.

(iii) **5604.5.3.3 Use.** Not more than two Type 3 magazines shall be located at the same blasting site. Where two Type 3 magazines are located at the same blasting site, one magazine shall be used solely for the storage of detonators.

(6) **5604.6 Construction.** Magazines shall be constructed in accordance with *paragraphs (D)(6)(a)(5604.6.1) to (D)(6)(e)(ii)(5604.6.5.2) of this rule.*

(a) **5604.6.1 Drainage.** The ground around a magazine shall be graded so that water drains away from the magazine.

(b) **5604.6.2 Heating.** Magazines requiring heat shall be heated as prescribed in NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code* by either hot water radiant heating within the magazine or by indirect warm air heating.

(c) **5604.6.3 Lighting.** Where lighting is necessary within a magazine, electric safety flashlights or electric safety lanterns shall be used, except as provided in NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(d) **5604.6.4 Nonsparking materials.** In other than Type 5 magazines, there shall not be exposed ferrous metal on the interior of a magazine containing packages of explosives.

(e) **5604.6.5 Signs and placards.** Property upon which Type 1 magazines and outdoor magazines of Types 2, 4 and 5 are located shall be posted with signs stating: "EXPLOSIVES-KEEP OFF." These signs shall be of contrasting colors with a minimum letter height of 3 inches (76 mm) with a minimum brush stroke of ½ inch (12.7 mm). The signs shall be located to minimize the possibility of a bullet shot at the sign hitting the magazine.

(i) **5604.6.5.1 Access road signs.** At the entrance to explosive material manufacturing and storage sites, all access roads shall be posted with the following warning sign or other approved sign:

"DANGER!
NEVER FIGHT EXPLOSIVE FIRES.
EXPLOSIVES ARE STORED ON THIS SITE
CALL _____"

The sign shall be weather-resistant with a reflective surface and have lettering not less than 2 inches (51 mm) high.

(ii) **5604.6.5.2 Placards.** Type 5 magazines containing Division 1.5 blasting agents shall be prominently placarded as required during transportation by DOTn 49 CFR, Part 172 and DOTy 27 CFR, Part 55 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(7) **5604.7 Operation.** Magazines shall be operated in accordance with *paragraphs (D)(7)(a)(5604.7.1) to (D)(7)(i)(5604.7.9) of this rule.*

(a) **5604.7.1 Security.** Magazines shall be kept locked in the manner prescribed in NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code* at all times except during placement or removal of explosives or inspection.

(b) **5604.7.2 Open flames and lights.** Smoking, matches, flame-producing devices, open flames, firearms and firearms cartridges shall not be allowed inside of or within 50 feet (15 240 mm) of magazines.

(c) **5604.7.3 Brush.** The area located around a magazine shall be kept clear of brush, dried grass, leaves, trash, debris and similar combustible materials for a distance of 25 feet (7620 mm).

(d) **5604.7.4 Combustible storage.** Combustible materials shall not be stored within 50 feet (15 240 mm) of magazines.

(e) **5604.7.5 Unpacking and repacking explosive materials.** Containers of explosive materials, except fiberboard containers, and packages of damaged or deteriorated explosive materials or fireworks shall not be unpacked or repacked inside or within 50 feet (15 240 mm) of a magazine or in close proximity to other explosive materials.

(i) **5604.7.5.1 Storage of opened packages.** Packages of explosive materials that have been opened shall be closed before being placed in a magazine.

(ii) **5604.7.5.2 Nonsparking tools.** Tools used for the opening and closing of packages of explosive materials, other than metal slitters for opening paper, plastic or fiberboard containers, shall be made of nonsparking materials.

(iii) **5604.7.5.3 Disposal of packaging.** Empty containers and paper and fiber packaging materials that previously contained explosive materials shall be disposed of or reused in an approved manner.

(f) **5604.7.6 Tools and equipment.** Metal tools, other than nonferrous transfer conveyors and ferrous metal conveyor stands protected by a coat of paint, shall not be stored in a magazine containing explosive materials or detonators.

(g) **5604.7.7 Contents.** Magazines shall be used exclusively for the storage of explosive materials, blasting materials and blasting accessories.

(h) **5604.7.8 Compatibility.** Corresponding grades and brands of explosive materials shall be stored together and in such a manner that the grade and brand marks are visible. Stocks shall be stored so as to be easily counted and checked. Packages of explosive materials shall be stacked in a stable manner not exceeding 8 feet (2438 mm) in height.

(i) **5604.7.9 Stock rotation.** When explosive material is removed from a magazine for use, the oldest usable stocks shall be removed first.

(8) **5604.8 Maintenance.** Maintenance of magazines shall comply with *paragraphs (D)(8)(a)(5604.8.1) to (D)(8)(c)(5604.8.3) of this rule.*

(a) **5604.8.1 Housekeeping.** Magazine floors shall be regularly swept and be kept clean, dry and free of grit, paper, empty packages and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from magazine floors shall be disposed of in accordance with the manufacturers' approved instructions.

(b) **5604.8.2 Repairs.** Explosive materials shall be removed from the magazine before making repairs to the interior of a magazine. Explosive materials shall be removed from the magazine before making repairs to the exterior of the magazine where there is a possibility of causing a fire. Explosive materials removed from a

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magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine, where they shall be properly guarded and protected until repairs have been completed. Upon completion of repairs, the explosive materials shall be promptly returned to the magazine. Floors shall be cleaned before and after repairs.

(c) **5604.8.3 Floors.** Magazine floors stained with liquid shall be dealt with in accordance with instructions obtained from the manufacturer of the explosive material stored in the magazine.

(9) **5604.9 Inspection.** Magazines containing explosive materials shall be opened and inspected *by the permit holder* at maximum *intervals of seven days*. The inspection shall determine whether there has been an unauthorized or attempted entry into a magazine or an unauthorized removal of a magazine or its contents. *The permit holder shall document said inspections including the date of inspection, name of person conducting inspection and a verification of the inventory. The permit holder shall maintain such records for a minimum of one year and provide such documentation to the state fire marshal upon request.*

(a) **5604.9.1** *If in the state fire marshal's discretion, the state fire marshal determines that conditions affecting the security of explosives exist that require more frequent inventory inspections, the permit holder shall conduct such inspections on a daily basis unless otherwise notified by the state fire marshal for the duration of the prevailing conditions. Such conditions would exist when the United States department of homeland security threat advisory system, or a similar system of the United States government or the state of Ohio, reaches a high or severe level or the governor of Ohio declares a state of emergency pursuant to section 5502.21 of the Revised Code or the governor otherwise activates the Ohio militia in accordance with Ohio Constitution Article 9, Section 4.*

(10) **5604.10 Disposal of explosive materials.** Explosive materials shall be disposed of in accordance with paragraphs (D)(10)(a)(5604.10.1) to (D)(10)(g)(5604.10.7) of this rule.

(a) **5604.10.1 Notification.** The fire code official shall be notified immediately where deteriorated or leaking explosive materials are determined to be dangerous or unstable and in need of disposal.

(b) **5604.10.2 Deteriorated materials.** Where an explosive material has deteriorated to an extent that it is in an unstable or dangerous condition, or when a liquid has leaked from an explosive material, the person in possession of such material shall immediately contact the material's manufacturer to obtain disposal and handling instructions.

(c) **5604.10.3 Qualified person.** The work of destroying explosive materials shall be directed by persons experienced in the destruction of explosive materials.

(d) **5604.10.4 Storage of misfires.** Explosive materials and fireworks recovered from blasting or display misfires shall be placed in a magazine until an experienced person has determined the proper method for disposal.

(e) **5604.10.5 Disposal sites.** Sites for the destruction of explosive materials and fireworks shall be approved and located at the maximum practicable safe distance from inhabited buildings, public highways, operating buildings and all other exposures to ensure keeping air blast and ground vibration to a minimum. The location of disposal sites shall not be closer to magazines, inhabited buildings, railways, highways and other rights-of-way than is allowed by Tables 5604.5.2(1), 5604.5.2(2) and 5604.5.2(3) of this rule. Where possible, barricades shall be utilized between the destruction site and inhabited buildings. Areas where explosives are detonated or burned shall be posted with adequate warning signs.

(f) **5604.10.6 Reuse of site.** Unless an approved burning site has been thoroughly saturated with water and has passed a safety inspection, 48 hours shall elapse between the completion of a burn and the placement of scrap explosive materials for a subsequent burn.

(g) **5604.10.7 Personnel safeguards.** Once an explosive burn operation has been started, personnel shall relocate to a safe location where adequate protection from air blast and flying debris is provided. Personnel shall not return to the burn area until the person in charge has inspected the burn site and determined that it is safe for personnel to return.

(E) Section 5605 Manufacture, assembly and testing of explosives, explosive materials and fireworks

(1) **5605.1 General.** The manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall comply with the requirements of this *paragraph* and NFPA 495 or NFPA 1124 *as listed in rule 1301:7-7-80 of the Administrative Code.*

Exceptions:

1. The hand loading of small arms ammunition prepared for personal use and not offered for resale.
2. The mixing and loading of blasting agents at blasting sites in accordance with NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code.*
3. The use of binary explosives or phosphoric materials in blasting or pyrotechnic special effects applications in accordance with NFPA 495 or NFPA 1126 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(2) **5605.2 Emergency planning and preparedness.** Emergency plans, emergency drills, employee training and hazard communication shall conform to the provisions of this *paragraph* and *paragraphs* (D)(404), (E)(405), (F)(406) and (G)(407) *of rule 1301:7-7-04 of the Administrative Code.*

(a) **5605.2.1 Hazardous Materials Management Plans and Inventory Statements required.** Detailed hazardous materials management plans (HMMP) and hazardous materials inventory statements (HMIS) complying with the requirements of *paragraph* (G)(407) *of rule 1301:7-7-04 of the Administrative Code* shall be prepared and submitted to the local emergency planning committee, the fire code official and the local fire department.

(b) **5605.2.2 Maintenance of plans.** A copy of the required HMMP and HMIS shall be maintained on site and furnished to the fire code official on request.

(c) **5605.2.3 Employee training.** Workers who handle explosives or explosive charges or dispose of explosives shall be trained in the hazards of the materials and processes in which they are to be engaged and with the safety rules governing such materials and processes.

(d) **5605.2.4 Emergency procedures.** Approved emergency procedures shall be formulated for each plant and shall include personal instruction in any anticipated emergency. Personnel shall be made aware of an emergency warning signal.

(3) **5605.3 Intraplant separation of operating buildings.** Explosives manufacturing buildings and fireworks manufacturing buildings, including those where explosive charges are assembled, manufactured, prepared or loaded utilizing Division 1.1, 1.2, 1.3, 1.4 or 1.5 explosives, shall be separated from all other buildings, including magazines, within the confines of the manufacturing plant at a distance not less than those shown in Table 5605.3 or 5604.5.2(3) *of this rule*, as appropriate.

Exception: Fireworks manufacturing buildings separated in accordance with NFPA 1124 *as listed in rule 1301:7-7-80 of the Administrative Code.*

The quantity of explosives in an operating building shall be the net weight of all the explosives contained therein. Distances shall be based on the hazard division requiring the greatest separation, unless the aggregate explosive

weight is divided by approved walls or shields designed for that purpose. Where dividing a quantity of explosives into smaller stacks, a suitable barrier or adequate separation distance shall be provided to prevent propagation from one stack to another.

Where distance is used as the sole means of separation within a building, such distance shall be established by testing. Testing shall demonstrate that propagation between stacks will not result. Barriers provided to protect against explosive effects shall be designed and installed in accordance with approved standards.

Table 5605.3
Minimum intraline (intraplant) separation distances (ILD or IPD) between barricaded operating buildings containing explosives-Division 1.1, 1.2 or 1.5-mass-explosion hazard^a

Net explosive weight			Net explosive weight		
Pounds over	Pounds not over	Intraline distance (ILD) or intraplant distance (IPD) (feet)	Pounds over	Pounds not over	Intraline distance (ILD) or intraplant distance (IPD) (feet)
0	50	30	20,000	25,000	265
50	100	40	25,000	30,000	280
100	200	50	30,000	35,000	295
200	300	60	35,000	40,000	310
300	400	65	40,000	45,000	320
400	500	70	45,000	50,000	330
500	600	75	50,000	55,000	340
600	700	80	55,000	60,000	350
700	800	85	60,000	65,000	360
800	900	90	65,000	70,000	370
900	1,000	95	70,000	75,000	385
1,000	1,500	105	75,000	80,000	390
1,500	2,000	115	80,000	85,000	395
2,000	3,000	130	85,000	90,000	400
3,000	4,000	140	90,000	95,000	410
4,000	5,000	150	95,000	100,000	415
5,000	6,000	160	100,000	125,000	450
6,000	7,000	170	125,000	150,000	475
7,000	8,000	180	150,000	175,000	500
8,000	9,000	190	175,000	200,000	525
9,000	10,000	200	200,000	225,000	550
10,000	15,000	225	225,000	250,000	575
15,000	20,000	245	250,000	275,000	600
-----	-----	-----	275,000	300,000	635

For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg.

a. Where a building or magazine containing explosives is not barricaded, the intraline distances shown in this table shall be doubled.

(4) 5605.4 Separation of manufacturing operating buildings from inhabited buildings, public traffic routes and magazines. Where an operating building on an explosive materials plant site is designed to contain explosive materials, such a building shall be located away from inhabited buildings, public traffic routes and magazines in accordance with Table 5604.5.2(2) or 5604.5.2(3) of this rule as appropriate, based on the maximum quantity of explosive materials permitted to be in the building at one time (see *paragraph (A)(8)(5601.8) of this rule*).

Exception: Fireworks manufacturing buildings constructed and operated in accordance with NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code.

Note: for copyright claim information, please see the notice on the last page of this rule.

(a) **5605.4.1 Determination of net explosive weight for operating buildings.** In addition to the requirements of *paragraph (A)(8)(5601.8) of this rule* to determine the net explosive weight for materials stored or used in operating buildings, quantities of explosive materials stored in magazines located at distances less than intraline distances from the operating building shall be added to the contents of the operating building to determine the net explosive weight for the operating building.

(i) **5605.4.1.1 Indoor magazines.** The storage of explosive materials located in indoor magazines in operating buildings shall be limited to a net explosive weight not to exceed 50 pounds (23 kg).

(ii) **5605.4.1.2 Outdoor magazines with a net explosive weight less than 50 pounds.** The storage of explosive materials in outdoor magazines located at less than intraline distances from operating buildings shall be limited to a net explosive weight not to exceed 50 pounds (23 kg).

(iii) **5605.4.1.3 Outdoor magazines with a net explosive weight greater than 50 pounds.** The storage of explosive materials in outdoor magazines in quantities exceeding 50 pounds (23 kg) net explosive weight shall be limited to storage in outdoor magazines located not less than intraline distances from the operating building in accordance with *paragraph (D)(5)(b)(5604.5.2) of this rule*.

(iv) **5605.4.1.4 Net explosive weight of materials stored in combination indoor and outdoor magazines.** The aggregate quantity of explosive materials stored in any combination of indoor magazines or outdoor magazines located at less than the intraline distances from an operating building shall not exceed 50 pounds (23 kg).

(5) **5605.5 Buildings and equipment.** Buildings or rooms that exceed the maximum allowable quantity per control area of explosive materials shall be operated in accordance with this *paragraph* and constructed in accordance with the requirements of the *building code as listed in rule 1301:7-7-80 of the Administrative Code* for Group H occupancies.

Exception: Fireworks manufacturing buildings constructed and operated in accordance with NFPA 1124 *as listed in rule 1301:7-7-80 of the Administrative Code*.

(a) **5605.5.1 Explosives dust.** Explosives dust shall not be exhausted to the atmosphere.

(i) **5605.5.1.1 Wet collector.** When collecting explosives dust, a wet collector system shall be used. Wetting agents shall be compatible with the explosives. Collector systems shall be interlocked with process power supplies so that the process cannot continue without the collector systems also operating.

(ii) **5605.5.1.2 Waste disposal and maintenance.** Explosives dust shall be removed from the collection chamber as often as necessary to prevent overloading. The entire system shall be cleaned at a frequency that will eliminate hazardous concentrations of explosives dust in pipes, tubing and ducts.

(b) **5605.5.2 Exhaust fans.** Squirrel cage blowers shall not be used for exhausting hazardous fumes, vapors or gases. Only nonferrous fan blades shall be used for fans located within the ductwork and through which hazardous materials are exhausted. Motors shall be located outside the duct.

(c) **5605.5.3 Work stations.** Work stations shall be separated by distance, barrier or other approved alternatives so that fire in one station will not ignite material in another work station. Where necessary, the operator shall be protected by a personnel shield located between the operator and the explosive device or explosive material being processed. This shield and its support shall be capable of withstanding a blast from the maximum amount of explosives allowed behind it.

(6) **5605.6 Operations.** Operations involving explosives shall comply with *paragraphs (E)(6)(a)(5605.6.1) to (E)(6)(j)(5605.6.10) of this rule.*

(a) **5605.6.1 Isolation of operations.** Where the type of material and processing warrants, mechanical operations involving explosives in excess of 1 pound (0.454 kg) shall be carried on at isolated stations or at intraplant distances, and machinery shall be controlled from remote locations behind barricades or at separations so that workers will be at a safe distance while machinery is operating.

(b) **5605.6.2 Static controls.** The work area where the screening, grinding, blending and other processing of static-sensitive explosives or pyrotechnic materials is done shall be provided with approved static controls.

(c) **5605.6.3 Approved containers.** Bulk explosives shall be kept in approved, nonsparking containers when not being used or processed. Explosives shall not be stored or transported in open containers.

(d) **5605.6.4 Quantity limits.** The quantity of explosives at any particular work station shall be limited to that posted on the load limit signs for the individual work station. The total quantity of explosives for multiple workstations shall not exceed that established by the intraplant distances in Table 5605.3 or 5605.3(3) *of this rule*, as appropriate.

(i) **5605.6.4.1 Magazines.** Magazines used for storage in processing areas shall be in accordance with the requirements of *paragraph (D)(5)(a)(5604.5.1) of this rule.* Explosive materials shall be removed to appropriate storage magazines for unattended storage at the end of the work day. The contents of indoor magazines shall be added to the quantity of explosives contained at individual workstations and the total quantity of material stored, processed or used shall be utilized to establish the intraplant separation distances indicated by Table 5605.3 or 5604.5.2(3) *of this rule*, as appropriate.

(e) **5605.6.5 Waste disposal.** Approved receptacles with covers shall be provided for each location for disposing of waste material and debris. These waste receptacles shall be emptied and cleaned as often as necessary but not less than once each day or at the end of each shift.

(f) **5605.6.6 Safety rules.** General safety rules and operating instructions governing the particular operation or process conducted at that location shall be available at each location.

(g) **5605.6.7 Personnel limits.** The number of occupants in each process building and in each magazine shall not exceed the number necessary for proper conduct of production operations.

(h) **5605.6.8 Pyrotechnic and explosive composition quantity limits.** Not more than 500 pounds (227 kg) of pyrotechnic or explosive composition, including not more than 10 pounds (5 kg) of salute powder shall be allowed at one time in any process building or area. Compositions not in current use shall be kept in covered nonferrous containers.

Exception: Composition that has been loaded or pressed into tubes or other containers as consumer fireworks.

(i) **5605.6.9 Posting limits.** The maximum number of occupants and maximum weight of pyrotechnic and explosive composition permitted in each process building shall be posted in a conspicuous location in each process building or magazine.

(j) **5605.6.10 Heat sources.** Fireworks, explosives or explosive charges in explosive materials manufacturing, assembly or testing shall not be stored near any source of heat.

Exception: Approved drying or curing operations.

Note: for copyright claim information, please see the notice on the last page of this rule.

(7) **5605.7 Maintenance.** Maintenance and repair of explosives manufacturing facilities and areas shall comply with *paragraph (D)(8)(5604.8) of this rule.*

(8) **5605.8 Explosive materials testing sites.** Detonation of explosive materials or ignition of fireworks for testing purposes shall be done only in isolated areas at sites where distance, protection from missiles, shrapnel or flyrock, and other safeguards provides protection against injury to personnel or damage to property.

(a) **5605.8.1 Protective clothing and equipment.** Protective clothing and equipment shall be provided to protect persons engaged in the testing, ignition or detonation of explosive materials.

(b) **5605.8.2 Site security.** Where tests are being conducted or explosives are being detonated, only authorized persons shall be present. Areas where explosives are regularly or frequently detonated or burned shall be approved and posted with adequate warning signs. Warning devices shall be activated before burning or detonating explosives to alert persons approaching from any direction that they are approaching a danger zone.

(9) **5605.9 Waste disposal.** Disposal of explosive materials waste from manufacturing, assembly or testing operations shall be in accordance with *paragraph (D)(10)(5604.10) of this rule.*

(F) Section 5606 Small arms ammunition and small arms ammunition components

(1) **5606.1 General.** Indoor storage and display of black powder, smokeless propellants, small arms primers and small arms ammunition shall comply with this *paragraph* and NFPA 495 as listed in rule 1301:7-7-80 of the Administrative Code.

(2) **5606.2 Prohibited storage.** Small arms ammunition shall not be stored together with Division 1.1, Division 1.2 or Division 1.3 explosives unless the storage facility is suitable for the storage of explosive materials.

(3) **5606.3 Packages.** Smokeless propellants shall be stored in approved shipping containers conforming to DOT 49 CFR, Part 173 as listed in rule 1301:7-7-80 of the Administrative Code.

(a) **5606.3.1 Repackaging.** The bulk repackaging of smokeless propellants, black powder and small arms primers shall not be performed in retail establishments.

(b) **5606.3.2 Damaged packages.** Damaged containers shall not be repackaged.

Exception: Approved repackaging of damaged containers of smokeless propellant into containers of the same type and size as the original container.

(4) **5606.4 Storage in Group R occupancies.** The storage of small arms ammunition components in Group R occupancies shall comply with *paragraphs (F)(4)(a)(5606.4.1) to (F)(4)(c)(5606.4.3) of this rule.*

(a) **5606.4.1 Black powder.** Black powder for personal use in quantities not exceeding 20 pounds (9 kg) shall be stored in original containers in occupancies limited to Group R-3. Quantities exceeding 20 pounds (9 kg) shall not be stored in any Group R occupancy.

(b) **5606.4.2 Smokeless propellants.** Smokeless propellants for personal use in quantities not exceeding 20 pounds (9 kg) shall be stored in original containers in occupancies limited to Group R-3. Smokeless propellants in quantities exceeding 20 pounds (9 kg) but not exceeding 50 pounds (23 kg) and kept in a wooden box or cabinet having walls of not less than 1 inch (25 mm) nominal thickness shall be allowed to be stored in occupancies limited to Group R-3. Quantities exceeding these amounts shall not be stored in any Group R occupancy.

(c) **5606.4.3 Small arms primers.** Not more than 10,000 small arms primers shall be stored in occupancies limited to Group R-3.

(5) **5606.5 Display and storage in Group M occupancies.** The display and storage of small arms ammunition components in Group M occupancies shall comply with *paragraphs (F)(5)(a)(5606.5.1) to (F)(5)(b)(iii)(5606.5.2.3) of this rule.*

(a) **5606.5.1 Display.** Display of small arms ammunition components in Group M occupancies shall comply with *paragraphs (F)(5)(a)(i)(5606.5.1.1) to (F)(5)(a)(iii)(5606.5.1.3) of this rule.*

(i) **5606.5.1.1 Smokeless propellant.** Not more than 20 pounds (9 kg) of smokeless propellants, in containers of 1 pound (0.454 kg) or less capacity each, shall be displayed in Group M occupancies.

(ii) **5606.5.1.2 Black powder.** Not more than 1 pound (0.454 kg) of black powder shall be displayed in Group M occupancies.

(iii) **5606.5.1.3 Small arms primers.** Not more than 10,000 small arms primers shall be displayed in Group M occupancies.

