STATE OF NEBRASKA
Office of the Attorney General
2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

DOUGLAS J. PETERSON
ATTORNEY GENERAL

MARNA MUNN
ASSISTANT ATTORNEY GENERAL

April 20, 2016

Steven M. Jacob
P.O. Box 2500-41659
Lincoln, NE 68542-2500

RE: *File No. 16-R-119; Nebraska State Fire Marshal; Steven M. Jacob, Petitioner*

Dear Mr. Jacob:

We are writing in response to your letter sent to the Attorney General on April 11, 2016, in which you requested our assistance in obtaining certain public records belonging to the Nebraska State Fire Marshal ("Fire Marshal"). We consider your letter to be a petition for access to records under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014). As is our normal practice with such requests, we contacted the party against whom the complaint was made. In this case, we spoke to legal counsel for the Fire Marshal on April 18, 2016 and sent a letter to the Fire Marshal regarding this matter. Our findings are set forth below.

RELEVANT FACTS

Our understanding of the facts in this matter is based on your public records request, your letter to the Fire Marshal, your petition, our phone conversation with legal counsel for the Fire Marshal, and the written response the Fire Marshal provided to our office regarding this matter. On March 21, 2016 you mailed Jim Heine, the Nebraska State Fire Marshal, a public records request for certain records relating to State Fire Code provisions and metal lockers installed in inmate cells at the Nebraska State Penitentiary or other NDCS facilities. You assert in your petition that the Fire Marshal had not provided you a response by April 11, 2016, the date on which you filed your petition with this office.

We contacted the Fire Marshal on April 18, 2016 via phone with respect to your petition. The Fire Marshal informed us that the Fire Marshal's Office did receive your initial public records request on March 24, 2016. The Fire Marshal represented to us, and we have no reason to dispute, that the Fire Marshal's response to your initial request was mailed to you on March 28, 2016.

Printed wth soy ink on recycled paper

DISCUSSION

The Nebraska Public Records Statutes ("NPRS") are found at Neb. Rev. Stat. §§ 84-712 through 84-712.09. Generally speaking, the NPRS allow interested persons in Nebraska the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts from those public records, and to obtain copies of public records in certain circumstances. In this case, it appears to us that the Fire Marshal provided all the documentation that office could reasonably interpret as being part of your request and did so in compliance with the requirement in Neb. Rev. Stat. § 84-712(4) to respond within four business days.

There does appear to be a discrepancy between the address you provided in your request to us and the address indicated on the envelope in which your request arrived. We did not discuss the issue with the Fire Marshal, but from their documents it seems the same was true in your initial request to them. This may have caused some confusion and delay on the part of the U.S. Postal Service. We are including with this letter the response and documents from the Fire Marshal to help ensure that you receive the information.

When we receive petitions under Neb. Rev. Stat. § 84-712.03, our focus is to ensure that citizens have not been improperly denied public records. Since the Fire Marshal has provided the records which are responsive to your public records request, we believe that the requested records belonging to the Nebraska State Fire Marshal have been provided. We see no basis for further action by this office and we are closing this file. If you disagree with our analysis under the Public Records Statutes set out above, you may wish to determine what additional remedies, if any, are available to you under those statutes.

Sincerely,

DOUGLAS J. PETERSON
Attorney General

Marna Munn

Marna Munn
Assistant Attorney General

cc: Regina Shields, Agency Legal Counsel, Nebraska State Fire Marshal

Enclosure

46-004-29

STATE OF NEBRASKA

Pete Ricketts
Governor

Jim Heine
Fire Marshal

March 28, 2016

Steven M. Jacob
P.O. Box 2500-41659
Lincoln, NE 68542-2500

Dear Mr. Jacob,

The State Fire Marshal Agency received your request for public records regarding the requirement for the use of "metal lockers to be installed in cells for inmates' personal property at the Nebraska State Penitentiary or any other NDCS facilities." Your request asked for "a copy of the Order" in which this requirement was listed. Your request also asked for copies of the Agency Regulations in which the listed portions of the Fire Code were promulgated, filed with the Secretary of State's office and date of the public hearing on that promulgation.

Enclosed with this response is a copy of the Order Form issued to the State of Nebraska Department of Corrections from an inspection conducted at the Nebraska State Penitentiary on 9-28/29-15; a copy of the Agency Official Interpretation 03-05 which deals with the question about combustible personal property in sleeping rooms of Detention and Correctional occupancies; and a copy of the Regulation Adoption showing when NFPA pamphlet 101 2000 year addition was adopted, filed with the Secretary of State's office and when the hearing for that regulation adoption was held. I have also included a copy of the Neb. Rev. Stat. §81-502 (5) which requires the Agency to utilize NFPA codes.

There were sections, particularly number 3, of your request that were unclear regarding exactly what documentation you were seeking. The Agency has supplied all documents you specifically referred to in your records request. However, if after reviewing the enclosed documents you determine further records are needed please re-contact the Agency.

