



Department of Commerce

Division of State Fire Marshal

Ted Strickland, Governor
Kimberly A. Zurz, Director

December 23, 2010

Frank Conway
Superintendent of the Ohio Fire Academy
8895 East Main Street
Reynoldsburg, Ohio 43068

RE: State Fire Marshal Fiscal Year 2011 Fire Department Grant Program

Superintendent Conway:

I am in receipt of your July 19, 2010 request for a modification to the provisions of the Ohio Administrative Code (OAC). You requested the State Fire Marshal (SFM) to alter the application of the existing SFM fire department grant rules to comply with the recently enacted fire department grant provisions contained in the uncodified portions of House Bill 1 (HB 1) of the 128th General Assembly (effective July 17, 2009). Without a modification to the Ohio Fire Code (OFC), continuation of the existing grant program under OAC section 1301:7-7-01(T), OFC 120 and (U), OFC 121 would not be consistent with the requirements of section 241.10 of HB 1 (including its revised listing of eligible grant recipients, types of grants, conditions of grant awards, maximum amount of grant awards, etc.).

To grant a modification, the applicant must show the following, in accordance with OAC 1301:7-7-01(D)(8), OFC 104.8, which states:

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

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

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

(a) 104.8.1. A request for modification submitted pursuant to this rule shall only be considered upon production of any information or documentation requested by the fire marshal. The particulars of such modification when granted shall be in writing, entered upon the records of the fire marshal and furnished to the applicant and the authority having jurisdiction, if said authority is other than the fire marshal.

(b) 104.8.2. Unless otherwise stipulated by the fire marshal upon the granting of a modification, each modification granted pursuant to this paragraph shall automatically terminate one year from the date of its issuance.

(c) 104.8.3. There shall be no automatic renewals of any modification granted pursuant to this paragraph. Each modification shall be specifically applied for in writing by the requesting party and independently considered by the fire marshal.

In this instance, as noted above, your application:

1. Describes with particularity what your practical difficulties are with fully complying with the existing OFC grant program provisions, as the OFC is inconsistent with superseding provisions of Ohio law.
2. Does not threaten public health, safety and welfare; and
3. Provides, in accordance with the provisions of this modification, safety measures that are substantially equivalent to the safety standards required by the OFC.

Therefore, the request for a modification to the applicability of OAC section 1301:7-7-01(T), OFC 120 and (U), OFC 121 to the SFM's fiscal year 2010 and 2011 fire department grant program is well taken and hereby **granted** under the following conditions:

1. The Department of Commerce, Division of State Fire Marshal shall administer the fire department grant program in accordance with the provisions of HB 1 and the proposed grant rules for the upcoming revision to Ohio Fire Code (OFC Section 120 as noted Ohio Fire Code Petition #2373 and Ohio Fire Code Comment #2598), attached as Exhibit #1 to this modification.
2. This modification applies to the fire department grant program until the revised Ohio Fire Code goes into effect.

The previously issued modification(s) for this grant program for fiscal year 2011 is hereby rescinded.
Sincerely,



Donald C. Cooper, PhD, MIFireE, CFO, OFE
Interim State Fire Marshal

EXHIBIT #1 – Ohio Fire Code Comment # 2598

120.1 Definitions.

As used in this rule:

“Certified training program.” A firefighter training program conducted under the rules of the department of public safety that results in the certification of an individual student as a volunteer firefighter, firefighter I transition, firefighter I, firefighter II, fire safety inspector or firefighting instructor.

“Fire department.” A fire department organized under section 505.37, 505.371, 505.375 or 737.21 of the Revised Code.

“Joint fire district.” A fire department organized under sections 505.371 or 505.375 of the Revised Code.

“Private volunteer fire company” means a company of trained fire fighters, organized under applicable Ohio and federal laws, with at least one-half of its members serving as volunteer fire fighters for the company and that has a valid contract to actively furnish fire protection services to one or more small municipalities or townships or fire districts, or a combination thereof, of this state.

“Small municipality or small township.” A duly constituted municipality or village under Title 7 of the Revised Code or township under Title 5 of the Revised Code having a population of less than 25,000 permanent residents.

“Volunteer fire department.” A fire department, organized under section 505.37, 505.371, 505.375 or 737.21 of the Revised Code, wherein at least one-half of the firefighters are volunteer firefighters.

“Volunteer firefighter.” A duly appointed member of a fire department on either a nonpay or part-pay basis who is ineligible to be a member of the Ohio police and fire pension fund, or whose employment as a firefighter does not in itself qualify any such person for membership in the public employees retirement system, or who has waived membership in the public employees retirement system.

(2) 120.2 Scope.

This rule applies to “Fire Department Grant” funds specifically appropriated by the General Assembly to the state fire marshal for award and distribution to eligible recipients for the provision of firefighting or rescue equipment, gear or similar items to the recipient, as full or partial reimbursement for the documented costs of firefighter training for, or sponsored by, an eligible recipient or, in the discretion of the state fire marshal, for other fire department needs related to the provision of fire protection services within that eligible recipient’s jurisdiction. The state fire marshal may establish any additional policies and procedures as may be deemed necessary to carry out the intent of this rule.

Proposed Ohio Administrative Code §1301:7-7-01(U), Ohio Fire Code 120

(3) 120.3 Eligibility.

Eligible recipients for grants awarded under this rule are:

- (a) A volunteer fire department;
- (b) A fire department that serves one or more small municipalities or small townships;
- (c) A joint fire district comprised of departments that primarily serve small municipalities or small townships;
- (d) The local unit of government responsible for:
 - (i) A volunteer fire department;
 - (ii) A fire department that serves small municipalities or small townships; or
 - (iii) A portion of a joint fire district comprised of volunteer departments that primarily serve small municipalities or small townships; and
- (e) The local unit of government responsible for the provision of fire protection services for a small municipality or small township.