(b) **5606.5.2 Storage.** Storage of small arms ammunition components shall comply with *paragraphs (F)(5)(b)(i)(5606.5.2.1) to (F)(5)(b)(iii)(5606.5.2.3) of this rule.*

(i) **5606.5.2.1 Smokeless propellant.** Commercial stocks of smokeless propellants shall be stored as follows:

(a) Quantities exceeding 20 pounds (9 kg), but not exceeding 100 pounds (45 kg) shall be stored in portable wooden boxes having walls of not less than 1 inch (25 mm) nominal thickness.

(b) Quantities exceeding 100 pounds (45 kg), but not exceeding 800 pounds (363 kg), shall be stored in nonportable storage cabinets having walls not less than 1 inch (25 mm) nominal thickness. Not more than 400 pounds (182 kg) shall be stored in any one cabinet, and cabinets shall be separated by a distance of not less than 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of not less than 1 hour.

(c) Storage of quantities exceeding 800 pounds (363 kg), but not exceeding 5,000 pounds (2270 kg) in a building shall comply with all of the following:

(i) The warehouse or storage room is inaccessible to unauthorized personnel.

(ii) Smokeless propellant shall be stored in nonportable storage cabinets having wood walls not less than 1 inch (25 mm) nominal thickness and having shelves with not more than 3 feet (914 mm) of separation between shelves.

(iii) Not more than 400 pounds (182 kg) is stored in any one cabinet.

(iv) Cabinets shall be located against walls of the storage room or warehouse with not less than 40 feet (12 192 mm) between cabinets.

(v) The minimum required separation between cabinets shall be 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades must extend not less than 10 feet (3048 mm) outward, be firmly attached to the wall and be constructed of steel not less than ¼ inch thick (6.4 mm), 2-inch (51 mm) nominal thickness wood, brick or concrete block.

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- (vi) Smokeless propellant shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of 1 hour.
- (vii) The building shall be equipped throughout with an automatic sprinkler system installed in accordance with *paragraph (C)(3)(a)(i)(903.3.1.1) of rule 1301:7-7-09 of the Administrative Code.*
- (d) Smokeless propellants not stored in accordance with *paragraph (F)(5)(b)(i)(a)(5606.5.2.1), (F)(5)(b)(i)(b)(5606.5.2.1), or (F)(5)(b)(i)(c)(5606.5.2.1) of this rule* shall be stored in a Type 2 or 4 magazine in accordance with *paragraph (D)(5604) of this rule and NFPA 495 as listed in rule 1301:7-7-80 of the Administrative Code.*
- (ii) **5606.5.2.2 Black powder.** Commercial stocks of black powder in quantities less than 50 pounds (23 kg) shall be allowed to be stored in Type 2 or 4 indoor or outdoor magazines. Quantities greater than 50 pounds (23 kg) shall be stored in outdoor Type 2 or 4 magazines. When black powder and smokeless propellants are stored together in the same magazine, the total quantity shall not exceed that permitted for black powder.
- (iii) **5606.5.2.3 Small arms primers.** Commercial stocks of small arms primers shall be stored as follows:
 - (a) Quantities not to exceed 750,000 small arms primers stored in a building shall be arranged such that not more than 100,000 small arms primers are stored in any one pile and piles are not less than 15 feet (4572 mm) apart.
 - (b) Quantities exceeding 750,000 small arms primers stored in a building shall comply with all of the following:
 - (i) The warehouse or storage building shall not be accessible to unauthorized personnel.
 - (ii) Small arms primers shall be stored in cabinets. Not more than 200,000 small arms primers shall be stored in any one cabinet.
 - (iii) Shelves in cabinets shall have vertical separation of not less than 2 feet (610 mm).
 - (iv) Cabinets shall be located against walls of the warehouse or storage room with not less than 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets shall be allowed to be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades shall be firmly attached to the wall and shall be constructed of steel not less than ¼ inch thick (6.4 mm), 2-inch (51 mm) nominal thickness wood, brick or concrete block.
 - (v) Small arms primers shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids or oxidizing materials by a distance of 25 feet (7620 mm) by a fire partition having a fire-resistance rating of 1 hour.
 - (vi) The building shall be protected throughout with an automatic sprinkler system installed in accordance with *paragraph (C)(3)(a)(i)(903.3.1.1) of rule 1301:7-7-09 of the Administrative Code.*
 - (c) Small arms primers not stored in accordance with *paragraph (F)(5)(b)(iii)(a)(5606.5.2.3) or (F)(5)(b)(iii)(b)(5606.5.2.3) of this rule* shall be stored in a magazine meeting the requirements of *paragraph (D)(5604) of this rule and NFPA 495 as listed in rule 1301:7-7-80 of the Administrative Code.*

Note: for copyright claim information, please see the notice on the last page of this rule.

(G) Section 5607 Blasting

(1) **5607.1 General.** Blasting operations shall be conducted only by approved, competent operators familiar with the required safety precautions and the hazards involved and in accordance with the provisions of NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(2) **5607.2 Manufacturer's instructions.** Blasting operations shall be performed in accordance with the instructions of the manufacturer of the explosive materials being used.

(3) **5607.3 Blasting in congested areas.** Where blasting is done in a congested area or in close proximity to a structure, railway or highway, or any other installation, precautions shall be taken to minimize earth vibrations and air blast effects. Blasting mats or other protective means shall be used to prevent fragments from being thrown.

(4) **5607.4 Restricted hours.** Surface-blasting operations shall only be conducted during daylight hours between sunrise and sunset. Other blasting shall be performed during daylight hours unless otherwise approved by the fire code official.

(5) **5607.5 Utility notification.** Where blasting is being conducted in the vicinity of utility lines or rights-of-way, the blaster shall notify the appropriate representatives of the utilities not less than 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notices shall be confirmed with written notice.

Exception: In an emergency situation, the time limit shall not apply where approved.

(6) **5607.6 Electric detonator precautions.** Precautions shall be taken to prevent accidental discharge of electric detonators from currents induced by radar and radio transmitters, lightning, adjacent power lines, dust and snow storms, or other sources of extraneous electricity.

(7) **5607.7 Nonelectric detonator precautions.** Precautions shall be taken to prevent accidental initiation of nonelectric detonators from stray currents induced by lightning or static electricity.

(8) **5607.8 Blasting area security.** During the time that holes are being loaded or are loaded with explosive materials, blasting agents or detonators, only authorized persons engaged in drilling and loading operations or otherwise authorized to enter the site shall be allowed at the blast site. The blast site shall be guarded or barricaded and posted. Blast site security shall be maintained until after the post-blast inspection has been completed.

(9) **5607.9 Drill holes.** Holes drilled for the loading of explosive charges shall be made and loaded in accordance with NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(10) **5607.10 Removal of excess explosive materials.** After loading for a blast is completed and before firing, excess explosive materials shall be removed from the area and returned to the proper storage facilities.

(11) **5607.11 Initiation means.** The initiation of blasts shall be by means conforming to the provisions of NFPA 495 *as listed in rule 1301:7-7-80 of the Administrative Code.*

(12) **5607.12 Connections.** The blaster shall supervise the connecting of the blastholes and the connection of the loadline to the power source or initiation point. Connections shall be made progressively from the blasthole back to the initiation point.

Blasting lead lines shall remain shunted (shorted) and shall not be connected to the blasting machine or other source of current until the blast is to be fired.

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(13) **5607.13 Firing control.** A blast shall not be fired until the blaster has made certain that all surplus explosive materials are in a safe place in accordance with *paragraph (G)(10)(5607.10) of this rule*, all persons and equipment are at a safe distance or under sufficient cover and that an adequate warning signal has been given.

(14) **5607.14 Post-blast procedures.** After the blast, the following procedures shall be observed.

- (a) No person shall return to the blast area until allowed to do so by the blaster in charge.
- (b) The blaster shall allow sufficient time for smoke and fumes to dissipate and for dust to settle before returning to or approaching the blast area.
- (c) The blaster shall inspect the entire blast site for misfires before allowing other personnel to return to the blast area.

(15) **5607.15 Misfires.** Where a misfire is suspected, all initiating circuits shall be traced and a search made for unexploded charges. Where a misfire is found, the blaster shall provide proper safeguards for excluding all personnel from the blast area. Misfires shall be reported to the blasting supervisor immediately. Misfires shall be handled under the direction of the person in charge of the blasting operation in accordance with NFPA 495 as listed in rule 1301:7-7-80 of the Administrative Code.

(H) Section 5608 Fireworks exhibition

(1) **5608.1 Permit.** *This paragraph applies to any exhibition of 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0432), 1.4S fireworks (UN0337) and 1.4S special effects fireworks (UN0432). No 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335) or 1.4G fireworks (UN0336) may be displayed or otherwise discharged indoors.*

A permit shall be obtained from the local fire official and law enforcement officer of the jurisdiction for any outdoor exhibition of 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0432), 1.4S fireworks (UN0337) and 1.4S special effects fireworks (UN0432) fireworks and any indoor exhibition of 1.4G special effects fireworks (UN0432), 1.4S fireworks (UN0337) and 1.4S special effects fireworks (UN0432) pursuant to the applicable provisions of section 3743.54 of the Revised Code. The permit shall bear the signatures of the fire official and law enforcement official having jurisdiction and the licensed exhibitor applying to conduct the fireworks exhibition. The permit shall identify the certified fire safety inspector, fire chief, or fire prevention officer who will be present before, during, and after the fireworks exhibition, where appropriate.

(a) **5608.1.1 Permit form.** *The form for exhibition permit as prescribed by the state fire marshal shall be legibly and fully completed by the licensed exhibitor to clearly indicate the circumstances of the public fireworks exhibition the exhibitor wishes to conduct.*

(b) **5608.1.2 Approval.** *Before any fireworks exhibition permit issued under this rule is considered to be a valid permit to allow the licensed exhibitor to acquire fireworks and conduct a fireworks exhibition, the permit must be signed and dated by the local officials having jurisdiction.*

(2) **5608.2 Permit approval.** *A fireworks exhibition permit should be obtained from such local officials at least five days in advance of the fireworks exhibition. Failure to obtain the exhibition permit prior to five days in advance of the fireworks exhibition may result in denial of the approval required to conduct the fireworks exhibition.*

(3) **5608.3 Fee.** *When the legislative authority of the political subdivision has prescribed a fee for the issuance of a permit for a fireworks exhibition, the fire official and law enforcement officer shall not issue such permit until the exhibitor pays the requisite fee and meets the financial responsibility requirements of paragraph (A)(2)(d)(ii)(5601.2.4.2) of this rule.*

(4) **5608.4 Inspection of site.** *The fire chief or fire prevention officer of the authority having jurisdiction shall inspect the premises where the fireworks exhibition is to take place and determine whether the fireworks exhibition is in compliance with Chapter 3743. of the Revised Code and NFPA 1123 (Chapter 5, site selection) and the applicable portions of NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code. The radius of separation distance between all mortars, racks or other points of fireworks discharge and any members of the public shall be measured, regardless of obstruction or other topographical features, as a direct point to point line of sight measurement. All such separation distances shall be measured from the same horizontal plane of elevation between the fireworks discharge point and members of the public. No members of the public shall, regardless of their relative difference in elevation from the horizontal plane of measurement, be permitted within the required radius of separation. For the purposes of this paragraph, the radius of separation extends infinitely above and below the horizontal plane of measurement. The inspection shall be conducted prior to the issuance of the permit for a fireworks exhibition.*

(5) **5608.5 Inspection checklist.** *At the time of the required site inspection, the fire chief or fire prevention officer, shall complete the required detailed inspection checklist as prescribed by the state fire marshal and set forth in the appendix to this rule. If the exhibition is to be inspected is an outdoor exhibition, the fire chief or fire prevention officer shall complete the detailed inspection checklist, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township police district or with a designee of such a police chief or other similar chief law enforcement officer. No exhibition of fireworks shall occur in this state until the licensed exhibitor possesses a copy of the appropriate checklist signed by the fire official and the licensed exhibitor.*

(6) **5608.6 Exhibitor's license requirement.** *No permit for a fireworks exhibition shall be granted unless the applicant is in possession of a valid license to exhibit fireworks issued by the state fire marshal. Each applicant for a permit shall show the applicant's license as an exhibitor of fireworks to the fire chief or fire prevention officer and, upon request to the police chief or other similar law enforcement officer.*

(7) **5608.7 Fireworks exhibition permit application detailed information required.**

(a) **5608.7.1** *When an Ohio licensed exhibitor applies for the permit required by paragraph (H)(1)(5608.1) of this rule, the licensed exhibitor shall submit all of the following information to the local officials having jurisdiction over the exhibition. Such information shall include but not be limited to:*

(i) **5608.7.1.1** *The name of the organization sponsoring the fireworks exhibition together with the names of persons actually in charge of the fireworks exhibition.*

(ii) **5608.7.1.2** *The date and time of day when the fireworks exhibition is to be held.*

(iii) **5608.7.1.3** *The exact location planned for the fireworks exhibition.*

(iv) **5608.7.1.4** *The name and license number of the fireworks exhibitor who is to supervise the discharge of fireworks and of all personnel assisting within the discharge perimeter.*

(v) **5608.7.1.5** *The class of fireworks to be discharged with the number of set pieces and shells (specify single- or multiple-break), including experimental rockets or missiles.*

(a) **5608.7.1.5.1** *For the indoor exhibition of fireworks, the requirements for pyrotechnic product information in accordance with Chapter 7 of NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.*

(vi) **5608.7.1.6** *The manner and place of storage of all fireworks prior to and during the fireworks exhibition for all fireworks storage shall be in accordance with paragraph (J)(1)(5610.1) of this rule.*

(vii) **5608.7.1.7** A diagram of the premises on which the fireworks exhibition is to be held, showing the point at which the fireworks are to be discharged, the location of all buildings, highways, railroads, or other inhabited structures within one thousand feet of the discharge and potential landing site. The diagram shall also show the line barriers behind which the audience will be restrained.

(a) **5608.7.1.7.1** For the indoor exhibition of fireworks, the diagram must include:

- (i) The interior of the structure to be used for the exhibition and the layout of all devices to be used at the exhibition.
- (ii) A description of the direction the devices shall be fired and the fallout radius for each device.
- (iii) The lines behind which the audience shall be restrained.

(b) **5608.7.1.7.2** For the indoor exhibition of fireworks, certifications that the set, scenery and rigging materials are treated with appropriate flame retardant.

(viii) **5608.7.1.8** Proof that general liability insurance or indemnity bond issued by a company licensed to provide such coverages in the state of Ohio, for an amount no less than one million dollars or as otherwise required in a higher amount by the authority having jurisdiction, is in force for the applicant and includes acts of all employees.

(ix) **5608.7.1.9** A copy of each exhibitor's license and proof of assistant's registration for all individuals proposed to operate within the discharge perimeter.

(x) **5608.7.1.10** The name and license number of the fireworks manufacturer, wholesaler or out-of-state shipper who supplied all items in the fireworks exhibition.

(b) **5608.7.2** The licensed exhibitor reflected on the fireworks exhibition permit at the time of the fireworks exhibition shall be responsible for compliance with the provisions under which the fireworks exhibition permit was granted.

(c) **5608.7.3** A copy of the issued permit and the completed inspection checklist shall be sent to the state fire marshal by the fire official no later than five days after the date of the fireworks exhibition. In the event of any incident resulting in an investigation or other inquiry by the state fire marshal or other authority having jurisdiction, the completed permit and the completed inspection checklist shall be made immediately available to the state fire marshal or other authority having jurisdiction upon request.

(8) **5608.8 Permit, denial and revocation.** The local fire official and, for the outdoor exhibition of fireworks a law enforcement officer of the jurisdiction may deny or revoke a fireworks exhibition permit for any of the following:

- (a) **5608.8.1** The applicant/exhibitor does not possess a valid exhibitor's license issued by the state fire marshal.
- (b) **5608.8.2** The site on which the fireworks exhibition is to take place does not conform to the applicable rules.
- (c) **5608.8.3** The applicant has failed to pay the permit fee or provide the required information.
- (d) **5608.8.4** The applicant has failed to provide the required indemnity bond or proof of insurance.
- (e) **5608.8.5** The exhibitor has failed to postpone a fireworks exhibition when so ordered due to unsafe conditions or operations, inclement weather, wind conditions, unsafe spectator conditions, or any other condition in violation of this rule.

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(f) **5608.8.6** *The exhibitor has failed to store the fireworks in a safe manner prior to or during the fireworks exhibition or is firing the fireworks exhibition in an unsafe manner.*

(g) **5608.8.7** *The licensed exhibitor present at the fireworks exhibition is not the licensed exhibitor that was designated to be present pursuant to paragraph (H)(7)(a)(iv)(5608.7.1.4) of this rule. The authority having jurisdiction is authorized to approve a substitution of another licensed exhibitor under extenuating circumstances prior to the fireworks exhibition provided that the substitute licensed exhibitor:*

(i) **5608.8.7.1** *Demonstrates to the authority having jurisdiction possession of a valid fireworks exhibitors license;*

(ii) **5608.8.7.2** *Signs the fireworks exhibition permit and thereby accepts the full responsibility and liability for conducting the fireworks exhibition as initially approved;*

(iii) **5608.8.7.3** *Produces proof that general liability insurance or indemnity bond issued by a company licensed to provide such coverages in the state of Ohio, for an amount no less than one million dollars or as otherwise required in a higher amount by the authority having jurisdiction, is in force for the applicant and includes acts of all employees;*

(iv) **5608.8.7.4** *Demonstrates to the authority having jurisdiction that they are authorized by the initial exhibitor to conduct the fireworks exhibition;*

(v) **5608.8.7.5** *Follows the initially approved conditions of the fireworks exhibition permit;*

(vi) **5608.8.7.6** *Conducts the fireworks exhibition in accordance with the requirements of this rule.*

(9) **5608.9 Ceasing operations.** *The conducting of an exhibition by an exhibitor, all exhibition discharges, and any associated exhibition operations shall immediately cease and the fireworks exhibition shall be postponed or cancelled when: a fireworks incident occurs, the ceasing of operations is so ordered by the authority having jurisdiction or the licensed fireworks exhibitor due to unsafe conditions or operations, inclement weather, wind conditions, unsafe spectator conditions, or any other condition in violation of this rule, or any substantially unsafe exhibition conditions or operations, wind or spectator conditions, inclement weather, or any other substantially unsafe conditions occur in violation of this rule. Any ceasing of operations shall result in the automatic revocation of the exhibition permit associated with the operations.*

The orders to cease operations, postpone the fireworks exhibition and the revocation of the fireworks exhibition permit may be communicated verbally by the authority having jurisdiction. When so ordered or when the fireworks exhibition permit has been revoked, the exhibitor shall cease firing of the fireworks exhibition immediately.

(a) 5608.9.1 Resuming Operations Unless a fireworks incident has occurred, the exhibitor may reapply for and be granted a new permit for the fireworks exhibition when the fire official and, for an outdoor exhibition, a law enforcement officer, are satisfied that all rules, conditions, and operations are safe or have been complied with. If a fireworks incident has occurred, an exhibition permit may only be reissued upon the state fire marshal's completion of an investigation pursuant to section 3743.541(B) of the Revised Code.

(b) 5608.9.2. Firework Incidents. All persons conducting or assisting in the conduct of a fireworks exhibition must comply with paragraphs (H)(9)(b)(i)(5608.9.2.1) to (H)(9)(b)(iii)(5608.9.2.31) as required by division (B) of section 3743.541 of the Revised Code:

(i) 5608.9.2.1 The appropriate certified fire safety inspector, fire chief, or fire prevention officer or appropriate state or local law enforcement authority with jurisdiction over a fireworks incident site shall immediately notify the state fire marshal, the state fire marshal's designee, or a member of the state fire marshal's staff regarding the occurrence of the fireworks incident and the location of the fireworks incident site.

*(ii) **5608.9.2.2** At any time after a fireworks incident occurs, unless the state fire marshal otherwise delegates the state fire marshal's authority to the appropriate state or local law enforcement authority with jurisdiction over the fireworks incident site, the state fire marshal, the state fire marshal's designee, or a member of the state fire marshal's staff shall supervise and coordinate the investigation of the fireworks incident and supervise any dismantling, repositioning, or other disturbance of fireworks, associated equipment or other materials, or other items within the fireworks incident site or of any evidence related to the fireworks incident.*

*(iii) **5608.9.2.3** A state or local law enforcement officer, certified fire safety inspector, fire chief, or fire prevention officer, or any person authorized and supervised by a state or local law enforcement officer, certified fire safety inspector, fire chief, or fire prevention officer, prior to the arrival of the state fire marshal, the state fire marshal's designee, or a member of the state fire marshal's staff at a fireworks incident site, may dismantle, reposition, or move any fireworks, any associated equipment or other materials, or any other items found within the site or any evidence related to the fireworks incident only as necessary to prevent an imminent fire, imminent explosion, or similar threat of additional injury or death to any member of the public at the site.*

(10) 5608.10 Safety requirements. All fireworks exhibitions shall be conducted in accordance with the following as applicable to the type of exhibition:

(a) 5608.10.1 Mortars. All mortars used in a fireworks exhibition that are greater than or equal to eight inches in diameter shall be equipped with electronic ignition equipment in accordance with NFPA 1123 as listed in rule 1301:7-7-80 of the Administrative Code.

(b) 5608.10.2 Standard of stability. All fireworks mortars and mortar racks used at a fireworks exhibition shall conform to the requirements of NFPA 1123 as listed in rule 1301:7-7-80 of the Administrative Code and this paragraph to ensure stability.

(i) 5608.10.2.1 All mortar racks shall be securely positioned in accordance with the requirements of NFPA 1123 as listed in rule 1301:7-7-80 of the Administrative Code. The methods used to securely position the mortar rack shall not include the use of items such as plastic ties, string, twine, tape, or any other material that may easily break, dislodge, ignite, or otherwise permit the repositioning of the mortar rack.

(ii) 5608.10.2.2 All mortars, bundles, box items, cakes, candle placements, and mortar racks shall be inherently stable or be properly secured and braced to prevent repositioning. It is not acceptable to create inherent stability of mortar racks only by connection to other mortar racks.

(iii) 5608.10.2.3 All mortar racks shall be individually secured by one or more approved method. Approved methods include but are not limited to: utilizing steel stakes, sturdy wood stakes, or spikes securely attached to the rack frame with approved materials; utilizing sand bags of sufficient quantity and height placed on each side of and in direct contact with the rack frame; utilizing wood or steel feet of sufficient length, strength, and durability, securely attached in a perpendicular orientation to the ends of the rack frame; utilizing sideboards securely mounted in a perpendicular orientation to both ends of the rack frame; or by the construction of A-frame braces of sufficient strength and durability securely attached to both ends of the rack frame.

(iv) 5608.10.2.4 The stability of all mortars, bundles, box items, cakes, candle placements and mortar racks shall be verified by the licensed fireworks exhibitor and fire official immediately prior to the fireworks exhibition. Each such item shall be individually addressed in an appropriate manner to ensure its integrity and stability prior to providing affirmative documentation of such stability on the required inspection checklist.

(c) 5608.10.3 Exhibition site activity. Each licensed exhibitor shall display prominently upon their person any visible identification required by the fire code official at all times when within the discharge perimeter or otherwise at the exhibition site. Each licensed exhibitor shall make their exhibitor license available for review to any fire or law enforcement officer upon request.

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(i) **5608.10.3.1 Discharge perimeter for an outdoor exhibition.** Only fire officials, licensed fireworks exhibitors or persons who are employees of licensed exhibitors of fireworks and who are registered with the state fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter during a fireworks exhibition.

(ii) **5608.10.3.2 Fall out area for an indoor exhibition.** Only fire officials, licensed fireworks exhibitors, or persons who are employees of licensed exhibitors of fireworks and who are registered with the state fire marshal under section 3743.56 of the Revised Code shall be permitted within the fall out area during a fireworks exhibition. If approved by the fire official, persons associated with a theatrical or other similar performance related to the exhibition may also be permitted within the fall out area during an indoor fireworks exhibition.

(d) **5608.10.4 Inspection.** An inspection of all affected premises shall be conducted immediately following a fireworks exhibition for purposes of locating and disposing of defective or unexploded fireworks. If an outdoor fireworks exhibition is conducted at night, an inspection shall also be conducted at sunrise the following morning.

(e) **5608.10.5 Fire official.** The governing authority having jurisdiction in the location where an outdoor exhibition is to take place shall require that a certified fire safety inspector, fire chief, or fire prevention officer be present before, during, and after the outdoor fireworks exhibition. The fire safety inspector, fire chief or fire prevention officer, shall complete the detailed inspection checklist as prescribed by the state fire marshal and set forth in the appendix of this rule. If the exhibition to be inspected is an outdoor exhibition, the fire chief or fire prevention officer shall complete the detailed inspection checklist, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township police district or with a designee of such a police chief or other similar chief law enforcement officer.

(f) **5608.10.6 Assistants.** No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the state fire marshal under section 3743.56 of the Revised Code.

(g) **5608.10.7** Unless otherwise specifically directed by this rule, the Administrative Code, or the Revised Code, all fireworks used in any type of exhibit shall be used in accordance with the instructions provided by the manufacturer.

(I) Section 5609 Shipping and transportation

(1) **5609.1 General.** As used in this paragraph, "fireworks" includes 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0432), 1.4S fireworks (UN0337) and 1.4S special effects fireworks (UN0432). All fireworks transported on the highways in this state and all wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with DOT regulations applicable to the transportation, and the offering for transportation, of hazardous materials and NFPA 1123, 1124 and 1126 as listed in rule 1301:7-7-80 of the Administrative Code. All fireworks otherwise transported into or through this state shall be transported in accordance with applicable law. For purposes of this paragraph, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be presumed to be a wholesale or commercial sale.

(2) **5609.2 Interstate shipment of fireworks.** No person shall ship fireworks into this state by mail, parcel post, or common carrier unless the person possesses a valid shipping permit issued under section 3743.40 of the Revised Code, and the fireworks are shipped directly to the holder of a license issued under section 3743.03 or 3743.16 of the Revised Code or to the holder of a license issued under section 3743.51 of the Revised Code who possesses a

valid exhibition permit issued in accordance with section 3743.54 of the Revised Code and the fireworks being shipped are to be used at that specifically permitted exhibition.

(3) **5609.3 Intrastate shipment of fireworks.** *No person shall ship fireworks within this state by mail, parcel post, or common carrier unless the fireworks are shipped directly to the holder of a license issued under section 3743.03 or 3743.16 of the Revised Code or to the holder of a license issued under section 3743.51 of the Revised Code who possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code and the fireworks being shipped are to be used at that specifically permitted exhibition.*

(J) Section 5610 Storage of fireworks at exhibition site

(1) **5610.1 Storage.** *The storage of fireworks at the exhibition site shall comply with the requirements of this paragraph and NFPA 1123 and NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code. All fireworks to be used at a fireworks exhibition shall be stored in an approved magazine at the exhibition site until immediately prior to their use. Such magazine shall be located in an area approved by the local fire official and shall meet the table of distances requirements of this rule. Magazines shall be constructed in accordance with this rule. No fireworks may be acquired or stored by an exhibitor until the permit for the specific exhibition that the fireworks will be used at has been issued. Such storage shall not exceed a period of seventy-two hours prior to the start of the fireworks exhibition as provided for in the approved permit unless all of the following apply:*

- (a) *The fire code official having jurisdiction over the exhibition approves the extended time period for storage as part of the exhibition permit.*
- (b) *All fireworks are stored at the exhibition site as that site is described in the permit.*
- (c) *The fireworks stored at the exhibition site in accordance with this rule shall only be those fireworks approved by the fire code official having jurisdiction as necessary for the specific exhibition listed in the exhibition permit that describes the extended storage period.*
- (d) *The extended time period for storage shall not exceed a maximum of fourteen days.*

(2) **5610.2 Supervision and weather protection.** *Beginning as soon as fireworks have been delivered to the exhibition site, they shall not be left unattended.*

(3) **5610.3 Weather protection.** *Fireworks shall be kept dry after delivery to the exhibition site.*

(4) **5610.4 Inspection.** *Fireworks shall be inspected by the operator or assistants after delivery to the exhibition site. Fireworks having tears, leaks, broken fuses or signs of having been wet shall be set aside and shall not be fired. Aerial shells shall be checked for proper fit in mortars prior to discharge. Aerial shells that do not fit properly shall not be fired. After the fireworks exhibition, damaged, deteriorated or dud fireworks shall either be returned to the supplier or destroyed in accordance with the supplier's instructions and paragraph (D)(10)(5604.10) of this rule.*

Exception: *Minor repairs to fuses shall be allowed. For electrically ignited exhibitions, attachment of electric matches and similar tasks shall be allowed.*

(5) **5610.5 Sorting and separation.** *After delivery to the exhibition site and prior to the fireworks exhibition, all aerial shells shall be separated according to size and their designation as salutes.*

Exception: *For electrically fired fireworks exhibitions, or exhibitions where all shells are loaded into mortars prior to the show, there is no requirement for separation of shells according to size or their designation as salutes.*

(6) **5610.6 Ready boxes.** Fireworks that will be temporarily stored at the site during the fireworks *exhibition* shall be stored in ready boxes located upwind and at least 25 feet (7620 mm) from the mortar placement and separated according to size and their designation as salutes.

Exception: For electrically fired *fireworks exhibitions*, or *exhibitions* where all shells are loaded into mortars prior to the show, there is no requirement for separation of shells according to size, their designation as salutes, or for the use of ready boxes.

(K) Section 5611 Flame effects permit

(1) **5611.1 Scope.** *This paragraph shall apply to the following:*

- (a) *Use of flame effects for entertainment, exhibition, demonstration or simulation before an audience;*
- (b) *Design, fabrication, installation, testing, control, operation, and maintenance of equipment, materials, procedures, and systems used to produce flame effects;*
- (c) *Rehearsal, videotaping, audio taping, or filming of any television, radio, or movie production if such production is before an audience and includes the use of flame effects;*
- (d) *Rehearsal of any production incorporating flame effects intended to be presented before an audience;*
- (e) *Storage and holding at a venue where flammable and combustible materials are used to create flame effects;*

(2) **5611.2.** *This rule shall not apply to:*

- (a) *Flame effects produced solely by pyrotechnic special effects devices;*
- (b) *Use of pyrotechnic special effects;*
- (c) *Storage of flammable solids, liquids, and gases not to be used to create flame effects;*
- (d) *Manufacture, off-site storage, and transportation of materials and equipment used to produce flame effects;*
- (e) *Use of flame effects in fire training, except where there is an audience that is not part of the training;*
- (f) *Manufacture, transportation, storage, sale, or use of model or high-power rocket motors;*
- (g) *Traditional non-theatrical public display of flames such as the following:*
 - (i) *Use of lighted candles in restaurants or religious services;*
 - (ii) *Fireplace in areas open to the public;*
 - (iii) *Restaurant cooking visible to the patrons;*
 - (iv) *Listed Group II flame effects.*
- (h) *Use of motor vehicles in races or sanctioned competitive sporting events.*

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(3) **5611.3 Permit.** A permit shall be obtained from the local fire code official of the jurisdiction for the use of indoor and outdoor flame effects as set forth in paragraph (K)(1)(5611.1) of this rule at least five days in advance of the production, exhibition, demonstration, or simulation using the flame effects. Failure to obtain a permit prior to five days in advance of the production or non-compliance with the requirements of this rule and NFPA 160 as listed in rule 1301:7-7-80 of the Administrative Code may, in the discretion of the local fire code official, result in denial or revocation of the permit.

Before any flame effects exhibition permit issued under this rule is considered to be a valid permit to allow the licensed flame effects exhibitor to conduct a flame effects exhibition, the permit, upon approval, must be signed and dated by the local fire code official having jurisdiction. As required by the local fire code official to confirm compliance with this paragraph, receipt of the permit and/or any conditions associated thereto, the flame effects exhibitor shall sign and date the permit application, the permit and/or any other required documentation.

When a permit is required by this rule, a local fire code official shall be present during the production, exhibition, demonstration, or simulation using flame effects.

Exception: When issuing a permit for a group I or group II flame effects production, exhibition, demonstration, or simulation using flame effects, the local fire code official may determine that a local fire code official need not be present during such an exhibition.

If a permit is required by this rule, the permit shall identify the local fire code official who will be present before, during, and after the flame effects exhibition.

If any portion of the fire protection or life safety systems of a structure are interrupted during the operation of flame effects, a local fire code official must grant a prior approval of and be present during such interruptions.

Any performance adding flame effects different from the performance described in the permittee's plan shall require approval by the local fire code official having jurisdiction.

(4) **5611.4 Permit form.** The application form for exhibition permit as prescribed by the state fire marshal shall be legibly and fully completed by the licensed flame effects exhibitor to clearly indicate the circumstances and class of the flame effects exhibition the flame effects exhibitor wishes to conduct.

(5) **5611.5 Flame effects use plan.** Before the performance of any production, the permit applicant shall submit a plan for the use of flame effects to the local fire code official. The plan shall be made in writing in such form as is acceptable to the local fire code official and shall demonstrate compliance with this rule and NFPA 160 listed in rule 1301:7-7-80 of the Administrative Code. The plan shall include but is not limited to the following:

- (a) The name of the person, group, or organization sponsoring the production;
- (b) The date and time of day of the production;
- (c) The exact location of the production;
- (d) The name of the flame effects exhibitor and proof of valid flame effects exhibitor license issued by the state fire marshal;
- (e) The number, names, and ages of all assistants that will be present;
- (f) The qualifications and experience of the flame effects exhibitor;
- (g) The flame effects classification and design criteria in accordance with NFPA 160 listed in rule 1301:7-7-80 of the Administrative Code;

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- (h) *A diagram of the site indicating the location of all flame effects devices, the areas effected by each device, location of the audience and separation distances, means of egress, and information on all fuels and ventilation for each effect;*
- (i) *A narrative description of the flame effects, controls, and control sequences of all devices, and emergency response procedures;*
- (j) *If applicable, a valid Material Safety Data Sheet (MSDS) for each fuel utilized;*
- (k) *Documentation that the set, scenery, and rigging materials are treated with appropriate flame retardant.*

After a permit has been granted, the permittee shall keep the plan available at the site for safety inspectors or other designated agents of each authority having jurisdiction.

(6) 5611.6 Fee. *When the legislative authority of the political subdivision has prescribed a fee for the issuance of a permit for a flame effects exhibition, the local fire code official shall not issue such permit until the flame effects exhibitor pays the requisite fees as required by the local legislative enactment setting forth such fee.*

(7) 5611.7 Inspection of site. *Prior to issuance, the local fire code official having jurisdiction shall inspect the premises where the flame effects exhibition is to take place and determine whether the exhibition, demonstration, or simulation using flame effects is in compliance with this rule, Chapter 3743. of the Revised Code, and NFPA 160 (Annex C, Inspection Guidelines) as listed in rule 1301:7-7-80 of the Administrative Code.*

(8) 5611.8 Inspection checklist. *At the time of the required site inspection, the local fire code official having jurisdiction shall complete the required detailed inspection checklist as prescribed by the state fire marshal. No production, exhibition, demonstration, or simulation using flame effects shall occur in this state until the licensed flame effects exhibitor possesses a copy of the appropriate checklist signed by the local fire code official.*

(9) 5611.9 Requirements to exhibit flame effects. *No person shall engage in the production, exhibition, demonstration, or simulation using flame effects unless the person obtains a permit in accordance with this rule. No permit for a flame effects exhibition shall be granted unless the applicant is in possession of a valid flame effects exhibitor's license in accordance with paragraph (S)(5619) of this rule to exhibit, demonstrate, or simulate using flame effects. Each applicant for a permit shall show the applicant's license as a flame effects exhibitor's license to the local fire code official and, upon request, to the police chief or other similar law enforcement officer.*

(10) 5611.10 Permit, denial and revocation. *The local fire code official may deny or revoke a flame effects exhibition permit for any of the following:*

- (a) *The applicant/exhibitor does not possess a valid flame effects exhibitor's license issued by the state fire marshal.*
- (b) *The site on which the flame effects exhibition is to take place does not conform to the applicable rules.*
- (c) *The applicant has failed to pay the permit fee or provide the required information.*
- (d) *The applicant has failed to provide the required indemnity bond or proof of insurance, if such indemnity bond or proof of insurance is required by the local fire code official at the local fire code official's discretion.*
- (e) *The flames effects exhibitor has failed to postpone a flame effects exhibition when so ordered due to unsafe conditions or operations, unsafe spectator conditions, or any other condition in violation of this rule.*

- (f) *The flames effects exhibitor has failed to store the flame effects in a safe manner prior to or during the flame effects exhibition or is firing the flame effects exhibition in an unsafe manner.*
- (g) *The licensed flames effects exhibitor present at the flame effects exhibition is not the licensed flame effects exhibitor that was designated to be present pursuant to paragraph (K)(2)(5611.2) and (K)(4)(5611.4) of this rule. The local fire code official is authorized to approve a substitution of another licensed flame effects exhibitor under extenuating circumstances prior to the flame effects exhibition provided that the substitute licensed flame effects exhibitor:*
 - (i) *Demonstrates to the local fire code official possession of a valid flame effects exhibitor's license;*
 - (ii) *Signs the flame effects exhibition permit and thereby accepts the full responsibility and liability for conducting the flame effects exhibition as initially approved;*
 - (iii) *If required by the local fire code official, produces proof that general liability insurance or indemnity bond issued by a company licensed to provide such coverage in the state of Ohio, for an amount no less than one million dollars or as otherwise required in a higher amount by the local fire code official, is in force for the applicant and includes acts of all employees;*
 - (iv) *Demonstrates to the local fire official that they are authorized by the initial flame effects exhibitor to conduct the flame effects exhibition;*
 - (v) *Follows the initially approved conditions of the flame effects exhibition permit;*
 - (vi) *Conducts the flame effects exhibition in accordance with the requirements of this rule.*
- (h) *The licensed flame effects exhibitor failed to produce, exhibit, demonstrate, or simulate using flame effects in accordance with this rule or otherwise failed to comply with the requirements set forth in this rule.*

(11) **5611.11 Ceasing operations.** *Operations shall immediately cease and the flame effects exhibition shall be postponed by the licensed flame effects exhibitor when so ordered by the local fire code official or due to unsafe conditions or operations, unsafe spectator conditions, or any other condition in violation of this rule.*

The local fire code official shall order the immediate cessation of the flame effects exhibition due to unsafe conditions or operations, unsafe spectator conditions, or any other condition in violation of this rule. The orders to cease operations, postpone the flame effects exhibition and the revocation of the flame effects exhibition permit may be communicated verbally by the local fire code official. When so ordered or when the flame effects exhibition permit has been revoked, the flame effects exhibitor shall cease the flame effects exhibition immediately. The flame effects exhibitor may reapply for a new permit for the flame effects exhibition when the local fire code official is satisfied that all rules, conditions, and operations are safe or have been complied with.

(12) **5611.12 General.** *All flame effects control systems shall be designed and installed to prevent accidental firing and unintentional release of fuel.*

(13) **5611.13 Holding areas, quantity, use, operation, design, and control of flame effects.**

(a) **5611.13.1 General** *All flame effect materials and devices not connected for use shall be stored in accordance with applicable codes and standards and any state and local regulations.*

(b) **5611.13.2 Holding areas** *All flammable flame effect materials and loaded devices that have been removed from storage areas in anticipation of use shall be stored in a holding area acceptable to the local fire code official.*

Note: for copyright claim information, please see the notice on the last page of this rule.

(c) **5611.13.3 Quantity limitations.** *The maximum quantity of flammable flame effect materials and loaded devices stored in a holding area shall be that quantity used in one day.*

Quantities of flammable flame effect materials and devices in excess of those used in one day shall be permitted to be stored in holding areas with the approval of the local fire official.

Flammable flame effect materials and loaded devices in holding areas shall be secured or supervised continuously by an attendant trained in emergency response procedures.

All flame effects and flame effects exhibitors shall comply with NFPA 160 and the NFPA 160 annexes as listed in rule 1301:7-7-80 of the Administrative Code.

(14) **5611.14 Insurance.** *The local fire code official having jurisdiction may require the applicant to maintain valid general liability insurance or an indemnity bond in force for the applicant and includes acts of all employees that is issued by a company licensed to provide such coverage in the state of Ohio, for an amount no less than one million dollars or as otherwise required in a higher amount by the local fire official.*

(15) **5611.15 Documentation.**

(a) **5611.15.1 General** *All flame effects devices and materials shall have drawings, manuals, or written descriptions to describe the type of item and performance specifications of the flame effects created. This documentation shall be on site and available to the local fire official.*

(16) **5611.16 Operating procedures** *All flame effects shall have written operating instructions including start-up, show operations normal shutdown procedures, and emergency shutdown procedures. Operating instructions shall be available to the operator.*

(L) Section 5612 Operational requirements

(1) **5612.1** *All licensed manufacturers, wholesalers, shippers, and fireworks exhibitors shall comply with the applicable requirements listed in this rule, the building code, NFPA 1123, NFPA 1124 (2006 or 2017 edition as applicable per paragraph (A)(1)(C)(5601.1.3) of this rule) and NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, relating to operation, record keeping and reporting, site security, separation distances, heating, lighting, electrical equipment, smoking regulations, fire and explosion prevention, fire protection and emergency procedures, transportation, and operations of fireworks exhibits.*

(a) **5612.1.1** *All manufacturing or processing of fireworks must be in accordance with Chapter 3743. of the Revised Code, the applicable provisions of NFPA 1123, NFPA 1124 and NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code and, to the extent not addressed by the Revised Code or NFPA 1123, NFPA 1124 and NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, in accordance with paragraph (E)(5605) of this rule.*

(2) **5612.2** *Licensed manufacturers and licensed wholesalers need not comply with any requirements of paragraph (M)(5613) of this rule which concern the distance requirements of division (G) of section 3743.06 or division (H) of section 3743.19 of the Revised Code if the buildings were erected on or before May 30, 1986 and were occupied by a licensee with a license for that location prior to December 1, 1990.*

(3) **5612.3 Continuing education.** *Each licensed manufacturer, wholesaler, or exhibitor shall comply with the applicable continuing education requirements as follows:*

(a) **5612.3.1 Manufacturer.** *Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the state fire marshal by the manufacturer, annually shall attend a continuing education*

program. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a required program, within one year after attending the program, shall conduct in-service training for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the state fire marshal with notice of the date, time, and place of all in-service training. The state fire marshal shall establish the subjects to be taught, the length of the classes, and the standards for approval, and the time periods for notification by the licensee to the state fire marshal of any in-service training.

Exception: If approved by the state fire marshal, any licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the state fire marshal by the manufacturer, who serves as an instructor at a continuing education program outlined above shall not have to attend an additional continuing education program as a student during that same licensing year.

(b) **5612.3.2 Wholesaler.** Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the state fire marshal by the wholesaler, annually shall attend a continuing education program. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed wholesaler or the wholesaler's designee who attends a required program, within one year after attending the program, shall conduct in-service training for other employees of the licensed wholesaler regarding the information obtained in the program. A licensed wholesaler shall provide the state fire marshal with notice of the date, time, and place of all in-service training. The state fire marshal shall establish the subjects to be taught, the length of the classes, and the standards for approval, and the time periods for notification by the licensee to the state fire marshal of any in-service training.

Exception: If approved by the state fire marshal, any licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the state fire marshal by the wholesaler, who serves as an instructor at a continuing education program as outlined above shall not have to attend an additional continuing education program as a student during that same licensing year.

(c) **5612.3.3 Exhibitor.** Each licensed exhibitor of fireworks or a designee of the exhibitor, whose identity is provided to the state fire marshal by the exhibitor, shall attend a continuing education program consisting of not less than six hours of instruction once every three years. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed exhibitor or the exhibitor's designee who attends a required program, within one year after attending the program, and on an annual basis during the following two years, shall conduct in-service training for other employees of the licensee regarding the information obtained in the program. After each in-service training, the licensed exhibitor shall provide a roster to the state fire marshal's office listing all those that attended the in-service training. A licensed exhibitor shall provide the state fire marshal with certified proof of full compliance with all applicable annual training requirements of the United States Department of Transportation and of the Occupational Safety and Health Administration. A licensed exhibitor shall provide the state fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event. An individual exhibitor who has no employees shall not fulfill continuing education requirements through a designee. An exhibitor who fulfills the continuing education requirements through a designee shall provide the identity and exhibitor license number of the designee to the state fire marshal prior to the training program. Each licensed exhibitor shall provide documentation evidencing compliance with the continuing education requirements in the manner prescribed in the license renewal application material.

(i) **5612.3.3.1.** Upon approval of the state fire marshal, any licensed exhibitor of fireworks or a designee of the exhibitor whose identity is provided to the state fire marshal by the exhibitor, who serves as an instructor at a continuing education program as outlined above may count any hour(s) spent instructing as credit toward the exhibitor's or the designee's continuing education requirements as long as the hours of instruction were performed during the licensure period for which credit is sought.

(d) **5612.3.4 Records.** All records documenting the completion of the continuing education required by this rule shall be maintained for a period of three years and shall be available for inspection by the state fire marshal or his/her designee when requested.

(M) Section 5613 Testing of fireworks for classification

(1) **5613.1 Suspect fireworks.** If there is reason to believe that the explosive composition or the pyrotechnic mixture of a particular fireworks device of the manufacturer, wholesaler, shipper, or exhibitor does not meet the DOTn classification regulations, such person shall furnish a random sampling of such fireworks device to the state fire marshal for testing to determine compliance of the device with DOTn classification regulations.

(a) Fireworks shall be evaluated and tested by the state fire marshal by written request or by seizure.

(b) The classification test shall not be construed as conferring classification to any other item, nor shall the trade name of any item be changed without notifying the state fire marshal thirty days prior to such change.

(c) Fireworks or pyrotechnic devices that have not been classified by DOTn classification standards shall not be used, stored, or sold for use within this state.

(2) **5613.2 Fee.** Fireworks or pyrotechnic devices that are submitted to the state fire marshal for classification by licensed manufacturers, wholesalers, shippers, or exhibitors shall be accompanied by a fee of twenty dollars for each item.

(3) **5613.3 Submission of live samples.** When required by the state fire marshal, live samples shall be submitted to the state fire marshal for testing. The number of samples necessary shall be determined by the state fire marshal, but in no case shall the number of samples be less than ten.

(4) **5613.4** No person, other than the state fire marshal, a licensed manufacturer, licensed wholesaler or a licensed exhibitor pursuant to a properly issued exhibition permit, shall test fireworks. All testing of fireworks shall be in accordance with Chapter 3743. of the Revised Code, this rule and, to the extent not addressed by the Revised Code or this rule, in accordance with the applicable provisions of NFPA 1123, NFPA 1124 and NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.

(N) Section 5614 Fireworks categories and labeling

(1) **5614.1** Pursuant to Chapter 3743. of the Revised Code, including section 3743.05 of the Revised Code, the state fire marshal establishes the following fireworks categories and uses:

(a) **5614.1.1 Manufacturing.** A licensed manufacturer of fireworks may manufacture or process only the following categories of fireworks in accordance with Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code: 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

(b) **5614.1.2 Sales and other operations.** In accordance with Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 (2006 or 2017 edition as applicable per paragraph (A)(1)(C)(5601.1.3) of this rule) and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, a licensed manufacturer may offer for sale and sell at wholesale or retail fireworks if manufactured by the licensee or fireworks manufactured by another, and may conduct other fireworks related activities on its licensed premises, for only the following categories of fireworks: 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

Note: for copyright claim information, please see the notice on the last page of this rule.