For training grants awarded under rule, a private volunteer fire company is also an eligible recipient.

(4) 120.4 General terms and conditions.

- (a) Funds provided by a grant under this rule shall only be used for purposes for which the eligible recipient may lawfully expend public funds and in accordance with the terms of the grant award and this code.
- (b) An eligible recipient may receive up to \$15,000 in a fiscal year from this grant for firefighting or rescue equipment, gear or similar items or for other fire department needs related to the provision of fire protection services. If, during the preceding or current fiscal year of the grant award, the eligible recipient is in a jurisdiction that has had a natural disaster as declared by the Governor, the recipient may receive up to \$25,000 in a fiscal year from this grant for firefighting or rescue equipment, gear or similar items or for other fire department needs related to the provision of fire protection services. In addition to any other funds awarded under this grant, an eligible recipient may receive up to \$15,000 in a fiscal year from this grant as full or partial reimbursement for the documented costs of firefighter training.
- (c) For each fiscal year, the state fire marshal shall, as the state fire marshal determines is appropriate, apportion the available grant funds for expenditure for any of the particular purposes allowed under this paragraph. Each eligible recipient may receive only one grant for each state fiscal year for which funds are made available by the Ohio General

Proposed Ohio Administrative Code §1301:7-7-01(U), Ohio Fire Code 120

Assembly, but such a grant may be awarded by the state fire marshal in multiple parts, including for the purposes described in paragraphs (T)(6)(a)(120.6.1) and (T)(6)(b)(120.6.2) of this rule, to an eligible recipient during a state fiscal year.

- (d) The awarding of all grants shall be at the sole discretion of the state fire marshal.
- (e) All grants awarded are subject to the availability of funds.
- (f) The state fire marshal may require repayment to the state of Ohio any or all of a grant should an eligible recipient fail after a reasonable time, to expend all or any part of its grant.
- (g) Should the eligible recipient expend any portion of or the entire grant for any purpose other than that which was approved by the state fire marshal, the state fire marshal may require repayment of that amount to the state of Ohio.
- (h) The state fire marshal may audit any awarded grant and may also require an eligible recipient receiving a grant to provide evidence that the grant has been used for the intended purpose and maintain such inventory or other records concerning purchases made with the grant as the state fire marshal deems necessary.
- (i) To offset the cost of administering grants under this rule, the state fire marshal may retain in the state fire marshal's operating account an amount of money equal to not more than one and one half per cent of the total funds available under this rule.
- (j) The state fire marshal shall not award a grant under this paragraph unless the eligible recipient is in compliance with the provisions of this rule and other applicable laws, rules and regulations. This includes compliance with fire department fire incident reporting requirements and participation, when required, in the volunteer firefighters' dependents fund described in Chapter 146. of the Revised Code.

(5) 120.5 Application.

- (a) All applications for any grants awarded under this rule shall be made on a form prescribed by the state fire marshal and include all of the information and documents required by the state fire marshal. Any application that fails to provide the requested information shall be deemed incomplete and not considered by the state fire marshal for an award of a grant under this rule.
- (b) Applicants for a grant shall certify on the application form that the applicant is eligible to receive a grant under this rule. The form shall be signed by the chief of the fire department or chief executive official(s) of the local government entity applying for the grant.

Proposed Ohio Administrative Code §1301:7-7-01(U), Ohio Fire Code 120

(6) 120.6 Award of grant funds.

Grants awarded under this rule are divided into two parts: equipment and training grants.

(a) **120.6.1** In determining which eligible recipients will receive awards, the state fire marshal shall consider:

1. The population protected by the eligible recipient;
2. The size of the area for which the eligible recipient provides fire protection;
3. The operating budget of the eligible recipient from both public and private sources;
4. The intended use of the grant funds by the eligible recipient;
5. The number of fires occurring within the area protected by the eligible recipient as evidenced by reports filed with the state fire marshal under section 3737.24 of the Revised Code;
6. The amount of money being requested by the eligible recipient; and
7. Additional factors which the state fire marshal determines necessary to assist in determining which eligible recipient should receive a grant.

(i) 120.6.1.1 Equipment grants.

The state fire marshal may award equipment grants to eligible recipients under this rule for any of the following purposes:

- (a) The acquisition of firefighting or rescue equipment, gear or similar items; or
- (b) For other fire department needs related to the provision of fire protection services.

In awarding these grants, the state fire marshal may give a preference to grants relating to the acquisition of personal protective equipment for firefighters.

(ii) 120.6.1.2 Training grants.

(a) The state fire marshal may award training grants to eligible recipients under this rule for any of the following purposes:

- (i) Reimbursement of the costs of certified firefighter training programs for individual firefighters, including instructional and administrative costs and the cost of training manuals, workbooks and other similar items.

Proposed Ohio Administrative Code §1301:7-7-01(U), Ohio Fire Code 120

(ii) Reimbursement of the cost of in service or advanced training courses provided by the Ohio fire academy, including, "Fire Officer 1," "Fire Officer 2," "Emergency Vehicle Operations," "Structural Fire Attack 101," "Training in Acquired Structures" and "Understanding Fire Behavior."

(b) The state fire marshal shall, for each fiscal year, set forth the specific trainings and classes for which grants can be awarded under this paragraph, the maximum grant amounts to be awarded for such classes and types of documentation to be submitted to verify eligibility for reimbursement.

(c) Expenses for travel, food and lodging are not eligible for reimbursement under this paragraph.