In accordance with Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 (2006 or 2017 edition as applicable per paragraph (A)(1)(C)(5601.1.3) of this rule) and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, a licensed wholesaler may offer for sale and sell fireworks at wholesale or retail, and may conduct other fireworks related activities on its licensed premises, for only the following categories of fireworks: 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

In accordance with Chapter 3743 of the Revised Code, including section 3743.27 of the Revised Code, paragraph (AA)5627 this rule, and the applicable portions of NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code, a licensed fountain device retailer may offer for sale and sell at retail 1.4G fireworks (UN 0336) that meet the definition of a 'fountain device' as defined in division (H) of section 3743.01 of the Revised Code and this code.

(c) 5614.1.3 Acquisition of fireworks.

(i) 5614.1.3.1 Out of state residents acquiring and taking possession of fireworks while such persons are in Ohio, and who are not acquiring fireworks pursuant to a license issued under Chapter 3743 of the Revised Code, may obtain only the following category of fireworks from a licensed manufacturer or licensed wholesaler in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code (including section 3743.46 of the Revised Code), this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code: 1.4G fireworks (UN0336).

(ii) 5614.1.3.2 Out of state persons acquiring fireworks while such persons are not located in Ohio may obtain the following categories of fireworks from a licensed manufacturer or licensed wholesaler in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code: 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

(iii) 5614.1.3.3 Ohio residents acquiring and taking possession of fireworks while such persons are in Ohio, and who are not acquiring fireworks pursuant to a license issued under Chapter 3743 of the Revised Code, may obtain only the following category of fireworks from an Ohio licensed manufacturer or wholesaler in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code (including section 3743.45 of the Revised Code), this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code: 1.4G fireworks (UN0336).

(iv) 5614.1.3.4 Licensed manufacturers and licensed wholesalers may acquire, in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, the following categories of fireworks from other licensed manufacturers and licensed wholesalers or licensed out of state shippers: 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

(iv) 5614.1.3.5 A licensed exhibitor of fireworks may, upon presentation of a properly issued and valid permit pursuant to section 3743.54 of the Revised Code, acquire, in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, only the following categories of fireworks for a properly permitted exhibition only from a licensed manufacturer, a licensed wholesaler or, if such fireworks are shipped directly to an exhibition site, from a licensed out of state shipper:

Note: for copyright claim information, please see the notice on the last page of this rule.

(a) **5614.1.3.5.1 For an outdoor display exhibition:** ~~1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).~~

(b) **5614.1.3.5.2 For an indoor display exhibition:** 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

(vi) **5614.1.3.6 A licensed fountain device retailer may acquire, in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, only the following categories of fireworks from Ohio licensed manufacturers and licensed wholesalers or licensed out of state shippers: 1.4G fireworks (UN0336) that meet the definition of a ‘fountain device’ as defined in division (H) of section 3743.01 of the Revised Code and this code.**

(vii) **5614.1.3.7 A person may acquire in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code (including sections 3743.27 and 3743.45 of the Revised Code), this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, only the following categories of fireworks from Ohio licensed fountain device retailer: 1.4G fireworks (UN0336) that meet the definition of a ‘fountain device’ as defined in division (H) of section 3743.01 of the Revised Code and this code.**

(d) **5614.1.4 Ignition, discharge and display of fireworks.** Except as authorized in section 3743.45 of the Revised Code and paragraphs (Z)(5626) and (AA)(5627) of this rule, the ignition, discharge and display of fireworks may only occur in accordance with Chapter 3743. of the Revised Code, this code, and section 5614.1.4 of this paragraph. Other than the testing of fireworks described in paragraph (M)(5613) of this rule, only a licensed exhibitor acting in accordance with a properly issued exhibition permit and in accordance with the federal laws, rules and regulations, Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code, may ignite, discharge or display ~~only~~ the following categories of fireworks:

(i) **5614.1.4.1 For an outdoor display exhibition.** ~~1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).~~

(ii) **5614.1.4.2 For an indoor display exhibition.** 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

(e) **5614.1.5 Shipping into Ohio.** Only the following categories of fireworks may be shipped into Ohio:

(i) **5614.1.5.1 Directly to a licensed manufacturer or a licensed wholesaler.** 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

(ii) **5614.1.5.2 Directly to a licensed exhibitor at the site of a properly permitted outdoor exhibition for such exhibitor.** ~~1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).~~

(iii) **5614.1.5.3 Directly to a licensed exhibitor at the site of a properly permitted indoor exhibition for such exhibitor.** 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432).

All such shipments must be in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.

(f) 5614.1.6 Possession, transportation and storage of fireworks. *The possession, transportation and storage of 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) shall be in accordance with federal laws, rules and regulations, Chapter 3743. of the Revised Code, this rule and the applicable provisions of NFPA 1123, NFPA 1124 and/or NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.*

No other types of fireworks may be manufactured, sold, purchased, shipped, transported, possessed, ignited, displayed, stored or otherwise used in Ohio.

(2) 5614.2 Fireworks labeling. *All fireworks manufactured, sold, shipped, transported, or displayed in this state shall be labeled in accordance with the CPSC regulations and other applicable laws, rules or regulations, including regulations promulgated by the United States Department of Transportation.*

(3) 5614.3 Sales. *A licensed manufacturer, ~~or~~ wholesaler, or fountain device retailer shall only sell fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States Department of Transportation or an FC Number from a Department of Transportation approved fireworks certification agency. The state fire marshal may publish and maintain a listing of the specific EX numbers from the United States Department of Transportation or FC Numbers from a Department of Transportation approved fireworks certification agency of fireworks that can be sold in Ohio. At least thirty days prior to publishing or updating such a list, the state fire marshal shall distribute it to all Ohio licensed manufacturers and wholesalers of fireworks for comment.*

(O) Section 5615 General requirements for licensure application and license

(1) 5615.1 License fee.

(a) 5615.1.1 *Every license fee required in accordance with this rule shall be paid with cash or by money order, postal note, cashier's check, credit card, certified check or personal check payable to the "Treasurer, State of Ohio."*

(b) 5615.1.2 *Every required license fee shall be paid at or mailed to the "Division of State Fire Marshal," at the address specified on the application material.*

(2) 5615.2 Expired license. *Renewal applications received after the required submittal dates shall be considered new applications and shall meet the examination requirement of paragraph (S)(7)(5619.7) of this rule.*

(3) 5615.3 Duplicate license. *In the event that a valid license is lost or accidentally destroyed, an application for a duplicate license shall be made in writing to the state fire marshal. The application for a duplicate license shall be accompanied by a ten-dollar fee.*

(4) 5615.4 Misuse of license. *No person who has been issued a manufacturer's or wholesaler's license shall give or permit any other person to use such license in violation of division (D) of section 3743.04 and division (D) of section 3743.17 of the Revised Code. No person who has been issued a shipping permit shall give or permit any other person to use such permit in violation of division (F) of section 3743.40 of the Revised Code. No person who has been issued an exhibitor's license shall give or permit any other person to use such license in violation of division (B) of section 3743.52 of the Revised Code. Any license or permit is not transferable or assignable to any other holder at the same location without the written permission of the state fire marshal, nor shall any license be extended beyond the dates set out therein.*

Note: for copyright claim information, please see the notice on the last page of this rule.

Exception: A permit for a fireworks exhibition may be transferred to a substitute licensed exhibitor as provided for in paragraph (H)(8)(g)(5608.8.7) of this rule.

(5) **5615.5 Forfeiture of fee.** When a license has been denied, revoked or suspended pursuant to this rule and Chapter 119. of the Revised Code, the fee for such license shall be forfeited and deposited into the state fire marshal's rotary fund and applied as a fee for license processing.

(6) **5615.6 Issuance, denial, suspension, or revocation.** The state fire marshal shall not issue an initial or renewal license, permit or registration authorized by Chapter 3743. of the Revised Code, and may suspend or revoke such licenses permits, if the applicant for the license or permit, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license or permit, has been convicted of or pleaded guilty to, after June 30, 1997, a felony under the laws of this state, another state, or the United States and such actions by the state fire marshal are in accordance with division (A) of section 3743.70 of the Revised Code.

(7) **5615.7 Investigation.** Upon receipt of an application and the required accompanying matter, the state fire marshal shall forward to the superintendent of the bureau of criminal identification and investigation a request that the bureau conduct an investigation of the applicant and, if applicable, additional individuals who hold, own, or control five per cent or greater beneficial or equity interest in the applicant, to determine whether the applicant or the additional associated individuals have been convicted of or pled guilty to a felony under the laws of this state, another state, or the United States. If the applicant for initial licensure has resided in this state for less than five continuous years immediately prior to the date the applicant submits an initial application, the superintendent also shall request that the Federal Bureau of Investigation conduct an investigation of the applicant and, if applicable, additional individuals who hold, own or control a five per cent or greater beneficial or equity interest in the applicant, to determine whether the applicant or the additional associated individuals have been convicted of or pled guilty to a felony under the laws of this state, another state, or the United States. The superintendent shall forward the results of the investigation to the state fire marshal and may charge a reasonable fee for providing the results. The state fire marshal shall also assess the applicant any fee charged by the superintendent for the results to the applicant.

(8) **5615.8 License status.** The state fire marshal shall not place the license of a manufacturer or wholesaler in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(9) **5615.9 Geographic transfer of license.** All geographic transfers of a manufacturer of fireworks license or a wholesaler of fireworks license may only occur in accordance with, and in compliance with, section 3743.75 of the Revised Code. Upon application by a licensed wholesaler of fireworks, a wholesaler license may be transferred from one geographic location to another within the same municipal corporation or within the unincorporated area of the same township, but only if all of the following apply:

~~(a) The identity of the holder of the license remains the same in the new location.~~

~~(b) The former location is closed prior to the opening of the new location and no fireworks business of any kind is conducted at the former location after the transfer of the license.~~

~~(c) The new location has received a local certificate of zoning compliance and a local certificate of occupancy, and otherwise is in compliance with all local building regulations.~~

~~(d) Every building or structure at the new location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures located on the licensed premises in accordance with the distances specified in NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code.~~

Note: for copyright claim information, please see the notice on the last page of this rule.

~~(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the license has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States after July 1, 1997.~~

~~(f) The state fire marshal approves the request for the transfer. The new locations shall comply with the requirements specified in divisions (A)(1) and (A)(2) of section 3743.25 of the Revised Code whether or not the fireworks showroom at the new location is constructed, expanded, or first begins operating on and after July 1, 1997.~~

(10) **5615.10 Ownership transfer of license.** Upon application by a licensed manufacturer or wholesaler of fireworks, a manufacturer or wholesaler license may be transferred to another person for the same particular location for which the license was issued if the assets of the manufacturer or wholesaler are transferred to that person by inheritance or by a sale approved by the state fire marshal. The state fire marshal shall not approve any transfer applications under this paragraph unless:

- (a) The state fire marshal receives a satisfactory application for such a transfer on a form approved by the state fire marshal.
- (b) The person seeking to transfer the license is the verified owner of the license and is otherwise permitted by law to transfer its ownership interests in such license.
- (c) The person receiving ownership of the license meets the requirements of the Revised Code and this code for the possession of such a license.
- (d) The licensed premises for the particular location is inspected by the state fire marshal.
- (e) The license and the licensed premises are in compliance with the provisions of the Revised Code and this code.

(P) Section 5616 Requirements for manufacturers and wholesalers

(1) **5616.1 Application.** ~~Unless otherwise required by law, a~~ Application by a manufacturer or wholesaler for an original license or a renewal license shall be made on or after the first day of August but prior to the first day of October preceding the license year for which the original application or renewal application is being made. The application form shall be as prescribed by the state fire marshal. Failure to submit the application and license fee prior to the first day of October may require that the applicant wait until the following year to make another application. The original and renewal fee for a manufacturer or wholesaler license shall be two thousand seven hundred fifty dollars. The manufacturer or wholesaler license is effective for one year beginning on the first day of December. The state fire marshal shall issue or renew a license only on that date and at no other time unless otherwise specified by law.

(a) **5616.1.1** If an applicant has any storage locations approved in accordance with the Revised Code or this code, the applicant also shall submit a fee of one hundred dollars per storage location ~~of~~ for the inspection of each storage location.

(2) **5616.2 Denial or revocation of license.** A manufacturer or wholesaler license may be suspended, denied or revoked pursuant to Chapter 119. of the Revised Code when any of the following occur:

(a) **5616.2.1** The applicant has failed to submit proof of comprehensive general liability insurance or licensee has failed to maintain the same.

(b) **5616.2.2** The applicant has failed to provide the required information on the application form provided by the state fire marshal including, but not limited to failure to include, the identification of a statutory agent if

applicable or other designated agent for service of process at the time of application and prompt notification of any changes in the statutory agent.

(c) **5616.2.3** *The applicant has failed to include the required fee for the license with the application.*

(d) **5616.2.4** *The applicant withdraws his or her application prior to an investigation or inspection by the state fire marshal to determine if the license shall be issued.*

(e) **5616.2.5** *The applicant or licensee has made a misrepresentation or filed false statements.*

(f) **5616.2.6** *There is substantial evidence that the fireworks premises are not in full compliance with Chapters 3781. and 3791. of the Revised Code, or any applicable building or zoning regulations.*

(g) **5616.2.7** *To the extent authorized by division (A) of section 3743.70 of the Revised Code, the state fire marshal shall suspend, revoke or deny renewal of a license or permit first issued under Chapter 3743. of the Revised Code on or after July 1, 1997, if the holder of the license or permit, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the holder of the license or permit, is convicted of or pleads guilty to a felony under the laws of this state, another state, or the United States.*

(h) **5616.2.8** *The licensed premises fails to comply with the requirements as set forth in paragraph (W)(5623) of this rule.*

(i) **5616.2.9** *The applicant, licensee or premises fails to comply with the requirements or any provision of the Ohio Revised Code, Ohio Administrative Code or NFPA standards as listed in rule 1301:7-7-80 of the Administrative Code, or any order of the state fire marshal.*

(j) **5616.2.10** *The applicant or licensee fails to comply with the applicable provisions of sections 3743.22, 3743.44, 3743.45, 3743.451 or any rules adopted pursuant to that section, 3743.46, 3743.47, including failure to provide the required safety pamphlet or have safety glasses available, 3743.60, 3743.61, 3743.63 or 3743.65 of the Revised Code.*

(3) **5616.3 Fireworks listing.** *Applicants for all manufacturer or wholesaler licenses shall submit with their application to the state fire marshal a complete detailed list of all types of fireworks that they intend to wholesale, sell, offer for sale, transport, process, or otherwise dispose of. The list shall contain the following information:*

(a) **5616.3.1** *The classification of all fireworks, including 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) materials in accordance with the regulations of the U.S. Department of Transportation (DOT) 49 CFR as listed in rule 1301:7-7-80 of the Administrative Code), the type of all fireworks, and the names of each device in the inventory. Records of the amount of each type of device kept in the inventory shall be made available for inspection by the state fire marshal or his designee or fire code official upon request.*

(4) **5616.4 Change in fireworks list.** *Applicants for a manufacturer or wholesaler license shall notify the state fire marshal in writing of any changes in content, construction, additions of, or deletion of any fireworks device on the submitted list. All lists shall be updated annually for license renewal.*

(5) **5616.5 Map.** *All applicants for an initial manufacturer or wholesaler license, and thereafter at the discretion of the state fire marshal, shall submit a map showing the premises, all premises boundaries, building locations, building dimensions, distances between buildings, distance of the buildings from lot lines, railroads, roadways and habitable structures on adjoining properties. The map shall be sufficient to clearly delineate the boundaries, dimensions and all structures or other temporary or permanent fixtures located thereon that constitute the licensed premises. All buildings and structures shall be numbered and a list shall be attached to the map that corresponds to the building and structure number assigned to each, indicating the type of construction, date of construction (if*

erected after May 30, 1986) and actual use of each building and structure. Maps shall be drawn to scale by an architect, engineer or cartographer.

(a) **5616.5.1 Boundaries of a licensed premises.** If a licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to Chapter 3743. of the Revised Code and this rule for storage locations. The boundaries of a licensed premises, including the boundaries of an approved storage location, shall not change unless the license holder has first obtained written approval from the state fire marshal. The state fire marshal shall approve the change to such licensed premises boundaries only when the applicant clearly shows all of the following:

(i) **5616.5.1.1** The proposed change would not be contrary to public health, safety or welfare.

(ii) **5616.5.1.2** The proposed area of premises expansion or premises contraction shall maintain the contiguity of the approved boundaries for the licensed premises or storage location.

(b) **5616.5.2 Applications for such change shall include the submission of all of the following items:**

(i) **5616.5.2.1** A tax or appraisal map and/or a survey plot or other professionally prepared map.

(ii) **5616.5.2.2** Property deeds, lease agreements, and/or other appropriate proof of ownership or control. If the applicant does not own the licensed premises in fee simple, then the applicant must submit documentation, such as a copy of the current lease or rental agreement for the property, that the conduct of fireworks sales or related activity is an approved use of the premises by the owner.

(iii) **5616.5.2.3** A narrative description of all properties, structures, lot lines, and boundaries of the licensed premises involved and in the proposed change thereto.

(iv) **5616.5.2.4** All other relevant information requested by the state fire marshal.

(6) **5616.6 Ownership.** Applicants for all manufacturer and wholesaler licenses shall submit with their application the parcel number and a copy of the deed of ownership or land contract for all of the parcels constituting the licensed premises. If the applicant does not own the licensed premises in fee simple, then the applicant must submit documentation, such as a copy of the current lease or rental agreement for the property, that the conduct of fireworks sales or related activity is an approved use of the premises by the owner.

(7) **5616.7 Signature.** The application for a manufacturer or wholesaler license shall be signed by the applicant. If the application is made by a partnership, it shall be signed by each partner of the partnership. If the application is made by a corporation, it shall be signed by the president of the corporation. The original or a certified copy of the articles of incorporation filed with the office of the secretary of state, stating each officer and statutory agent by name, and the letter of good standing shall be included with the application. Any change in the name of the identified officers of a corporation or the name of the identified statutory agent if applicable or other designated agent for service of process for each manufacturer or wholesaler that occurs during the licensure period shall be immediately submitted in writing to the state fire marshal.

(8) **5616.8 Magazine.** For a manufacturer of fireworks license, each fireworks plant shall have at least one Class 1 magazine that is approved by the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury and that is otherwise in conformity with federal law. Such approval shall be evidenced only by a license issued by the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury.

Exception: This requirement does not apply to fireworks plants existing on or before August 3, 1931.

Note: for copyright claim information, please see the notice on the last page of this rule.

(Q) Section 5617 Fingerprint and insurance requirements for manufacturers and wholesalers of fireworks

(1) **5617.1** Each manufacturer or wholesaler of fireworks shall submit with each application for licensure one set of the applicant's fingerprints and a set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license. The state fire marshal shall retain the fingerprints or similar identifying information submitted with each licensure application. On renewal, the applicant must submit fingerprints or similar identifying information for all new owners or shareholders of five per cent or more of the beneficial interest of the license. Persons who have previous fingerprint sets or similar identifying information on file with the state fire marshal shall resubmit new fingerprint sets or updated similar identifying information no later than thirty-six months from the date the previous fingerprint set or similar identifying information was submitted.

(2) **5617.2** Each applicant for a fireworks wholesaler license shall submit proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death at its business location. Proof of such insurance shall be submitted together with proof of coverage in an amount not less than one million dollars for products liability on all inventory located at the business location. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required. The insurer who issued such insurance policy shall comply with all applicable Ohio laws or all applicable laws of the state where the insurer is located.

(3) **5617.3** Each applicant for a fireworks manufacturer license shall submit proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises and products, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at the fireworks plant. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required. The insurer who issued such insurance policy shall comply with all applicable Ohio laws or all applicable laws of the state where the insurer is located.

(4) **5617.4** In the event of a fire or explosion, any person who is injured or suffers property damage shall immediately notify the state fire marshal in writing of any claim against a manufacturer or wholesaler of fireworks.

(5) **5617.5** The manufacturer or wholesaler shall notify the state fire marshal in writing at least fifteen days in advance of the expiration date, maturity date, or termination date of a liability insurance policy. The manufacturer or wholesaler shall surrender his license to the state fire marshal upon expiration, termination or cancellation of the required insurance coverage.

(6) **5617.6** A licensed wholesaler or manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified in Chapter 3743. of the Revised Code at all times. Each policy of insurance shall contain a provision requiring the insurer to give not less than fifteen days prior written notice to the state fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage of any required insurance coverage. A licensed wholesaler or manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements for coverage so that no lapse in coverage occurs at any time. A licensed wholesaler or manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the state fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required.

(7) **5617.7** Failure by the applicant for or holder of a manufacturer or wholesaler license to comply with any paragraph of this rule is cause for the denial, revocation, or suspension of such license pursuant to Chapter 119. of the Revised Code.

(R) Section 5618 Requirements for out-of-state shipping permit

(1) **5618.1 Application.** Any person who wishes to ship fireworks including 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) into this state shall submit an application for a license. Application shall be made as follows:

(a) **5618.1.1** The application shall be on the form provided by the state fire marshal and shall be accompanied by a fee of two thousand seven hundred fifty dollars.

(b) **5618.1.2** The application shall be accompanied by a certified copy or other copy acceptable to the state fire marshal of the applicant's license or permit issued in the applicant's state of residence, authorizing the applicant to engage in the manufacture, wholesale sale, or transportation of fireworks in that state.

(c) **5618.1.3** A statement by the applicant shall be attached to the application indicating that he understands and will abide by the rules adopted by the state fire marshal, pursuant to section 3743.58 of the Revised Code, for transporting fireworks, and that the applicant will ship all fireworks in accordance with the DOTn regulations.

(2) **5618.2 Issuance.** To the extent authorized by division (A) of section 3743.70 of the Revised Code, tThe state fire marshal shall not issue an initial license or permit if the applicant for the license or permit, or any individual holding, owning, or controlling five per cent or greater beneficial or equity interest in the applicant for the license or permit, has been convicted of or pleaded guilty to a felony under the laws of this state, another state, or the United States. The state fire marshal shall revoke or deny renewal of a license or permit first issued under Chapter 3743. of the Revised Code on or after July 1, 1997, if the holder of the license or permit, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the holder of the license or permit, is convicted of or pleads guilty to a felony under the laws of this state, another state, or the United States.

(3) **5618.3 Bill of lading.** For each shipment of fireworks that is sent into this state, a copy of the bill of lading shall be submitted to the state fire marshal upon request, listing the type, amount and the destination.

(4) **5618.4 Possession.** The holder of a shipping permit shall have an accurate copy of the permit in the holder's possession in this state at all times while in the course of shipping the fireworks directly into this state. A shipping permit is not transferable or assignable.

(S) Section 5619 Requirements for an exhibitor's license

(1) **5619.1 Categories of exhibitor licenses.** No person shall conduct a fireworks exhibition or flame effects exhibition in this state without a license issued by the state fire marshal. There shall be three categories of exhibitor licenses:

(a) A licensed exhibitor of outdoor/indoor fireworks (Type I).

(b) A licensed exhibitor of indoor fireworks (Type II).

(c) A licensed exhibitor of flame effects (Type III).

(2) **5619.2 Application.** Any person who wishes to be an exhibitor of indoor, outdoor, theatrical, or special effects fireworks or flame effects in this state shall submit an application as prescribed by the state fire marshal for an annual license and a license fee of fifty dollars.

(a) **5619.1.1** Applicants for a new exhibitor's license or a renewal of an existing license shall, upon request of the state fire marshal, provide the state fire marshal with certified copies, or other similar documentation, relating to the individual's civilian background check.

(3) **5619.3 Applicant.** *An applicant for an exhibitor license shall be at least twenty-one years of age and shall submit proof of age satisfactory to the state fire marshal. The applicant shall be in compliance with Chapter 4123. of the Revised Code.*

(4) **5619.4 Application period.**

(a) **5619.4.1 New applications.** *All applications for new exhibitor licenses shall be submitted and received in the office of the state fire marshal thirty days in advance of the requested examination. The applicant shall designate the appropriate classification of licensed exhibitor on the application material submitted to the state fire marshal.*

(i) **5619.4.1.1 Licensed exhibitor of indoor/outdoor fireworks (Type I).** *Any individual who applies to be examined and is licensed in the classification of a Type I fireworks exhibitor shall only be authorized to conduct the following fireworks exhibitions:*

(a) **5619.4.1.1.1** *An outdoor display exhibition of 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) in accordance with the provisions of Chapter 3743. of the Revised Code, this rule and NFPA 1123 and the applicable requirements of NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.*

(b) **5619.4.1.1.2** *An indoor display exhibition of 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) in accordance with NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.*

(ii) **5619.4.1.2 Licensed exhibitor of indoor fireworks (Type II).** *Any individual who applies to be examined and is licensed as an exhibitor of indoor fireworks shall only be authorized to use 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) before a proximate audience in accordance with the provisions of Chapter 3743. of the Revised Code, this rule and NFPA 1126 as listed in rule 1301:7-7-80 of the Administrative Code.*

(iii) **5619.4.1.3 Flame effects exhibitor (Type III).** *Any individual who applies to be examined and is licensed in the classification of a flame effects exhibitor shall only be authorized to operate flame effects before an audience in accordance with the provisions of this rule and NFPA 160 as listed in rule 1301:7-7-80 of the Administrative Code.*

(b) **5619.4.2 Renewal applications.** *All applications for renewal of an exhibitor license shall be actually received in the office of the state fire marshal no later than the expiration date. Renewal applications actually received after the above required submittal dates shall be considered new applications and shall meet the examination requirement of paragraph ~~(T)(7)(5620.8)~~ (S)(7)(5619.7) of this rule. The state fire marshal shall revoke or deny the renewal of a license or permit issued under Chapter 3743. of the Revised Code after July 1, 1997 if:*

(i) **5619.4.2.1** *The holder of the license or permit, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the holder of the license or permit, is convicted of or pleads guilty to a felony under the laws of this state, another state, or the United States;*

(ii) **5619.4.2.2** *The licensed exhibitor failed to provide the information required by the application form prescribed by the state fire marshal;*

(iii) **5619.4.2.3** *The application materials were not accompanied by the requisite fee;*

(iv) **5619.4.2.4** *The exhibitor is not twenty-one years of age;*

Note: for copyright claim information, please see the notice on the last page of this rule.

(v) **5619.4.2.5** *The application for renewal of an exhibitor license is not actually received in the office of the state fire marshal by the expiration date; or*

(vi) **5619.4.2.6** *The application for the renewal is not accompanied by the documentation evidencing compliance with the continuing education requirements in accordance with paragraph (M)(3)(c)(5613.3.3) of this rule.*

(5) **5619.5 Fees for application.** *Application fees for exhibitors are nonrefundable. The application fee is forfeited to the state fire marshal when the applicant fails to meet the requirements of Chapter 3743. of the Revised Code or the "Ohio Fire Code," when an applicant fails to achieve a passing grade on any examination, or when an applicant fails to reapply for a repeat examination. The fee under such circumstances shall be deemed necessary for the processing of the application, and the administering of the examination of the applicant. Said fee shall be deposited into the state fire marshal's rotary fund. The state fire marshal shall also assess the applicant any fee charged by the superintendent of the bureau of criminal identification and investigation for the results of a background check.*

(6) **5619.6 Qualification requirements.** *Every applicant for a new exhibitor license shall submit with his application one of the following or such applicant shall be denied an exhibitor license pursuant to Chapter 119. of the Revised Code:*

(a) **5619.6.1** *Written documentation of the applicant's proficiency in handling and discharging fireworks, and that the applicant is capable of handling the responsibilities associated with exhibitions as prescribed by paragraph (H)(5608) of this rule, in a manner that emphasizes the safety and security of the public. The above documentation shall be endorsed by the signature of a licensed exhibitor, manufacturer or wholesaler of fireworks in Ohio. If an endorsement signature of a licensed exhibitor, manufacturer or wholesaler in Ohio is not provided, the state fire marshal may require additional documentation demonstrating that the applicant has safely conducted as appropriate, 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) and flame effects exhibitions in Ohio, indicating the date, location, and type of exhibition.*

(b) **5619.6.2** *A certified copy or other copy acceptable to the state fire marshal of a valid license issued by another state authorizing the fireworks exhibitor to conduct all types of fireworks exhibitions and discharging any and all types as appropriate, 1.1G fireworks (UN0333), 1.2G fireworks (UN0334), 1.3G fireworks (UN0335), 1.4G fireworks (UN0336), 1.4G special effects fireworks (UN0431), 1.4S fireworks (UN0337) or 1.4S special effects fireworks (UN0432) and flame effects in that state.*

(c) **5619.6.3** *Written documentation demonstrating competency by experience or training in the operation of flame effects.*

(7) **5619.7 Examination requirements.** *Every applicant for a new exhibitor license shall take and pass a written examination administered by the state fire marshal prior to the issuance of the license. The state fire marshal may administer the examination by procuring or engaging a third party to provide testing services. The third-party examiner may access fees in addition to those imposed by the state fire marshal. Every applicant shall present acceptable photographic identification to the state fire marshal or the marshal's approved test provider for the purpose of applicant identification verification when arriving for and prior to taking an examination.*

(a) **5619.7.1** *The state fire marshal shall not issue an initial license or permit under Chapter 3743. of the Revised Code if the applicant for the license or permit, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license or permit, has been convicted of or pleads guilty to a felony under the laws of this state, another state, or the United States.*

(8) **5619.8 Examination.** *The written examination required by this rule for a fireworks exhibitor license shall consist of questions pertaining to laws relating to fireworks, rules relating to fireworks, and relevant safety practices and procedures. The written examination for a flame effect exhibitor license shall consist of questions relating to the proper operation of flame effects before an audience and relevant safety practices and procedures.*

(a) **5619.8.1** *To satisfactorily pass the written examination, the applicant must obtain a minimum grade of seventy per cent or such applicant shall be denied an exhibitor license pursuant to Chapter 119. of the Revised Code.*

(b) **5619.8.2** *If an applicant does not pass the required written application, the applicant may retake the test in accordance with a timetable for retesting established by the state fire marshal.*

(c) **5619.8.3** *Applicants reapplying to take a repeat examination shall file a new application and a license fee as required in paragraph (T)(1)(5620.1) of this rule.*

(9) **5619.9 Location of examination.** *The examination required by this rule shall be administered at locations, dates, and times as designated by the state fire marshal.*

(10) **5619.10 Employee registration.** *Each fireworks exhibitor licensed under section 3743.51 of the Revised Code shall register with the state fire marshal all employees who assist the licensed exhibitor in conducting fireworks exhibitions unless such employees have already been registered by another licensed exhibitor. The employees must be registered with the state fire marshal at least fourteen days prior to assisting the licensed exhibitor in conducting a fireworks exhibition. Individuals involved only in the setup or clean up of the discharge site before or after the exhibition and do not handle 1.3G fireworks, are not required to be registered. The state fire marshal shall maintain a record of licensed exhibitors and registered employees and make it available, upon request, to any law enforcement agency. A licensed exhibitor shall file an application, on a form prescribed by the state fire marshal, to register a new employee not later than seven days after the date on which the employee is hired unless the employee is already registered.*

Exception: *Any individual that is a valid Ohio licensed exhibitor of fireworks pursuant to the provisions of this rule who wishes to act as an employee of another properly licensed exhibitor is not required to be registered pursuant to this paragraph.*

(a) **5619.10.1 Registration requirements.** *The state fire marshal shall not register a person under this paragraph unless the following requirements have been satisfied.*

(i) **5619.10.1.1 Registration fee.** *Each application to register an employee of a licensed exhibitor of fireworks, regardless of time of registration as provided for in paragraph (T)(9)(f)(i)(5620.9.6.1) of this rule shall be accompanied by a nonrefundable registration fee of twenty-five dollars. The state fire marshal shall also assess the applicant any fee charged by the superintendent of the bureau of criminal identification and investigation for the results of a background check.*

(ii) **5619.10.1.2 Background check** *To the extent authorized by division (A) of section 3743.70 of the Revised Code, no person shall be registered under this paragraph if the individual has been convicted of or pled guilty to a felony under the laws of this state, another state, or the United States. All persons seeking to be registered under this paragraph shall provide fingerprint or similar identifying information, and complete a civilian background check for criminal history as administered or approved by the state fire marshal. The state fire marshal may accept a currently valid certificate of clearance or other similar documentation issued by the bureau of alcohol, tobacco, firearms and explosives as satisfactory documentation of a person's criminal history. Applicants shall, upon request of the state fire marshal, provide the state fire marshal with certified copies, or other similar documentation, relating to the individual's civilian criminal background check.*

(b) **5619.10.2 Application.** Each application filed with the state fire marshal to register an employee of a licensed exhibitor of fireworks shall be accompanied by:

(i) **5619.10.2.1 Proof of age** satisfactory to the state fire marshal verifying the employee is at least eighteen years of age.

(ii) **5619.10.2.2 Verification of the completion of a minimum of three hours of in-service education in the safe operation of a public display.** Verification includes any of the following:

(a) A signed statement from the licensed exhibitor on a form including the information as prescribed by the state fire marshal;

(b) Any other information as requested by the state fire marshal.

(iii) **5619.10.2.3 Documentation of the completed civilian background check** as required by this rule.

(c) **5619.10.3 Qualification requirements.** The application for employee registration shall be denied by the state fire marshal when any of the following occur:

(i) **5619.10.3.1** The licensed fireworks exhibitor fails to provide the information required by the application form prescribed by the state fire marshal or as otherwise required by this paragraph;

(ii) **5619.10.3.2** The application materials were not accompanied by the requisite fee;

(iii) **5619.10.3.3** The employee to be registered is not eighteen years of age;

(iv) **5619.10.3.4** The employee to be registered has been convicted of or pleads guilty to a felony under the laws of this state, another state, or the United States.

(d) **5619.10.4 Effective dates of registration.** Employee registrations under this rule shall not be effective until the proper issuance of documentation by the state fire marshal.

(e) **5619.10.5 Proof of registration.** Each registered assistant shall carry the proof of registration issued by the state fire marshal while assisting the licensed exhibitor in conducting a fireworks exhibition and shall make it available to any fire or law enforcement official upon request.

(i) **5619.10.5.1** Each registered assistant shall display prominently upon their person any visible identification required by the fire code official at all times when within the discharge perimeter.

(f) **5619.10.6 Registration expiration.** After the effective date of this rule, each registration shall be for a period of one year unless otherwise provided for in this paragraph.

(i) **5619.10.6.1** The registration of an employee may occur at any of the following times:

(a) **5619.10.6.1.1** In conjunction with an initial exhibitor application;

(b) **5619.10.6.1.2** Initial employee registration in accordance with paragraph ~~(S)(9)(5619.9)~~ (S)(10)(5619.10) of this rule;

(c) **5619.10.6.1.3** An application for exhibitor renewal in accordance with paragraph ~~(S)(3)(b)(5619.3.2)~~ (S)(4)(2)(5619.4.2) of this rule.

(ii) **5619.10.6.2** *If the time of employee registration occurs pursuant to paragraph (S)(9)(f)(i)(b)(5619.9.6.1.2) of this rule, the period of such employee's registration shall be limited to a period no longer than the remaining portion of the registering exhibitor's license.*

(iii) **5619.10.6.3** *Each application for registration shall be prescribed by the state fire marshal and accompanied by the registration fees, proof of age, and verification of in-service education as required for initial registration in accordance with this paragraph. Any such subsequent registration may be denied pursuant to paragraph (S)(9)(c)(5619.9.3) of this rule.*

(g) **5619.10.7** *Any change in employee registration information submitted to the state fire marshal other than during the exhibitor's renewal application period described in paragraph (S)(9)(f)(5619.9.6) of this rule shall be accompanied by a fee equivalent to the registration fees prescribed in paragraph (S)(9)(a)(5619.9.1) of this rule.*

(T) Section 5620 Fire safety requirements in buildings

(1) **5620.1 General.** *The layout, arrangement and construction of buildings and structures in which fireworks are manufactured, processed, stored, and offered for sale, shall comply with the applicable requirements of the "Ohio Building Code" as listed in rule 1301:7-7-80 of the Administrative Code, for the appropriate high hazard occupancy use group classification, and shall be provided with fire protection, fire extinguishing equipment and explosion relief venting as required by the "Ohio Building Code" as listed in rule 1301:7-7-80 of the Administrative Code.*

(a) **5620.1.1** *Buildings and structures and their service equipment shall be maintained and operated as required by this rule, NFPA 1123, NFPA 1124 (2006 or 2017 edition as applicable per paragraph (A)(1)(C)(5601.1.3) of this rule) as listed in rule 1301:7-7-80 of the Administrative Code.*

(b) **5620.1.2** *In addition to the provisions of this paragraph, fireworks retail and representative sales showrooms shall comply with paragraph (U)(5621) of this rule.*

(2) **5620.2** *If, during the effective period of its licensure, a licensed manufacturer or wholesaler, or a person that intends to either apply for licensure as or operate as a fireworks manufacturer or wholesaler, wishes to perform any construction, locate or relocate any buildings or structures, or make any structural change or renovation, on ~~the~~ an intended or existing licensed premises, the state fire marshal and the building code official(s) having jurisdiction shall be notified in writing.*

(a) **5620.2.1** *The state fire marshal may require the submission of documentation, including, but not limited to, plans covering the proposed construction or structural change, location or relocation or renovation or change in manufacturing, if the state fire marshal determines such documentation is necessary for evaluation purposes prior to the issuance of a preliminary authorization for construction.*

(b) **5620.2.2** *Upon receipt of the notification and additional documentation required by the state fire marshal, the state fire marshal shall issue a preliminary authorization for construction and shall inspect the premises to determine if the proposed construction or structural change, location or relocation, or renovation or change in manufacturing is in accordance with Chapter 3743. of the Revised Code and the rules adopted by the state fire marshal.*

(i) **5620.2.2.1** *When the person or licensee submits construction documents and preliminary authorization for construction to the building official having jurisdiction and obtains a set of construction documents approved by the building official, a copy of such approved documents shall be submitted to the state fire marshal by the licensee.*

(c) **5620.2.3** *Upon the inspection and a review of the submitted documentation, if the state fire marshal determines that the construction, location, relocation, structural change or renovation or change in manufacturing conforms to Chapter 3743. of the Revised Code and the rules adopted by the state fire marshal,*

the state fire marshal shall issue a final written authorization for the construction, location, relocation, structural change or renovation or change in manufacturing.

(d) **5620.2.4** *No construction, relocation, structural change or renovation shall commence until the person or licensee has received the final written authorization issued by the state fire marshal.*

(3) **5620.3 Building requirements.** *For every structure on a licensed premises, each required means of egress shall be accessible in accordance with the building code as listed in rule 1301:7-7-80 of the Administrative Code and any newly installed or modified exit door assembly shall be provided with panic hardware.*

(4) **5620.4 Separation distances.** *Each structure on a licensed premises shall comply with the separation distance requirements NFPA 1124 (2006 or 2017 edition as per paragraph (A)(1)(C)(5601.1.3) of this rule) as listed in rule 1301:7-7-80 of the Administrative Code.*

(a) **5620.4.1** *A building used by a licensed manufacturer or licensed wholesaler need not comply with any requirements of paragraph (U)(5621) of this rule which concern the structure of a building or with the distance requirements of division (G) of section 3743.06 or division (H) of section 3743.19 of the Revised Code if the building was erected on or before May 30, 1986, and was legally being used for fireworks activities under authority of a valid license issued by the state fire marshal as of December 1, 1990, pursuant to sections 3743.03, 3743.04, 3743.16, and 3743.17 of the Revised Code.*

(5) **5620.5 Safety requirements.** *Each structure on a licensed premises shall have and maintain floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and the superintendent of the division of industrial compliance that are submitted under seal as required by section 3791.04 of the Revised Code.*

(6) **5620.6 Smoking.** *Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler or fireworks plant is prohibited, except that a wholesaler or manufacturer may permit smoking on a licensed premises only in specified lunchrooms and/or restrooms in buildings and other structures in which no manufacturing, handling, sales, or storage of fireworks takes place. "No Smoking" signs shall be posted on the premises as required by the state fire marshal.*

(7) **5620.7 Doors.** *All exit doors of all buildings on the licensed premises shall swing outward.*

(U) Section 5621 Fireworks storage

(1) **5621.1** *All fireworks and pyrotechnic devices shall be stored and maintained in compliance with the provisions of the Revised Code, paragraphs (T)(1)(5620.1) ~~and (U)(5621)~~, (Z) (5626), and (AA)(5627) of this rule and in accordance with the provisions of NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code. To the extent not addressed by the Revised Code, paragraphs (T)(1)(5620.1) ~~and (U)(5621)~~, (Z)(5626) and (AA)(5627) of this rule and NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code, fireworks storage must also be in accordance with paragraph (D)(5604) of this rule. All licensed manufacturers, wholesalers, and retailers shall store fireworks only on the licensed premises or on an approved storage location that is part of a licensed premises. Residential storage of 1.4G fireworks purchased at retail by consumers for personal use per section 3743.45 of the Revised Code are only required to comply with the storage provisions of paragraph (Z)(5626) of this rule.*

(2) **5621.2** *"1.3G" fireworks, black powder, and other raw bulk explosive materials shall be stored in magazines in accordance with the provisions of this rule.*

(3) **5621.3 Trailers and magazines for the storage of fireworks.** *Fireworks may be stored in trailers if the trailers are properly enclosed, secured, placarded, and grounded and are separated from any structure to which the public is admitted by a distance that will allow fire-fighting equipment to have full access to the structures on the licensed*

premises in accordance with rule 1301:7-7-05 of the Administrative Code or as approved in writing by the local fire code official. In no instance shall trailers used for the storage of fireworks be located at a distance less than the minimum separation distances specified in NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks. Members of the public shall be prohibited from access to the contents of any storage trailers at all times. Trailers and magazines used for the storage of fireworks shall be completely enclosed with an approved steel chain link fence or similar barrier at least 6 feet high. The state fire marshal shall approve the installation and location of such fences or similar barriers. The installation and location of such fences or similar barriers shall properly maintain the required fire department access and properly prohibit unauthorized public access. Such fences or similar barriers shall be separated from all storage trailers and magazines containing fireworks by at least 10 feet and shall have a gate that is locked and secured against unauthorized entry.

(a) **5621.3.1** The storage of any 1.3G fireworks in semi-trailers is limited to the normal loading and unloading of shipments of fireworks that have been shipped in accordance with DOTn regulations.

Exception: Semi-trailers which have been converted to a magazine approved for the storage of explosive materials.

(b) **5621.3.2** Fireworks may be stored in trailers at approved storage locations only in accordance with the provisions of division (J) of section 3743.04 and division (H) of section 3743.17 of the Revised Code and this rule.

(V) **Section 5622 Fireworks showrooms**

(1) **5622.1 General requirements.**

(a) **5622.1.1 Applicability limitations.** The provisions of paragraph (V)(5622) of this rule concerning the structure of the buildings used on a licensed premises or with the distance requirements of division (G) of section 3743.06 or division (H) of section 3743.19 of the Revised Code does not apply to buildings that were erected on or before May 30, 1986 and were occupied by a licensed manufacturer or wholesaler with a license for that location prior to December 1, 1990.

(b) **5622.1.2 Safety provisions.** ~~Except as authorized in division (C)(2)(c) of section 3743.25 of the Revised Code,~~ The safety requirements established in division (C) of section 3743.25 of the Revised Code and paragraph (T)(5620) of this rule are not subject to any variance, waiver or exclusion pursuant to Chapter 3743. of the Revised Code or any applicable building code.

(c) **5622.1.3 Number of sales structures.** Each licensed premises shall only contain one sales structure.

(d) **5622.1.4 Public access.** The only structures, or portions thereof, on a licensed premises that the public may enter are approved retail sales or representative sample showrooms meeting the provisions of this rule. The public is prohibited from accessing any other structures, buildings, magazines or storage trailers on the licensed premises.

(e) **5622.1.5 Age limitations.** No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(f) **5622.1.6 Safety officer.** A uniformed safety officer shall be present at all times that any fireworks building is open to the public during the period commencing fourteen days before, and ending two days after, each fourth

of July. The officer shall be highly visible, stationed at the showroom entrance, and shall enforce the provisions of Chapter 3743. of the Revised Code and any applicable fire and building codes, including but not limited to maximum occupancy load and no smoking regulations to the extent the officer is authorized by law, and be one of the following:

- (i) A deputy sheriff;
- (ii) A law enforcement officer of a municipal corporation, township, or township or joint township police district;
- (iii) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(g) **5622.1.7 Fuses.** If any fireworks item is removed from its original package or otherwise has an exposed fuse, then the fuse of the item shall be covered completely by repackaging or secure bagging or the firework shall be removed from direct public access and located behind a counter or in a closed display case until it is sold.

(h) **5622.1.8 Location requirements.** All retail sales and representative sample showrooms shall be located on grade level only.

(i) **5622.1.9 Occupant load.** A sufficiently sized and legible copy of the approved maximum occupant load shall be prominently posted within every retail sales or representative sales showroom structure near the main entrance.

(2) **5622.2 Construction and maintenance requirements.**

(a) **5622.2.1 General.**

(i) **5622.2.1.1 Awnings and tents.** Awnings and tents shall not be used as facilities for the sale or storage of fireworks. An awning or tent attached to a retail sales or representative sample showroom may be used for storing nonflammable shopping convenience items such as shopping carts or baskets or for providing a shaded area for patrons waiting to enter the public sales area.

(ii) **5622.2.1.2 Fire protection systems.** Each fire alarm, fire detection, smoke control, fire suppression or other fire protection system installed in each building on the licensed premises shall be inspected, tested and maintained in an operable condition in accordance with the requirements of the Revised Code and the building code as listed in rule 1301:7-7-80 and this code.

- (a) If any fire alarm, fire detection, smoke control or other fire protection system, or critical component of any such systems, is not functioning or has been turned off for repair or maintenance, the building shall be closed to members of the public unless the state fire marshal approves a fire watch while the system is being repaired or maintained.
- (b) **Suppression system.** A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the state fire marshal, that the facility is closed to all public access during the winter months, or maintenance of the system. If any repair or maintenance is necessary during the times when the facility is open for public access and business as approved by the state fire marshal, the licensee shall notify in advance the state fire marshal, the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.
- (c) If any fire suppression system as defined in section 3781.108 of the Revised Code is not functioning or has been turned off for repair or maintenance, the fireworks wholesale showroom shall be closed to

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members of the public unless the state fire marshal approves a fire watch while the system is being repaired or maintained.

(iii) **5622.2.1.3 Separation.** All fireworks sales structures shall be separated by construction or distance from the storage facilities. Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall in accordance with the building code as listed in rule 1301:7-7-80 of the Administrative Code. If the licensee installs and properly maintains a sprinkler system that utilizes early suppression fast response sprinkler heads throughout the structure and the sprinkler system is designed and installed in compliance with NFPA 13 as listed in rule 1301:7-7-80 of the Administrative Code, a fire barrier wall may be substituted for a fire wall between the areas to which the public has access and the storage portions within the structure.

(iv) **5622.2.1.4 Storage.** All licensed premises shall have an approved storage building, structure or magazine located on the premises as required by the provisions of this rule. A license shall not be issued to any manufacturer or wholesaler for a showroom area that does not have an approved storage building, structure or magazine that meets the provisions of this rule.

(3) **5622.3 Retail sales showroom.**

(a) **5622.3.1 Retail sales showroom safety requirements.** ~~A licensed manufacturer or wholesaler shall bring All manufacturer and wholesaler retail sales showroom structures, to which the public may have access and in which employees are required to work, on all licensed premises, shall comply into compliance with the following safety requirements:~~

(i) **5622.3.1.1 Fire protection systems.** A retail sales showroom that is constructed, undergoes major alteration or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of the division of industrial compliance in the department of commerce. The fire suppression system shall be a wet sprinkler system designed and installed in accordance with NFPA 13 as listed in rule 1301:7-7-80 of the Administrative Code.

A fireworks showroom structure that exists on July 1, 1997, shall be retrofitted on or before June 1, 1998, with interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of the division of industrial compliance. ~~If meeting these retrofitting requirements would constitute an extreme financial hardship that would force a licensee to terminate business operations, the licensee shall conduct sales only on the basis of defused representative samples in closed and covered displays within the fireworks showroom.~~

(ii) **5622.3.1.2 Maximum size.** A retail sales showroom that first begins to operate on or after June 30, 1997, or that resumes operations at any time after a period of inactive status of licensure greater than one year, and to which the public has access for retail purposes shall not exceed five-seven thousand five hundred square feet in floor area.

(a) 5622.3.1.2.1 Required suppression. A retail sales showroom to which the public has access for retail purposes that, through construction of a new showroom, expansion of an existing showroom, or similar means, and after February 7, 2022, first exceeds five thousand square feet, shall be equipped with a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under NFPA 13 as listed in rule 1301:7-7-80 of the Administrative Code.

(i) 5622.3.1.2.1.1 Variance. Notwithstanding division (D) of section 3743.25 of the Revised Code or paragraph (V)(1)(b)(5622.1.2) of this rule, the state fire marshal may provide a variance to the requirements of division (C)(2)(b) of section 3743.25 of the Revised Code pursuant to section 3743.59 of the Revised Code for a sprinkler system that matches or exceeds the degree of safety provided by a

sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under NFPA 13 as listed in rule 1301:7-7-80 of the Administrative Code.

(iii) **5622.3.1.3 Floor plans.** A newly constructed or existing fireworks showroom structure that existed on September 23, 2008, but that is constructed, altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent of the division of industrial compliance showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(iv) **5622.3.1.4 Egress plans.** All fireworks showroom structures ~~that exists on June 30, 1997,~~ shall be in compliance ~~on or after June 30, 1997,~~ with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent of industrial compliance, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(a) A sufficiently sized and legible copy of the approved egress floor plan shall be prominently posted within the showroom structure near the main entrance.

(b) Any proposed change to the approved egress floor plan shall be submitted to the state fire marshal and superintendent of the division of industrial compliance for approval. Changes shall not be made to aisle widths, egress patterns, location or overall height of showroom fixtures or other elements of the approved egress floor plan without first obtaining the written approval of the state fire marshal and superintendent of the division of industrial compliance.

(v) **5622.3.1.5 Occupancy load.** The maximum occupant load for any retail sales showroom shall not exceed one occupant per sixty square feet of gross floor area. The maximum occupant load may be increased to one occupant per thirty square feet of gross floor area if both of the following conditions are satisfied:

(a) A minimum of one means of egress approved by the building official and the state fire marshal is provided for each twenty-five occupants or fraction thereof.

(b) A minimum of three means of egress approved by the building official and the state fire marshal are located to provide direct access in separate directions from any point in the area served so as to minimize the possibility that adequate exit capacity would be blocked by any one fire or other emergency condition.

(4) **5622.4 Representative sample showroom.** A licensed premises may contain one structure or portions thereof, to which the public may have access for the purpose of conducting sales from a representative sample showroom. All such representative sample showrooms shall be:

(a) **5622.4.1 Occupancy.** Constructed, altered and maintained in accordance with the building code as listed in rule 1301:7-7-80 of the Administrative Code for a use and occupancy group that permits mercantile sales and this code and approved by the building official having jurisdiction over the subject facility via a valid certificate of occupancy and the state fire marshal for such use.

(b) **5622.4.2 Notice.** Prior to any such construction, alteration, or use of a structure, or portion thereof, for public view of product representations, the intended or existing licensee shall notify the state fire marshal in writing of the intent to alter, construct or utilize a structure, or portion thereof, for public viewing of product representations and obtain authorizations for such use and for the construction of or alteration of such structures, or portions thereof, in accordance with paragraph (T)(5620.2) of this rule.

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(c) **5622.4.3** Operated in accordance with the certificate of occupancy, the use group classifications and maximum occupant load requirements of the building code as listed in rule 1301:7-7-80 of the Administrative Code, this code, and the approval described in this paragraph.

(d) **5622.4.4** A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, explosives, explosive materials, fireworks, or any similar hazardous materials or substances. When the public has access to a representative sample showroom, such structures or portions thereof may only contain a product representation that consists of paper materials, packaging materials, catalogs, photographs or similar product depiction. The public may not access any other portions of such structures.

(e) **5622.4.5** A representative sample showroom shall be used only for the public viewing of firework product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions.

(5) **5622.5 Sales. General.**

(a) **5622.5.1 Sales from a licensed building.** At no time shall a licensed manufacturer or wholesaler sell any class of fireworks outside a licensed building. A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. The sale of fireworks from a storage building or magazine is prohibited and the general public shall be prohibited from such areas.

(b) **5622.5.2** The sale of fireworks from motor vehicles is prohibited.

(c) **5622.5.3 Sales from a representative sample showroom.** The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample showroom structure shall not occur inside any structure on a licensed premises, but shall occur on the licensed premises.

(d) **5622.5.4 Retail sales.** A retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

All retail sales of 1.4G fireworks by a licensed manufacturer or wholesalers shall only occur from the inside of an approved retail sales showroom or a representative sample showroom, located on a licensed premises and from no other structure or device outside a licensed building.

(e) **5622.5.5 Wholesale sales.** All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

- (i) The direct sale and shipment of fireworks to a person outside of this state;
- (ii) From an approved retail sales showroom as described in this paragraph;
- (iii) From a representative sample showroom as described in this paragraph;
- (iv) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.
- (v) Any other method as described in this rule.

(W) Section 5623 Fireworks wholesale and retail business hours

(1) **5623.1 Waiver.** *An application from a licensed wholesaler to waive the business hour requirements of division (H) of section 3743.19 of the Revised Code shall contain all of the following information:*

- (a) **5623.1.1** *The name, address, and license number of the wholesaler.*
- (b) **5623.1.2** *The reason for closing the business.*
- (c) **5623.1.3** *The exact date the business will be closed and the exact date the business will reopen.*
- (d) **5623.1.4** *An inventory list of the fireworks that will be stored on the premises during the time that the business is closed.*
- (e) **5623.1.5** *A name, telephone number and address where the licensed wholesaler may be contacted in the event of an emergency.*
- (f) **5623.1.6** *The name, address and telephone number of a responsible person who shall have access and keys to all buildings on the premises.*
- (g) **5623.1.7** *The manner in which the building(s) and site have been secured to prevent trespassing, theft, or unauthorized entry into the building(s) or structure(s).*
- (h) **5623.1.8** *The name and signature of the local fire official and law enforcement officer who have been notified of the anticipated closing date.*
- (i) **5623.1.9** *The name and signature of the fire and building officials who have been notified if the fire suppression system is to be turned off while the facility is closed.*

(2) **5623.2** *If a licensed wholesaler is granted a waiver pursuant to this paragraph and the wholesaler reopens the premises listed in the waiver for fireworks sales prior to the expiration date of the waiver period, the licensed wholesaler shall notify in writing the state fire marshal, local fire official and the local law enforcement officer of the date the wholesaler reopens.*

(3) **5623.3** *If a licensed wholesaler reopens pursuant to paragraph (W)(2)(5623.2) of this rule, any waiver granted to the wholesaler under this paragraph shall automatically expire.*

(X) Section 5624 Storage locations

(1) **5624.1** *A licensed manufacturer or wholesaler may expand its licensed premises within the state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the license premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:*

- (a) **5624.1.1** *The licensee submits an application to the state fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.*
- (b) **5624.1.2** *The identity of the holder of the license remains the same at the storage location.*
- (c) **5624.1.3** *The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and*

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storage of fireworks regulated under this rule at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

*(d) **5624.1.4** Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structure on the licensed premises in accordance with the distances specified in these rules.*

*(e) **5624.1.5** Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after September 29, 2005.*

*(f) **5624.1.6** The state fire marshal approved the application for expansion.*

*(2) **5624.2 Permitted uses of storage location.** The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the state fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.*

*(3) **5624.3** A licensee who obtains approval for the use of a storage location in accordance with division (I) of section 3743.04 of the Revised Code shall use the storage location exclusively for the following activities, in accordance with this rule:*

*(a) **5624.3.1** Packaging, assembling, or storing of fireworks, by a licensed manufacturer, which shall only occur in buildings or structures approved for such hazardous uses by the building code official having jurisdiction for the storage location or, for 1.4G fireworks, in containers or trailers approved for such hazardous uses by the state fire marshal if such containers or trailers are not subject to regulation by the building code as listed in rule 1301:7-7-80 of the Administrative Code. All such storage shall be in accordance with NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code.*

*(b) **5624.3.2** Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similar licensed persons located in another state or country.*

*(c) **5624.3.3** Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with this rule.*

*(4) **5624.4** A licensee who obtains approval for the use of a storage location in accordance with division (G) of section 3743.17 of the Revised Code shall use the storage location exclusively for the following activities, in accordance with this rule:*

*(a) **5624.4.1** Packaging, assembling, or storing fireworks, by a licensed wholesaler, which shall occur only in buildings or structures approved for such hazardous uses by the building code official having jurisdiction for the storage location or, for 1.4G fireworks, in containers or trailers are not subject to regulation by the building code as listed in rule 1301:7-7-80 of the Administrative Code. All such storage shall be in accordance with NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code.*

*(b) **5624.4.2** Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country.*

*(c) **5624.4.3** Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with this rule.*

(5) **5624.5 Limitations on sales activity at a storage location.** A licensed manufacturer or wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of section 3743.04 of the Revised Code or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the storage location approved in accordance with this rule.

(6) **5624.6 Prohibitions against public access.** Each licensee responsible for a storage location shall prohibit public access to the storage location in accordance with this code.

(a) **5624.6.1** Storage locations shall be secured against unauthorized entry and safeguarded against inappropriate public access.

(i) **5624.6.1.1** Manufacturer's storage locations consisting only of approved trailers or similar approved structures shall include provisions that preclude public access by providing a 6-foot-high chain link fence a minimum of 10 feet from such trailer or structure that completely surrounds the trailer or similar structure in such a manner as to prohibit public access (or equivalent means) as approved by the state fire marshal.

(ii) **5624.6.1.2** Storage locations consisting only of storage buildings shall include provisions that preclude public access to all storage and use areas where fireworks are stored or present within such storage buildings including but not limited to, proper separation assemblies with approved locks and security devices. All such security measures and installation of locks or devices shall be in accordance with the building code as listed in rule 1301:7-7-80 of the Administrative Code and approved by the state fire marshal.

(iii) **5624.6.1.3** Storage locations consisting of buildings, structures and trailers shall include provisions that preclude public access by means of fences, proper separation assemblies, locks, security devices, or equivalent means to prevent accidental or intentional contact with the fireworks present at the storage location, in accordance with the provisions of this paragraph, the building code as listed in rule 1301:7-7-80 of the Administrative Code, and this code as approved by the state fire marshal.

(b) **5624.6.2** The public shall not access a storage location unless such access is otherwise permitted by this rule.

(7) **5624.7** A storage location approved by the state fire marshal in accordance with divisions (G) and (I) of section 3743.04 of the Revised Code may not be relocated for a minimum period of five years.

(Y) Section 5625 Sale of fireworks

(1) **5625.1** If a person is required by the Ohio Revised Code or this rule to possess or display a license or permit issued or authorized pursuant to Chapter 3743. of the Revised Code to acquire, display, possess, store or transport fireworks, such person shall maintain a copy of that license at all times that person engages in any activity regulated by the rule. For all license or permit holders, other than a licensed manufacturer or wholesaler of fireworks, a copy of such license or permit must be maintained with the fireworks associated with the license or permit and provided to any law enforcement or fire officials upon request.

(Z) Section 5626 Consumer / 1.4G Fireworks

(1) **5626.1 Scope.** This paragraph applies to the possession, storage, handling, discharge and use of 1.4G fireworks by consumers pursuant to sections 3743.45 and 3743.451 of the Revised Code. Such fireworks may also be subject to other provisions of this code. To the extent that any matter regarding the possession, storage, handling, discharge or use of 1.4G fireworks by consumers pursuant to sections 3743.45 and 3743.451 of the Revised Code are addressed in this section or conflict with other provisions of this rule, the provisions of this section control.

(2) **5626.2 Definitions.** For purposes of paragraph 5626 the following take on exclusive meaning as follows:

“1.4G fireworks.” 1.4G fireworks, as that term is defined in the Revised Code and this code, that are purchased, handled, stored, possessed, used, or discharged by consumers pursuant to section 3743.27 or section 3743.45 of the Revised Code. This term includes consumer fireworks.

“1.4G fireworks discharge site.” The area where any 1.4G firework is discharged including the point of discharge and the area immediately surrounding that point.

Consumer fireworks discharge incident. Any act or omission that occurs at a location where 1.4G fireworks are purchased, possessed, handled, stored, used or discharged that results in injury or death or a substantial risk of injury or death to any person or results in property damage in excess of one thousand dollars and that involves either

1. the discharge, handling or other use, or the results of the discharge, handling or other use, of 1.4G fireworks or associated materials, or
2. the failure of any person to comply with any applicable requirement imposed by Chapter 3743. of the Revised Code or this code.

“Discharge.” Includes the use, explosion, detonation, ignition or any other discharge or use of 1.4G fireworks in any manner.

“Fireworks establishment.” Any fireworks manufacturer, wholesaler, retailer, or storage premise subject to licensure under Chapter 3743. of the Revised Code.

“Spectator.” Any person other than a person who is directly engaged in the discharge of 1.4G fireworks.

(3) **5626.3 General.** The possession, storage, handling, and discharge in this state of 1.4G fireworks shall be in accordance with sections 3743.27, 3743.45 and 3743.451 of the Revised Code, this paragraph and, as applicable, this rule.

(a) **5626.3.1 Local regulation.** The provisions of this paragraph are not to be construed in any way to limit the authority of a local governing body to restrict or ban the use of fireworks within their territorial jurisdiction pursuant to division (D) of section 3743.45 of the Revised Code and paragraph (Z)(3)(a)(i)(5626.3.1.1) of this rule. Any such duly enacted law, rule or regulation supersedes any less restrictive provision set forth herein and controls within the territorial boundaries of that jurisdiction.

(i) **5626.3.1.1** In accordance with division (D) of section 3743.45 of the Revised Code, a county, with respect to the unincorporated territory of the county, a township, with respect to the unincorporated territory of the township, or a municipal corporation may do either of the following:

- (a) Restrict the dates and times a person may discharge, ignite, or explode 1.4G fireworks purchased pursuant to section 3743.45 of the Revised Code and this paragraph.
- (b) Ban the discharge, ignition, or explosion of 1.4G fireworks purchased pursuant to section 3743.45 of the Revised Code and this paragraph. A resolution adopted by a board of township trustees under division (D) of section 3743.45 of the Revised Code prevails over a conflicting resolution adopted under division (D) of section 3743.45 of the Revised Code by the board of county commissioners in the county within which the township is located.

(b) **5626.3.2 Other laws and regulations.** This paragraph does not limit the enforcement of any ordinance, resolution, or statute that regulates noise, disturbance of the peace, or disorderly conduct.

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(c) **5626.3.3 Public exhibition.** 1.4G fireworks discharged pursuant to and in accordance with sections 3743.27 and 3743.45 of the Revised Code and this paragraph shall not be considered a public exhibition subject to licensure and permit requirements of sections 3743.50 through 3743.56 of the Revised Code as long as no 1.4G firework is used in the same display as any 1.3G firework.

(d) **5626.3.4 Licensed exhibition.** 1.4G fireworks shall not be possessed, stored, handled or discharged at a licensed fireworks exhibition by anyone other than a licensed exhibitor.

(e) **5626.3.5 Inducing panic.** 1.4G fireworks shall not be possessed, stored, handled or discharged in any manner that would or would have a high likelihood of inducing panic as set forth in section 2917.31 of the Revised Code.

(f) **5626.3.6 Safety compliance.** Unless otherwise specified by the Revised Code or this code, all 1.4G fireworks shall be used and discharged in accordance with the manufacturer's instructions and recommended practices and in accordance with the most recent CPSC guidelines available at the time of use or discharge.

(i) **5626.3.6.1 Tampering.** Persons who obtain possession of any 1.4G firework shall not in any manner tamper with, dismantle or alter the 1.4G firework other than normal discharge.

(g) **5626.3.7 Liability.** Any person who possesses, stores, handles or discharges 1.4G fireworks or any person who is responsible for such possession, storage, handling or discharge shall be liable in accordance with all applicable laws, rules and regulations and subject to any immunities and defenses thereto in Ohio law for any injury, death, or property damage resulting therefrom.

(4) **5626.4 Possession, storage, and handling.** Any person who intends to obtain possession in this state of 1.4G fireworks purchased in this state shall obtain possession of the 1.4G fireworks only from a licensed retailer, licensed manufacturer, or licensed wholesaler and shall be subject to section 3743.45 of the Revised Code and this code.

(a) **5626.4.1** In addition to compliance with all applicable provisions of the Revised Code and this code, all 1.4G fireworks shall be

- (i) Possessed only in accordance with Chapter 3743. of the Revised Code and this code;
- (ii) Handled carefully and with due consideration of the explosive nature of fireworks;
- (iii) Stored in compliance with all applicable provisions of this code and not in a manner that endangers the public at large;
- (iv) Stored in an amount not greater than 125 pounds net weight pyrotechnic composition within any structure, building or vehicle;
- (v) Stored at least 150 feet from other explosives, explosive material, or hazardous materials that are subject to rule 1301:7-7-50 of the Administrative Code;
- (vi) Stored in a cool, dry place away from ignition sources including but not limited to heat, shock, friction and sparks, and at least 25 feet from hot work activity, open flames, and flammable and combustible liquids including, but not limited to, gasoline, diesel fuel, and kerosene;

Exception to (iv) and (v): Quantity limits ~~and separation distances~~ may be increased and separation distances may be decreased by the fire marshal for 1.4G fireworks that are properly permitted in accordance with paragraph (E)(1)(a)(i)(a)(105.1.1.1.1) of rule 1301:7-7-01 of the Administrative Code and paragraph (A)(2)(5601.2) of this rule and stored in a magazine in accordance with paragraph (D)(5604) of this rule.

(b) 5626.4.2 1.4G fireworks shall not be stored in sleeping areas, within means of egress, in mechanical or service areas of any occupancy group or residential location, or outside in open areas unless the 1.4G fireworks are properly permitted in accordance with paragraph (E)(1)(a)(i)(a)(105.1.1.1.1) of rule 1301:7-7-01 of the Administrative Code and paragraph (A)(2)(5601.2) of this rule and stored in a magazine in accordance with paragraph (D)(5604) of this rule.

(c) 5626.4.3 1.4G fireworks shall not be stored at any I occupancy or within any residential facility licensed under title 37 of the Revised Code.

(5) 5626.5 Discharge of 1.4G fireworks. The discharge of 1.4G fireworks, including the 1.4G fireworks discharge site, trajectory, fallout, and spectator separation, shall comply with Chapter 3743. of the Revised Code and this code.

(a) 5626.5.1 Days of discharge. Unless otherwise limited or prohibited by state or local laws, rules or regulations, any person authorized under section 3743.45 of the Revised Code and this paragraph to possess 1.4G fireworks in this state may discharge those fireworks in accordance with section 3743.45 of the Revised Code and this paragraph on private property, with express authorization from the property owner, and only on the following days each year:

- 
- (i) The first day of January;*
 - (ii) Chinese new year's day;*
 - (iii) The fifth day of May;*
 - (iv) The last Monday in May, and the Saturday and Sunday immediately preceding that day;*
 - (v) The nineteenth day of June;*
 - (vi) The third, fourth, and fifth days of July;*
 - (vii) The first Friday, Saturday, and Sunday before and after the fourth day of July;*
 - (viii) The first Monday of September, and the Saturday and Sunday immediately preceding that day;*
 - (ix) Diwali;*
 - (x) The thirty-first day of December.*

(b) 5626.5.2. Times of discharge. Unless further limited by local laws, rules or regulations, the discharge of 1.4G fireworks as set forth in section 3743.45 of the Revised Code and this paragraph shall only occur on the days listed in paragraph (Z)(5)(a)(5626.5.1) of this rule and only between the hours of 4:00 p.m. and 11:00 p.m. on each day.

Exceptions:

- 1. On the thirty-first day of December 1.4G fireworks may be discharged until 11:59 p.m.*
- 2. On the first day of January 1.4G fireworks may also be discharged between 12:00 a.m. and 1:00 a.m.*

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(c) **5626.5.3 Drought or hazardous conditions.** Regardless of any other provision of this paragraph, the discharge of 1.4G fireworks is prohibited in accordance with the following:

(i) **5626.5.3.1** If adverse weather conditions prevail or begin such that an unreasonable hazard to persons or property exists due to such conditions, including but not limited to high winds, precipitation or other atmospheric conditions, the discharge of 1.4G fireworks shall be postponed or discontinued until ~~weather conditions improve~~ the hazard has been eliminated.

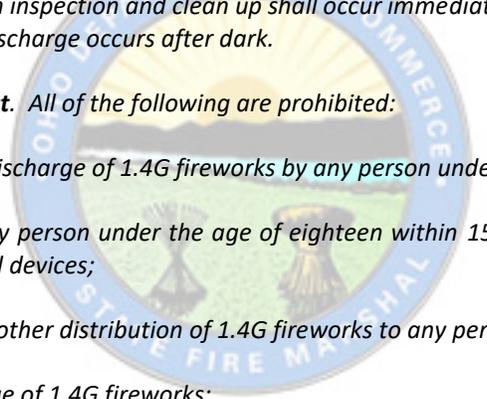
(ii) **5626.5.3.2** If any unsafe condition is detected, such as hazardous debris falling into a spectator area, any person discharging 1.4G fireworks shall immediately cease the discharge of 1.4G fireworks until the unsafe condition is eliminated or corrected.

(iii) **5626.5.3.3** 1.4G fireworks shall not be discharged in any area where a burn ban, fire weather watch or red flag warning has been issued by a governing authority during any time such a ban, watch or warning is in effect or until such time as the issuing authority has lifted the ban, watch or warning.

(d) **5626.5.4 Weather protection.** Pyrotechnic materials used in the discharge of 1.4G fireworks shall be protected from adverse weather conditions.

(e) **5626.5.5 Clean up.** Any person who discharges 1.4G fireworks shall conduct an inspection of all affected premises to locate debris resulting from the discharge of 1.4G fireworks and promptly remove and properly dispose of all such debris. Such inspection and clean up shall occur immediately after the discharge or within 12 hours of the discharge if the discharge occurs after dark.

(f) **5626.5.6 Prohibited conduct.** All of the following are prohibited:

- 
- (i) The handling and discharge of 1.4G fireworks by any person under the age of eighteen;
 - (ii) The presence of any person under the age of eighteen within 150 feet of the point of discharge of 1.4G firework aerial devices;
 - (iii) The provision of or other distribution of 1.4G fireworks to any person under the age of eighteen;
 - (iv) The indoor discharge of 1.4G fireworks;
 - (v) The presence of tents within a 1.4G fireworks discharge site while fireworks are being discharged;
 - (vi) The storage of 1.4G fireworks within the 1.4G fireworks discharge site in such a manner that accidental ignition would have a high likelihood of occurring;
 - (vii) The pointing, aiming or discharging of 1.4G fireworks at or towards any person or object including bystanders, spectators, emergency services personnel, vehicles, aircraft, watercraft or any structure;
 - (viii) The discharge of 1.4G fireworks in any area that is not consistent with sections 3743.45 and 3743.451 of the Revised Code and this paragraph.
 - (ix) The discharge of 1.4G fireworks within the boundaries of any federal, state or local forest, park, public recreation area or place of nature conservancy;
 - (x) The discharge of 1.4G fireworks in a manner that would be deemed hazardous to property or endanger a person or animal;

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- (xi) *The discharge of 1.4G fireworks within 150 feet of property that houses livestock, measured from the point of discharge to the nearest point of the property line, unless the person who intends to discharge the fireworks provides at least five days written notice to the owner of the property where the livestock is housed which states the date, time, and location where the fireworks will be discharged;*
- (xii) *The discharge of 1.4G fireworks on public property or private school property;*
- (xiii) *The ignition or discharge of 1.4G fireworks in any street, highway, alley or public way;*
- (xiv) *The presence of smoking materials, matches, lighters, or open flame devices within 50 feet (15 m) of any area where 1.4G fireworks or other pyrotechnic materials are present.*

Exception: *Matches, lighters, or open flame devices to be specifically used to lawfully ignite 1.4G fireworks for discharge purposes may be within the 1.4G fireworks discharge site.*

(g) 5626.5.7 Separation distances. *1.4G fireworks discharge sites shall remain clear of ignitable materials or any other hazards and shall be separated from spectators, structures and other hazards in accordance with paragraphs (Z)(5)(g)(i)(5626.5.7.1) to (Z)(5)(g)(iv)(a)(5626.5.7.4.1) of this rule. Separation distances in paragraphs (Z)(5)(g)(i)(5626.5.7.1) to (Z)(5)(g)(iv)(a)(5626.5.7.4.1) of this rule shall be applied independently and completely to every aspect of each 1.4G firework discharge subject to paragraphs (Z)(5)(g)(i)(5626.5.7.1) to (Z)(5)(g)(iv)(a)(5626.5.7.4.1) of this rule. When determining separation distances, any conflict or ambiguity shall be resolved in a manner that provides the greatest degree of public safety and property protection.*

(i) 5626.5.7.1 Separation distances from spectators. *The minimum separation distance from any spectator to the point of discharge of each 1.4G firework shall be at least as great as those specified in paragraphs (Z)(5)(g)(i)(a)(5626.5.7.1.1) to (Z)(5)(g)(i)(b)(5626.5.7.1.2) of this rule.*

(a) 5626.5.7.1.1 Aerial devices. *For 1.4 G firework aerial devices including, but not limited to, shells, roman candles, cakes, and bottle rockets, the minimum required discharge radius shall be at least 150 feet.*

(b) 5626.5.7.1.2 Ground devices. *For non-aerial 1.4G firework devices discharged at ground level primarily for ground effect including but not limited to fountains, firecrackers or ground effect devices, the minimum required discharge radius shall be at least 50 feet.*

(ii) 5626.5.7.2 Aerial shell separation distances from buildings and structures. *Except for greater distances as otherwise provided in paragraphs (Z)(5)(g)(iii)(5626.5.7.3) to (Z)(5)(g)(iv)(a) (5626.5.7.4.1) of this rule, the minimum separation distance from the point of discharge of each 1.4G firework aerial shell to the nearest point of any structure or building shall be at least 150 feet.*

(iii) 5626.5.7.3 Increased separation distances for certain structures and areas. *Notwithstanding the presence of spectators, the minimum separation distance from the point of discharge of each 1.4G firework to the locations specified below shall be determined and applied as follows:*

(a) 5626.5.7.3.1 Multitenant properties, hotels, motels, dormitories, fraternities, and sororities. *The distance from the point of discharge of any 1.4G fireworks to the nearest point of a structure or building that is used as a multitenant structure, hotel, motel, dormitory, fraternity, or sorority shall be at least three times the distance required in paragraphs (Z)(5)(g)(i)(a)(5626.5.7.1.1) to (Z)(5)(g)(i)(b)(5626.5.7.1.2) of this rule.*

(b) 5626.5.7.3.2 Hospitals, educational facilities, health care facilities, Institutional Group occupancies, and residential facilities licensed under Title 37 of the Revised Code. *The distance from the point of discharge of any 1.4G firework to the nearest point of a structure or building that is used as a hospital,*

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educational facility, health care facility Institutional Group occupancy, or a residential care facility licensed under Title 37 of the Revised Code shall be at least twice the distance required in paragraphs (Z)(5)(g)(i)(a)(5626.5.7.1.1) to (Z)(5)(g)(i)(b)(5626.5.7.1.2) of this rule.

(c) **5626.5.7.3.3 Military installations, railroads, airports and fireworks establishments.** The distance from the point of discharge to any railroad or the nearest point of a property line of property that is used as a military installation, airport or fireworks establishment shall be at least three times the distance required in paragraphs (Z)(5)(g)(i)(a)(5626.5.7.1.1) to (Z)(5)(g)(i)(b)(5626.5.7.1.2) of this rule. If a flight restriction is in place surrounding a facility the required distances shall be calculated based on the restriction.

(d) **5626.5.7.3.4 Bulk storage areas.** The distance between the point of discharge of any 1.4G firework to the nearest point of a bulk storage area containing materials that have a flammability, explosive, or toxic hazard shall be at least twice the distance required in paragraphs (Z)(5)(g)(i)(a)(5626.5.7.1.1) to (Z)(5)(g)(i)(b)(5626.5.7.1.2) of this rule.

(i) **5626.5.7.3.4.1** The fuel tanks on vehicles or other motorized equipment located in the 1.4G fireworks discharge site shall not be considered bulk storage.

(iv) **5626.5.7.4 Aerial shells.** Any area selected as a 1.4G fireworks discharge site for the discharge of 1.4G firework aerial shells shall be located so that the post ignition trajectory of the shells shall not come within 25 feet (7.6 m) of any overhead object, structure, or vehicle.

(a) **5626.5.7.4.1** The fallout area for 1.4G firework aerial shells shall be an open area. Spectators, unauthorized vehicles, watercraft, or readily combustible materials shall not be located within the fallout area during any period in which fireworks are being discharged.

(6) **5626.6 Consumer fireworks discharge incident.** Any consumer fireworks discharge incident shall be reported to the fire code official and law enforcement official immediately.

(a) **5626.6.1 Report.** The fire code official shall immediately make a report regarding the fireworks incident and shall forward a copy of the report to the state fire marshal within 72-hours of the incident. The report shall provide the time, date and location where the consumer fireworks discharge incident occurred, the name address and telephone number of all of the following as applicable: the person who was conducting the discharge, any person who discharged fireworks that resulted in any injury or death, the owner of the property where the discharge occurred, the owner of the property where the injury or damage occurred, the person(s) injured or fatally injured as a result of the discharge, and any other person present during the discharge.

(b) **5626.6.2 Tampering.** The disturbance, dismantling, repositioning, moving or altering of any firework item, any associated equipment or other material, or any other item within the 1.4G fireworks discharge site, or any evidence related to a consumer fireworks discharge incident is prohibited.

Exception: Items may, as authorized by a fire official or law enforcement official on site, be moved as necessary to prevent further injury or death to any member of the public or a threat of imminent fire or explosion.

(AA) Section 5627 Fountain Device Retailers

(1) 5627.1 Scope. Except as noted herein, this paragraph applies to the licensure, acquisition, handling, possession, sales, storage and use (including discharge) of the subset of 1.4G fireworks that are further defined as fountain devices by any person other than a licensed manufacturer of fireworks or a licensed wholesaler of fireworks. Such fountain devices may also be subject to other provisions of this code. To the extent that any matter regarding the licensure, handling, possession, sales, storage, or use of fountain devices purchased pursuant to Chapter 3743. of

the Revised Code are addressed in this paragraph or the provisions in this paragraph conflict with provisions otherwise contained in this code, the provisions of this paragraph control.

(2) 5627.2 Definitions.

(a) 5627.2.1 For the purposes of paragraph (AA)(5627), this rule, and as used elsewhere in this code, the following words and terms shall be defined as follows:

"Fountain device." A specific type of 1.4G firework that meets all of the following criteria:

- (1) It is nonaerial and nonreport producing;
- (2) It is recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition);
- (3) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke; and
- (4) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.

"Fountain device retailer" or "licensed retailer." A person licensed pursuant to section 3743.26 of the Revised Code.

"Fountain device sales location." The approved building where licensed fountain device sales occur and any approved contiguous designated external fountain device storage areas on the same premise as the approved building.

"Retail sale" or "sell at retail." A sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(b) 5627.2.2 For the purposes of paragraph (AA)(5627) of this rule, the following take on exclusive meaning as follows:

"CFRS facility." A consumer fireworks retail sales facility as define in NFPA 1124 as set forth in rule 1301:7-7-80 of the Administrative Code.

"Highly flammable materials." A "flammable gas", "flammable liquid", "flammable liquified gas" "flammable material", or "flammable solid" as defined in this code that are capable of being readily ignited from common sources of heat or similar causes. Examples of highly flammable materials include aerosols, acetone, rubbing alcohol, hand sanitizers, pool chemicals, automotive fluids, and other similar products, regardless of form or packaging, existing in a structure licensed for fountain device retail sales.

"Open for business." Having the intent and ability to engage in any lawful licensed fountain device retailer activity authorized by sections 3743.26 to 3743.29 of the Revised Code.

"Store." A store as define in NFPA 1124 as set forth in rule 1301:7-7-80 of the Administrative Code.

(c) 5627.2.3 The following terms are defined in rule 1301:7-7-02 of the Administrative Code:

"Net explosive weight."

“Pyrotechnic composition.”

(3) 5627.3 General. A licensed retailer's acquisition, possession, storage, and sale of fountain devices may only occur in compliance with the Revised Code and this paragraph.

(a) 5627.3.1 The possession and discharge of all fountain devices lawfully acquired from a licensed manufacturer of fireworks, a licensed wholesaler of fireworks, or a licensed fountain device retailer by the public may only occur in accordance with the provisions of sections 3743.27, 3743.28, 3743.29, 3743.45, 3743.451 and 3743.65 of the Revised Code, paragraph (Z)(5626) of this rule, and any other applicable federal, state and political subdivision laws, including any prohibitions or limitations on such discharges. All other possession and discharge of fountain devices, except for uses by a licensed exhibitor of fireworks in accordance with a properly issued exhibition permit pursuant to section 3743.54 of the Revised Code, is prohibited.

(b) 5627.3.2. All retail sales of fountain devices by a licensed manufacturer of fireworks, a licensed wholesaler of fireworks, or a licensed fountain device retailer to the public shall be subject to the fee provisions and any associated audit or compliance requirements of section 3743.22 of the Revised Code and any associated rules.

(4) 5627.4 Application and licensure.

(a) 5627.4.1 Requirements for fountain device retailer license.

(i) 5627.4.1.1 Application periods. Except as otherwise specified in division (C) of section 3743.26 of the Revised Code for a person not yet “open for business” or as authorized under division (D) of section 3743.26 of the Revised Code, any person who wishes to receive an initial license as a fountain device retailer in this state shall submit an application for licensure to the state fire marshal before the first day of October. Applications for an initial fountain device retailer license by a person not yet “open for business” immediately before the first day of October, but that becomes “open for business” at another time during the year, may be submitted at any time during a calendar year as provided for in section 3743.26 of the Revised Code. Applicants for a fountain device retailer license authorized under division (D) of section 3743.26 of the Revised Code for calendar year 2022 shall be filed in accordance with that section.

(ii) 5627.4.1.2 Application form. All fountain device retailer license applications shall be on a form prescribed by the state fire marshal. All of the following shall be submitted with the fountain device retailer license application:

(a) A license fee in the amount of twenty-five dollars;

(b) An affidavit affirming that the applicant is in compliance with NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code, or will be in compliance before engaging in the storage or retail sale of fountain devices;

(c) Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death at its business location. Proof of such insurance shall be submitted together with proof of coverage in an amount not less than one million dollars for products liability on all inventory located at the business location.

(b) 5627.4.2 Separate application for each location. A separate application for licensure as a fountain device retailer shall be submitted for each location at which a person wishes to engage in the retail sale of fountain devices. Only one fountain device retailer license, carrying a distinct license number as designated by the state fire marshal, may be issued per structure and any parcels associated with the licensed structure at any particular location within the State.

(c) **5627.4.3 Minimum license holder qualifications.** The background check and felony conviction-based licensure prohibitions established in section 3743.70 of the Revised Code shall not apply to fountain device retailers.

(d) **5627.4.4 License year and renewal.** Unless otherwise specified in the Revised Code, the license year for a licensed fountain device retailer is the first day of December of a calendar year through the thirtieth day of November of the following year. If a licensed retailer wishes to continue or resume engaging in the retail sale of fountain devices at a particular location after its effective license for that location expires, regardless of the length of time elapsed from the date of expiration, the licensee shall apply before the first day of October immediately prior to the start of the new license year for a new license pursuant to this paragraph. The state fire marshal shall send a written notice of the expiration of a license to a licensed fountain device retailer not later than the first day of September for any year that the licensed fountain device retailer has an active license.

(5) 5627.5 Conditions of fountain device retailer licensure.

(a) **5627.5.1 License Period.** The state fire marshal shall, on the first day of December and, except as provided in divisions (C) and (D) of section 3737.26 of the Revised Code, at no other time, issue qualifying applicants a license to sell fountain devices at retail.

Except as provided in divisions (C) and (D) of section 3737.26 of the Revised Code, a licensed retailer's license is effective for one year beginning on the first day of December and shall expire on the 30th day of November of the year after it was issued.

(b) **5627.5.2 Fees.** Every license fee required in accordance with this paragraph shall be paid with cash or by money order, postal note, cashier's check, credit card, certified check or personal check payable to the "Treasurer, State of Ohio" and be paid at or mailed to the "Division of State Fire Marshal," at the address specified on the application material.

(c) **5627.5.3 Expired license.** Fountain device retailer license renewal applications received after the required submittal dates shall be considered new applications and meet the new license requirement of sections 3743.26 and 3743.27 of the Revised Code and section 5627.4 of this paragraph.

(d) **5627.5.4 Duplicate license.** If a valid fountain device retailer license is lost or accidentally destroyed, an application for a duplicate license shall be made in writing to the state fire marshal and be accompanied by a ten-dollar fee.

(e) **5627.5.5 Misuse of license.** No person who has been issued a fountain device retailer license shall give or permit any other person to use such license and such license is not transferable or assignable to any other holder at the same location, nor shall any license be extended beyond the dates set out thereon.

(f) **5627.5.6 Forfeiture of fee.** When a license has been denied, suspended, or revoked pursuant to Chapter 119. of the Revised Code and this rule, the fee for such license shall be forfeited and deposited into the appropriate state fire marshal's fund and applied as a fee for license processing.

(g) **5627.5.7 Denial or revocation of license.** The state fire marshal may suspend consideration of an application or deny the issuance of an initial fountain device retailer license, revoke an existing fountain device retailer license, or deny the renewal of a fountain device retailer license if any of the following occur:

1. The applicant has failed to submit proof of comprehensive general liability insurance or licensee has failed to maintain the same.
2. The applicant has failed to provide the required information on the application form provided by the state fire marshal including, but not limited to failure to include the identification of a statutory agent, if

applicable, or other designated agent for service of process at the time of application and prompt notification of any changes in the statutory agent.

3. The applicant has failed to include the required fee for the license with the application.
4. The applicant owes fees or assessments of any type to the state fire marshal for other fireworks related pending applications or existing licenses.
5. The applicant withdraws its application prior to an investigation or inspection by the state fire marshal to determine if the license shall be issued.
6. The applicant or licensee has made a misrepresentation or filed false statements in its application.
7. There is substantial evidence that the fountain device retailer license applicant, the operations of the licensee, or any conditions at the licensed premises are not in full compliance with Chapters 3737, 3743, 3781. and 3791. of the Revised Code, any rules promulgated in accordance with those chapters, or any other applicable federal, state or local laws, including building or zoning regulations.

(6) 5627.6 Sales Locations – General. A licensed fountain device retailer is authorized to possess fountain devices and sell fountain devices at retail only in accordance with the following:

1. A licensed retailer's possession and storage of fountain devices shall comply with NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code.
2. A licensed retailer shall only acquire fountain devices for sale to the public from a licensed manufacturer or a licensed wholesaler.
3. A licensed retailer may only sell fountain devices in its inventory at retail to the public. A licensed retailer shall not resell such fountain devices at wholesale to any person or to other fountain device retailers but may transfer product to other licensed locations owned by the same licensee.
4. A licensed retailer shall prominently display its current fountain device retailer license at the fountain device sales location authorized by that license.
5. A licensed retailer shall only possess and sell fountain devices as packaged merchandise with covered fuses.
6. A licensed retailer's possession, storage, and sale of fountain devices shall comply with the state fire marshal's rules adopted pursuant to section 3743.28 of the Revised Code, the fire code and all other applicable federal, state, and local laws rules and regulations.
7. A licensed retailer shall possess and sell fountain devices only at the location described in the application for licensure and approved by the state fire marshal, and the sale shall be from the inside of a licensed building and from no structure or device outside a licensed building. At no time shall a licensed retailer sell fountain devices outside of a licensed building, including from tents or under awnings, or engage in representative sample operations.
8. Mail order, internet based, or customer delivery-based sales that involve the delivery of fountain devices to a purchaser at any location other than from the licensed fountain device sales premise are prohibited.
9. Retail sales of fountain devices, at locations other than a licensed premise for a licensed manufacturer of fireworks or a licensed wholesaler of fireworks, shall be limited to mercantile occupancies, or locations providing higher level of public safety, as defined in the Building Code as listed in rule 1301:7-7-80 of the Administrative Code.

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10. Retail sales of fountain devices shall be in accordance with this paragraph's sales floor requirements.
11. Fountain device retailers shall notify the local fire code official having jurisdiction over the licensed sales location of its initial licensure under this paragraph and intended maximum amounts of fountain device inventory at the licensed location. The local fire code official may require the fountain device retailer to periodically renew such notifications, including any renewals or terminations of the fountain device retailer license.

(a) 5627.6.1 Sales Locations - General Safety Requirements.

(i) 5627.6.1.1 Portable Fire Extinguishers. Portable fire extinguishers shall be provided and maintained as required for extra (high) hazard occupancy in accordance with NFPA 10 as listed in rule 1301:7-7-80 of the Administrative Code.

(ii) 5627.6.1.2 Fire Safety and Evacuation Plan. An approved fire safety and evacuation plan shall be prepared in writing, posted and maintained in accordance with this code.

(iii) 5627.6.1.3 Housekeeping.

(a) 5627.6.1.3.1 Fountain sales areas and storage rooms shall be kept free of accumulations of debris and rubbish.

(b) 5627.6.1.3.2 Any loose pyrotechnic composition shall be removed immediately and safely and properly disposed of by the licensee.

(c) 5627.6.1.3.3 Vacuum cleaners or other mechanical cleaning devices shall not be used.

(d) 5627.6.1.3.4 Brooms, brushes, and dustpans used to sweep up any loose powder or dust shall be made of non-sparking materials.

(e) 5627.6.1.3.5 Fountain devices that are damaged shall be immediately removed from the sales floor, not offered for sale, and safely and properly disposed of by the licensee.

(f) 5627.6.1.3.6 Damaged fountain devices shall be permitted to be returned to the dealer or shall be disposed of according to the manufacturer's instructions.

(iv) 5627.6.1.4 Smoking. Smoking shall not be permitted inside any licensed fountain device sales location structure or within 50 feet (15.5 m) of any external fountain device storage area.

(a) 5626.6.1.4.1 No Smoking Signs. At least one sign that reads as follows, in letters at least 2 inches (51 mm) high on a contrasting background, shall be conspicuously posted at each entrance or within 10 feet (3.05 m) of every aisle directly serving the fountain device sales area: "FIREWORKS — NO SMOKING"

(v) 5627.6.1.5 Signage prohibiting fireworks discharge. At least one sign that reads as follows, in letters at least 4 inches (102 mm) high on a contrasting background, shall be conspicuously posted on the exterior of each side of the fountain device sales location:

NO FIREWORKS DISCHARGE

WITHIN 300 FEET

(b) 5627.6.2 Records of inventory. *Fountain device retailers shall maintain a current and accurate inventory of all fountain device inventory on the premises. Such records shall be made available to the state fire marshal or the local fire code official having jurisdiction upon request.*

(c) 5627.6.3 Suspension of sales and seasonal inventory. *The fire code official with jurisdiction may require any fountain device retailer within that official's jurisdiction to provide written notice that the retailer is temporarily suspending sales for a period of longer than thirty days, has depleted its seasonal inventory of fountain devices, or otherwise no longer has fountain devices on its premises during the period of its licensure.*

(7) 5627.7 Construction requirements for sales locations. *All structures used for the possession and sale of fountain devices after the effective date of this rule, whether such structures are newly constructed or fountain device sales are initiated in an existing structure, may only be constructed, occupied, operated and maintained in accordance with and as required by this code and the building code as listed in rule 1301:7-7-80 of the Administrative Code.*

All fountain device sales locations shall comply with the sections 5627.7.1 and 5627.7.2 of this rule.

(a) 5627.7.1 Fountain device sales locations. *All fountain device sales locations shall meet or exceed the requirements for mercantile occupancies open to the public, or for categories providing higher level of public safety, as defined in the building code as listed in rule 1301:7-7-80 of the Administrative Code.*

(b) 5627.7.2 Coordination of Codes: *The provisions of section 5627 of this rule supersede any of the more restrictive provisions of chapter 7 of NFPA 1124 (2006 edition) as listed in rule 1301:7-7-80 of the Administrative Code applicable to Fountain Device Retailers that address the same specific subject matter.*

(c) 5627.7.3 Fountain device sales locations. *Fountain device sales locations, including sales structures associated with the license, shall comply with the requirements of paragraphs (AA)(7)(c)(i)(5627.7.3.1) to (AA)(7)(c)(vii)(a)(5627.7.3.7.1) of this rule as specified.*

(i) 5627.7.3.1 Permits and certificates of occupancy. *All fountain device sales locations shall obtain and comply with all applicable construction, maintenance, and operational permit and certificate of occupancy requirements, or conditions thereof, as required by state or local laws, ordinances, or regulations, this code and the building code as listed in rule 1301:7-7-80 of the Administrative Code.*

(ii) 5627.7.3.2 Plans. *For any new construction of or the alteration or modification of an existing fountain device sales location, initial occupancy or use of a structure as a fountain device sales location, or as a part of any licensure process, the state fire marshal may require the submission of plans designating the following for all Type B fountain device sales locations:*

1. Minimum distances from the following to the nearest point of the sales structure:

- a. Public ways.
- b. Buildings.
- c. Other firework sales facilities.
- d. Motor vehicle fuel-dispensing station dispensers.
- e. Retail propane-dispensing station dispensers.
- f. Flammable and combustible liquid aboveground tank storage.

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g. Flammable gas and flammable liquefied gas, bulk aboveground storage, and dispensing areas within 300 ft (91.5 m) of the facility used for the retail sales of consumer fireworks.

2. Vehicle access and parking areas.

3. Location and type of portable fire extinguishers.

4. Floor plan and layout of storage and displays to indicate compliance with this chapter and applicable state or local laws, ordinances, or regulations.

5. Means of egress.

6. Construction details.

(iii) 5627.7.3.3 Means of Egress. The minimum number of exits provided from the retail sales area for all fountain device sales locations shall be in accordance with the building code as listed in rule 1301:7-7-80 of the Administrative Code and with paragraphs (AA)(7)(c)(iii)(a)(5627.7.3.3.1) to (AA)(7)(c)(iii)(c)(5627.7.3.3.3) of this rule.

(a) 5627.7.3.3.1 Required means of egress from the retail sales area shall not be allowed to pass through storage rooms.

(b) 5627.7.3.3.2 Maintenance. The means of egress shall be maintained in accordance with paragraph (EE)(1031) of rule 1301:7-7-10 of the Administrative Code as applicable.

(c) 5627.7.3.3.3 Exit signs. Exit signs shall be installed and maintained in accordance with paragraph (M)(1013) of rule 1301:7-7-10 and paragraph (D)(5) of rule 1301:7-7-11 of the Administrative Code as applicable and be visible under emergency illumination conditions in the event of a power supply failure.

(iv) 5627.7.3.4 Aisle Width Aisle width for all Type B fountain device sales locations shall comply with paragraphs (AA)(7)(c)(iv)(a)(5627.7.3.4.1) and (AA)(7)(c)(iv)(b)(5627.7.3.4.2) of this rule.

(a) 5627.7.3.4.1 Aisles shall have a minimum clear width of 48 inches (1.2 m).

(b) 5627.7.3.4.2 The required width of aisles shall be maintained unobstructed at all times when the facility is occupied by the public.

(v) 5627.7.3.5 Aisle Arrangements Dead-end aisles shall be prohibited for all fountain device sales locations.

(vi) 5627.7.3.6 Doors and Doorways. Doors and doorways used in the means of egress for all fountain device sales locations shall comply with paragraphs (AA)(7)(c)(vi)(a)(5627.7.3.6.1) to (AA)(7)(c)(vi)(c)(5627.7.3.6.3).

(a) 5627.7.3.6.1 Egress doors shall be not less than 36 inches (910 mm) in width [providing a minimum of 32 inches (813 mm) clear width].

(b) 5627.7.3.6.2 Every egress door that has a latching device shall be provided with panic hardware complying with the building code as listed in rule 1301:7-7-80 of the Administrative Code and this code.

(c) 5627.7.3.6.3 Means of egress doors shall be of the side-hinge swinging type and shall be arranged to swing in the direction of egress travel.

(vii) **5627.7.3.7 Alteration, modification or change of use of sales structure.** Any alteration, modification, or change of use of any structure used for the retail sale of fountain devices may only occur in compliance with and in accordance with this code and the building code as listed in rule 1301:7-7-80 of the Administrative Code.

(a) **5627.7.3.7.1 Equipment.** Any alteration or any installation of new equipment within any fountain device sales location associated with or in areas containing fountain devices may only be done in accordance with the requirements of this code and the building code as listed in rule 1301:7-7-80 of the Administrative Code.

(8) **5627.8 Employee education and training.** All fountain device retailer employees who are responsible for the storage, display or sale of fountain devices or who visually supervise fountain device displays in accordance with division (A)(4) of section 3743.27 of the Revised Code, or other responsible persons as designated by the fountain device retailer, shall be adequately trained in all of the following before performing their assigned job duties:

1. The safe handling, packaging and storage of fountain devices.
2. Safe and proper fountain device display location placement, operations, and associated conditions.
3. Fountain device shelving, separation and height requirements.
4. Basic fire safety measures, including but not limited to the location and proper use of fire extinguishers and the procedures for contacting emergency personnel.
5. The statutes and rules that govern the possession, display, storage, handling and sale of fountain devices, and permitted fountain device licensee activities.

(a) **5627.8.1 Timing and frequency.** Employee training shall occur prior to any employees' or designated persons' handling, oversight, or sales of fountain devices. The training shall be repeated and updated as deemed necessary by the licensed retailer to ensure compliance with the minimum standards of this paragraph.

(b) **5627.8.2 Records.** Each fountain device retailer shall maintain current training records onsite at the fountain device sales location for each employee who is responsible for the storage, display or sale of fountain devices or who visually supervises fountain device displays that identifies the person providing the training specified in this paragraph to the employees, the dates of training, the employees trained, and any other information required by the state fire marshal. Such records shall be made available to the state fire marshal, fire code officials and law enforcement officials upon request.

(9) **5627.9 Fountain device displays.** All fountain devices offered for sale at a licensed fountain device sales location may only occur in compliance with paragraphs (AA)(9)(a)(5627.9.1) to (AA)(9)(c)(5627.9.3) of this rule.

(a) **5627.9.1 Location and quantity.** Fountain device displays shall be limited to three hundred square feet. No single fountain device display shall exceed one hundred fifty square feet, and each display must be placed at least fifty feet from any other fountain device display and any other highly flammable materials including but not limited to aerosols, acetone, rubbing alcohol, hand sanitizers, pool chemicals, automotive fluids, and other similar products.

(b) **5627.9.2 Supervision.** Fountain device displays shall be under the visual supervision of an employee of the licensed retailer or other responsible party while the licensed retail location is open to the public.

(c) **5627.9.3 Entrances and exits.** No fountain device display shall be located within a means of egress or in any manner that blocks entrances or exits, and shall at a minimum meet the following distances from entrances and exits:

1. No fountain devices shall be displayed for sale or stored within 5 ft (1.5 m) of any public entrance in an enclosed building or structure.
2. No fountain devices shall be displayed for sale or stored within 2 ft (0.6 m) of any exit or private entrance in an enclosed building or structure.

(d) 5627.9.4 Sales shelving gondolas. All fountain device display shelving gondolas shall comply with paragraphs (AA)(9)(d)(i)(5627.9.4.1) to (AA)(9)(d)(ii)(a)(i)(5627.9.4.2.1.1) of this rule.

(i) 5627.9.4.1 Flame Breaks. All fountain device displays shall have and maintain flame breaks in accordance with the following:

1. From the display surface to not less than 6 inches (150 mm) above the full height of the displayed merchandise or to the underside of the display surface directly above.
2. For the full depth of the displayed merchandise.

(a) 5627.9.4.1.1 Where displays of merchandise face aisles that run along both long sides of the display fixtures or display surface, a flame break shall be installed lengthwise between the abutting display fixtures or along the approximate longitudinal centerline of the display surface so as to separate the merchandise facing one of the aisles from the merchandise that abuts it facing the other aisle.

(b) 5627.9.4.1.2 Where a merchandise display level contains packaged fountain merchandise, such merchandise shall be permitted to be displayed in a continuous length on the same level, where the display does not exceed 32 feet (9.8 m) without the flame break required in 5627.9.4.1.

(c) 5627.9.4.1.3 An aisle having a minimum width of 48 inches (1.2 m) shall be permitted to substitute for the flame break required in 5627.9.4.1.

(d) 5627.9.4.1.4 Flame breaks shall be allowed to be omitted in fountain device sales locations protected throughout with an automatic sprinkler system installed in accordance with NFPA 13 as listed in rule 1301:7-7-80 of the Administrative Code.

(ii) 5627.9.4.2 Shelving. All fountain device displays shall have and maintain shelving in accordance with paragraphs (AA)(9)(d)(ii)(a)(5627.9.4.2.1) to (AA)(9)(d)(ii)(a)(i)(5627.9.4.2.1.1) of this paragraph.

(a) 5627.9.4.2.1 Holes or other openings. Shelving or other surfaces used to support fountain display merchandise shall be permitted to have not more than 10 per cent of the area of the shelf contain holes or other openings.

(i) 5627.9.4.2.1.1 The 10 per cent limitation on the area of holes or other openings in the shelf used to support fountain display merchandise shall not be applicable under the following conditions:

1. Where both of the facing vertical surfaces of the abutting display fixtures are constructed of perforated hardboard panels not less than 1/4 inches (6 mm) thick and separated from each other by an open space not less than 1 1/2 inches (38 mm) wide
2. Where such merchandise is suspended from or fastened to the shelf or surface or is displayed as packaged merchandise on the surface or in bins

(iii) 5627.9.4.3 Horizontal Barriers. Combustible materials and merchandise shall not be stored directly above fountain devices in retail sales displays unless a horizontal barrier is installed directly above the fountain devices as prescribed in section 7.4.2.2.5 of NFPA 430 as listed in rule 1301:7-7-80 of the Administrative Code.

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(iv) **5627.9.4.4 Sales Displays** The requirements of this section shall apply to fountain device sales areas, unless otherwise specifically indicated.

(a) **5627.9.4.4.1 Height of Sales Displays.** To provide for visual access of the retail sales area by the employees and customers, partitions, counters, shelving, cases, and similar space dividers shall not exceed 6 feet (1.8 m) in height above the floor surface inside the perimeter of the retail sales area.

(i) **5627.9.4.4.1.1** Merchandise on display or located on shelves or counters or other fixtures shall not be displayed to a height greater than 6 feet (1.8 m) above the floor surface within the fountain sales area.

(ii) **5627.9.4.4.1.2** Where located along the perimeter of the fountain sales area, the maximum height of sales displays shall be limited to 12 feet (3.66 m).

(iii) **5627.9.4.4.1.3** Freestanding display racks, pallets, tables, or bins containing packaged fountain merchandise shall be permitted without flame breaks, provided the dimensions of the area occupied by the fountain merchandise do not exceed 4 feet (1.2 m) in width, 8 feet (2.4 m) in length, and 6 feet (1.8 m) in height, and the displayed fountain merchandise is separated from other displays of merchandise by aisles having a minimum clear width of 4 feet (1.2 m).

(b) **5627.9.4.4.2 Covered Fuses.** Only consumer fountain devices meeting the criteria for covered fuses shall be permitted where retail sales of fountain devices are conducted.

(i) **5627.9.4.4.2.1** A fountain device shall be considered as having a covered fuse if the fountain device is contained within a packaged arrangement, container, or wrapper that is arranged and configured such that the fuse of the fountain device cannot be touched directly by a person handling the item without the person having to puncture or tear the packaging or wrapper, unseal or break open a package or container, or otherwise damage or destroy the packaging material, wrapping, or container within which the fountains are contained.

(10) **5627.10 Sales to the public.** The sale of fountain devices may only occur in compliance with Chapter 3743. of the Revised Code and paragraphs (AA)(10)(a)(5627.10.1) to (AA)(10)(a)(5627.10.7) of this rule.

(a) **5627.10.1** A licensed retailer shall only possess and sell fountain devices as packaged merchandise with covered fuses.

(b) **5627.10.2 Sales to minors prohibited.** No licensed retailer shall sell fountain devices to a person who is under eighteen years of age.

(c) **5627.10.3 Age verification.** The age of a person purchasing fountain devices shall be verified prior to the completion of the sale via evidence that the person is at least 18 years of age. Acceptable forms of identification that can be used for age verification include an unexpired, government issued photo identification including a driver's license, identification card, passport, military identification card or immigration card. Such verification can be accomplished via a transaction scan consistent with sections 2927.021, 2927.022, 4301.61 and 4601.611 of the Revised Code.

(d) **5627.10.4 Sales to persons under the influence of drugs or alcohol prohibited.** No licensed retailer shall knowingly sell fountain devices to a person who is obviously under the influence of alcohol or a drug of abuse, as defined in section 4506.01 of the Revised Code.

(e) **5627.10.5 Safety pamphlet.** Licensed fountain device retailers shall furnish a copy of a safety pamphlet to each purchaser of 1.4G fireworks.

Exception: A safety pamphlet does not have to be furnished to a purchaser who is a licensed retailer, licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state.

(i) 5627.10.5.1 Safety pamphlet requirements. At a minimum, the safety pamphlet shall contain all of the following information, printed in a legible and appropriately sized text:

"Do not allow children to play with fireworks. Sparklers, a firework often considered by many to be the ideal "safe" device for children, burn at very high temperatures and should not be handled by children. Children may not understand the danger involved with fireworks and may not act appropriately while using the devices or in case of emergency.

Set off fireworks outdoors in a clear area, away from houses, dry leaves, or grass and other flammable materials.

Keep a bucket of water nearby for emergencies and for pouring on fireworks that fail to ignite or explode.

Do not try to relight or handle malfunctioning fireworks. Soak them with water and throw them away.

Be sure other people are out of range before lighting fireworks.

Never light fireworks in a container, especially a glass or metal container.

Keep unused fireworks away from firing areas.

Store fireworks in a cool, dry place.

Check instructions for special storage directions.

Observe state and local law.

Never have any portion of your body directly over a firework while lighting.

Do not experiment with homemade fireworks."

(f) 5627.10.6 Safety glasses. Licensed fountain device retailers shall have safety glasses available for sale for a nominal charge, or provided to consumers for free, at the fountain device display.

Exception: Safety glasses do not have to be made available for a purchaser who is a licensed retailer, licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state.

(i) 5627.10.6.1 Safety glasses standard. Safety glasses made available pursuant to paragraph 5627.10.6 of this rule shall meet or exceed ANSI Z87.1 standards as listed in rule 1301:7-7-80 of the Administrative Code.

(a) 5627.10.7 Discharge. No person shall discharge fireworks within 300 feet of any portion of a fountain device sales facility.

(11) 5627.11 Storage. Storage of all fountain devices may only occur in compliance with paragraphs (AA)(11)(a)(5627.11.1) to (AA)(11)(e)(v)(5626.11.5.5) of this rule.

(a) 5627.11.1 Licensed fountain device retailers may store fountain devices to be sold at the licensed location that are not otherwise located in the approved public display areas of the licensee at the following locations:

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1. nonpublic interior areas of sales structures or
2. an approved magazine or trailer outside of the licensed structure but on the same premise.

(b) 5627.11.2 Approved packaging. All fountain devices shall be stored in DOTn approved cartons and packaging, in accordance with NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code.

(c) 5627.11.3 Further distribution prohibited. Fountain devices may not be stored for further distribution by a licensed retailer at any premise other than the licensed fountain device sales location.

(d) 5627.11.4 Interior storage within licensed structure. Interior storage within a licensed fountain device retailer sales location may only occur in compliance with paragraphs (AA)(11)(d)(1)(5627.11.4.1) to (AA)(11)(d)(iii)(b)(5627.11.4.3.2) of this rule.

(i) 5627.11.4.1 Size. Interior storage within a licensed fountain device sales location shall be limited to a total storage space not exceeding 600 square feet.

(ii) 5627.11.4.2 Quantity. The maximum total quantity of fountain devices that may be stored in the interior of a fountain device sales location shall not exceed 125 pounds [56.8 kg] net weight of pyrotechnic composition unless approved by the building code official having jurisdiction and the state fire marshal.

(a) 5627.11.4.2.1 Where the actual net weight of the pyrotechnic composition of fountain devices are not known, 25 per cent of the gross weight of the fountain devices, including packaging, shall be permitted to be used to determine the net weight of the pyrotechnic composition.

(iii) 5627.11.4.3 Rooms. Storage rooms containing fountain devices shall be protected with an automatic sprinkler system installed in accordance with NFPA 13 as listed in rule 1301:7-7-80 of the Administrative Code or separated from the retail sales area by a fire barrier having a fire resistance rating of not less than 1 hour.

(a) 5627.11.4.3.1 Door and window openings in a fire barrier wall shall be protected by self-closing fire doors or fixed fire windows having a fire protection rating of not less than 1 hour and shall be installed in accordance with NFPA 80 as listed in rule 1301:7-7-80 of the Administrative Code.

(b) 5627.11.4.3.2 Any other openings or penetrations in a fire barrier wall shall be protected in accordance with the building code as listed in rule 1301:7-7-80 of the Administrative Code.

(e) 5627.11.5 Exterior storage. Fountain devices stored on the exterior of a fountain device sales location shall be contained in either a trailer or a storage magazine. Such exterior storage at a licensed fountain device sales location may only occur in compliance with paragraphs (AA)(11)(e)(1)(5627.11.5.1) to (AA)(11)(e)(v)(5627.11.5.5) of this rule.

(i) 5627.11.5.1 Trailers. Fountain devices may be stored in trailers if the trailers are properly enclosed, secured, placarded, disabled and grounded and are separated from any structure to which the public is admitted by a distance that will allow fire-fighting equipment to have full access to the structures on the licensed premises in accordance with rule 1301:7-7-05 of the Administrative Code or as approved in writing by the local fire code official. In no instance shall trailers used for the storage of fountain devices be located at a distance less than the minimum separation distances specified in NFPA 1124 as listed in rule 1301:7-7-80 of the Administrative Code. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of fountain devices.

(ii) **5627.11.5.2 Type 4 Storage Magazines.** The use of type 4 storage magazines in lieu of an approved trailer is acceptable and must meet the requirements of 27 C.F.R. 555.210 and this code.

(iii) **5627.11.5.3 Public access prohibited.** Members of the public shall be prohibited from access to the contents of any storage trailers at all times.

(iv) **5627.11.5.4 Enclosure required.** Trailers and magazines used for the storage of fountain devices shall be completely enclosed in accordance with paragraph (U)(3)(5621.3) of this rule.

(v) **5627.11.5.5 Parking.** No motor vehicle or trailer used for the storage of fountain devices shall be parked within 10 feet (3 m) of a fountain sales facility, except when delivering, loading, or unloading fountains or other merchandise and materials used, stored, or displayed for sale in the facility.

(12) **5627.12 Inspections and Enforcement.** The state fire marshal may inspect any proposed fountain device sales location for licensure purposes before a license is issued or renewed, and any licensed fountain device retailer at any time for purposes of license compliance determinations and enforcement of state and local laws applicable to fountain device retailers or the sale of fountain devices. Such inspections may include sales and inventory locations, fountain device retailer records, sales fee records and practices, storage areas, fire protection systems and inspection, maintenance and testing records of fire protection system(s), and any premise areas subject to licensure.

The state fire marshal may take any actions authorized by sections 3743.26 to 3743.29 of the Revised Code and this code to enforce any applicable laws and rules for fountain devices.

(BB) Section 5628 Consumer grade fireworks fee

(1) **5628.1 Scope.** The provisions of this paragraph shall govern the administration of the fee, pursuant to section 3743.22 of the Revised Code, imposed on licensed retailers, licensed manufacturers, and licensed wholesalers selling 1.4G fireworks in this state. The fee shall equal four per cent of the gross receipts of a licensed manufacturer, licensed wholesaler, and a licensed retailer from retail sales of 1.4G fireworks in this state made on or after May 18, 2022.

(2) **5628.2 Definitions.** For the purposes of paragraph 5628, the following take on exclusive meaning and shall be defined as follows:

“**Fee.**” The consumer fireworks (1.4G Fireworks) sales fee established in division (B) of section 3743.22 of the Revised Code.

“**Fee period.**” The period beginning on the first day of October and ending on the thirtieth day of the following September.

“**Gross receipts.**” Excludes the amount of taxes a licensed retailer, licensed manufacturer, or licensed wholesaler collects from a consumer under Chapter 5739. of the Revised Code on behalf of the state or a political subdivision.

(3) **5628.3 Retail sale.** For the purpose of this section, a retail sale of 1.4G fireworks is made in this state only if the purchaser intends to use the fireworks, and not resell them, and receives the 1.4G fireworks at a location in this state.

(4) 5628.4 General

(a) **5628.4.1** A licensed retailer, licensed manufacturer, or licensed wholesaler may separately or proportionately bill or invoice a fee imposed under this section to another person.

(b) 5628.4.2 All money collected under this section shall be credited to the fireworks fee receipts fund. Seven-eighths of the money in the fund shall be used by the state fire marshal solely to fund firefighter training programs. Remaining money in the fund shall be used solely to pay expenses of the state fire marshal in performing the duties prescribed by this paragraph.

(5) 5628.5 Reporting. The fee and associated sales information shall be reported by licensed manufacturers, licensed wholesalers, and licensed retailers to the state fire marshal and be on a form prescribed by the state fire marshal in accordance with section 3743.22 of the Revised Code and paragraphs (BB)(5)(a)(5628.5.1) to (BB)(5)(b)(5628.5.2) of this rule.

(a) 5628.5.1 Remittance. All fees due shall be remitted to the state fire marshal on or before the twenty-third day after the last day of each fee period. The amount of the fee due shall be computed on the basis of gross receipts from retail sales made in each fee period. A licensed retailer, licensed manufacturer, or licensed wholesaler whose license is issued, denied (for any period of appeal), suspended, canceled, or revoked, or not renewed after expiration during a fee period shall report and remit the fee based on sales of 1.4G fireworks made during any fee period, or portion thereof, when it conducted sales subject to this paragraph.

(i) 5628.5.1.1 More frequent remittance. The state fire marshal may establish processes to permit a licensee or required person to submit partial or full fee payments from each licensee or person for each fee period on a periodic basis during a fee period or may require a single remittance to the state fire marshal of all fees due for a fee period between the first day after and the close of business for the state fire marshal on the twenty-third day after the last day of each fee period.

(ii) 5628.5.1.2 Deadline for remittance. Regardless of submission processes used, all licensees and persons subject to section 3743.22 of the Revised Code must submit the full amount of all fee remittances due under section 3743.22 of the Revised Code for each fee period to the state fire marshal by 5 p.m. eastern standard time on the twenty-third day after the last day of the applicable fee period.

(b) 5628.5.2 No sales during a fee period. A licensed retailer, licensed manufacturer, or licensed wholesaler that does not record any sales of consumer fireworks during a fee period, or portion thereof specified by the state fire marshal, shall file a form(s) as prescribed by the state fire marshal and indicate that no sales were transacted in such fee period.

(6) 5628.6 Enforcement. If the state fire marshal determines that a licensed retailer, licensed manufacturer, or licensed wholesaler fails to timely report and remit the full amount of the fee as required by this paragraph and section 3743.22 of the Revised Code, the state fire marshal may do either of the following:

1. Order, in writing, the retailer, wholesaler, or manufacturer to report and remit to the state fire marshal, within a specified period of time, any such underpayment;
2. Revoke or deny renewal of the license of the retailer, manufacturer, or wholesaler, which shall subject a manufacturer or wholesaler to the consequences prescribed in division (D) of section 3743.08 of the Revised Code or division (D) of section 3743.21 of the Revised Code.

(a) 5628.6.1 Collection action. The state fire marshal may certify any delinquent amount owed by a licensed retailer, licensed manufacturer, or licensed wholesaler to the attorney general for purposes of collection in accordance with section 131.02 of the Revised Code.

(b) 5628.6.2 Information collected by the Ohio department of taxation. The state fire marshal may request information in the possession of the department of taxation as necessary for the state fire marshal to verify the compliance of a licensed manufacturer of fireworks, a licensed wholesaler of fireworks, or a licensed retailer with section 3743.22 of the Revised Code. No officer, employee, or agent of the state fire marshal shall disclose any

information provided to the state fire marshal by the department of taxation under division (C)(19) of section 5703.21 of the Revised Code.

(c) **5628.6.3 Denial or revocation of a license.** Notwithstanding the foregoing, the fire marshal may deny any renewal or new license application filed by a person previously holding any license as a licensed retailer, licensed manufacturer, or licensed wholesaler after such a license was denied renewal, suspended, or revoked if the applicant is not in full compliance with all of the fee payment or other provisions of section 3743.22 of the Revised Code or this paragraph applicable to that previously issued license.



Effective: 3/30/2023
 Five Year Review (FYR) Dates: 12/15/2022

CERTIFIED ELECTRONICALLY

Certification

03/20/2023

Date

Promulgated Under: 119.03
 Statutory Authority: 3737.22(A)(1) and (14), 3737.82, 3737.83, 3743.02(B) (3), 3743.04(F), (H), (K), 3743.05, 3743.15(B) (3), 3743.17(E), (H), (J), 3743.18(A), 3743.22(E), 3743.25(A)(2), 3743.28(A), 3743.451, 3743.53(A), (B), (E)(1); 3743.56, 3743.58, 3743.70(D)
 Rule Amplifies: 3743.45, 3743.22(E), 3743.28(A), 3743.451, 3743.47, 3743.67, 3743.27; 3743.22; 3743.28, 3743.021, 3743.08, 3743.151, 3743.21, 3743.25, 3743.26, 3743.27, 3743.28, 3743.29, 3743.44, 3743.70.
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