Thank you,

Regina Shields

Regina Shields
Agency Legal Counsel and Legislative Liaison

[ ] MAIN OFFICE
[ ] DISTRICT A
246 South 14th Street
Lincoln, NE 68508-1804
(402) 471-2027

[ ] DISTRICT B
438 West Market
Albion, NE 68620-1241
(402) 395-2164

[ ] FUELS DIVISION
[ ] FLST [ ] Pipeline
246 South 14th Street
Lincoln, NE 68508-1804
(402) 471-9465

[ ] TRAINING DIVISION
3347 W Capital Ave
Grand Island NE 68801
(308) 385-6892

An Equal Opportunity / Affirmative Action Employer

STATE OF NEBRASKA*STATE FIRE MARSHAL
246 SOUTH 14TH STREET
LINCOLN, NE 68508-1804

Facility Name: Nebraska State Penitentiary	Order Number:
Operator & Phone number: Jill Kubicek, 402-326-3317	Occupant Street Address: 14th and Pioneer BLVD
Owner / Address / Phone number: State of Nebraska Department of Corrections P.O. Box 2500 Lincoln, NE 68542	City / Town: Lincoln County: Lancaster NFPA code/chapter: Detention and Correction Center
Occupant load: N/A	Date of Inspection: 9-28/29-15
	Fee Card: YES NO N/A XXX

ORDER

Contact person/number : Jill Kubicek, 402-326-3317
Initial inspection : 9-28/29-15
Revisit inspection : N/A
Hours of operation : 24
Plan review numbers : N/A

-MAIN BUILDING

-ENTRANCE

1. The main stair tower shall be separated from the remainder of the building by one hour construction. On the day of inspection the second floor was open to a computer room; recycle bin storage and a lobby. NFPA 101, 23.3.1
2. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

-ADMINSTRATION AREA

1. Incompliance on 09-28-15
2. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

-KITCHEN

1. Shall replace or repair the west exit door out of the kitchen. On the day of inspection this door would not close all the way and latch. NFPA 101, 23.3.2 and 3.1
2. Shall install a door closure on the kitchen main storage room door. NFPA 101, 23.3.2 and 13.3.2
3. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

-GYM

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

-LONG TERM CARE

1. See Long Term Care orders

-CHAPEL

1. The northwest exit door shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. This door had to be kicked to open. NFPA 101, 7.2.1.4.5
2. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

-TEK I

1. Incompliance on 9-28-15

-CANTEEN II

1. Incompliance on 9-29-15

-CONTROL UNIT

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5
2. The southeast exit door shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

-TEK 2

1. Incompliance on 9-28-15

-BRAILLE

1. Incompliance on 9-28-15

-CSI SHOP

1. Incompliance on 9-28-15

Sign/Metal Shop

1. Incompliance on 9-28-15

-WOOD WORKING SHOP

1. Shall either remove the ceiling in the two new rooms built in the tool room, turn these two rooms in to pipe chases and remove the storage or put sprinkler heads in these rooms. NFPA 13

-MENTAL HEALTH SERVICES
1. Incompliance on 9-28-15

-SOAP FACTORY
1. Incompliance on 9-28-15

Note: The Soap Factory building is being used as a storage building and is inspected under the storage requirements. If the facility changes the Occupancy type of this building then the facility shall me the code that applies to the use of the building at the time of occupancy.

-LAUNDRY INDUSTRIES
1. Incompliance on 9-28-15

-PROPERTY
1. Incompliance on 9-28-15

K-9 AND RECYLING
1. Incompliance on 9-28-15

-HOUSING UNIT 7
1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5
2. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation 03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:
   A. The items are stored in a closable metal locker.
   B. The items are stored in a fire resistant container.
   C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05
3. Shall repair the fire alarm system so the panel is not in trouble. NFPA 101, 23.3.4 and NFPA 72

HOUSING UNIT 8
1. The southwest exit door shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5
2. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5
3. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation

03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

A. The items are stored in a closable metal locker.
B. The items are stored in a fire resistant container.
C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05

4. Shall repair the fire alarm system so the panel is not in trouble. NFPA 101, 23.3.4 and NFPA 72

5. Shall replace the corroded sprinkler heads in the shower and shower area. On the day of inspection there were sprinkler heads in this area that were corroded and had greenish material on the heads. NFPA 23.3.5 and NFPA 13

-RTC and -KITCHEN

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

2. The east exit door out of the dining hall shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

-RTC: C BAY, B BAY, AND A BAY

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

2. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation 03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

A. The items are stored in a closable metal locker.
B. The items are stored in a fire resistant container.
C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05

3. The north exit door out of B Bay shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

4. The Stair tower door for B Bay shall latch when closed. On the day of inspection this door did not latch when closed. NFPA 101, 23.3.1

5. The Stair tower door for C Bay shall latch when closed. On the day of inspection this door did not latch when closed. NFPA 101, 23.3.1

6. Some means shall be provided for employees to exit the north exit out of A Bay. On the day of inspection employees could not exit out of the A Bay north exit. NFPA 101, 23.2.4

-SCHOOL

1. All keys necessary for unlocking doors installed in a means of egress shall be individually identified by both touch and sight. NFPA 101, 23.7.5 On the day of inspection employees did not know what key opened the south exit door and the key to open this door was not identified by sight.

-HOUSING UNIT 5

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

2. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation 03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

   A. The items are stored in a closable metal locker.
   B. The items are stored in a fire resistant container.
   C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05

-HOUSING UNIT 4

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

2. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation 03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

   A. The items are stored in a closable metal locker.
   B. The items are stored in a fire resistant container.
   C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection A Galley of this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05

3. D Galley high side exit door by cell door 14 shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

4. C Galley high side exit door by cell door 14 shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

5. B Galley high side exit door by cell door 14 shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

6. A Galley high side exit door by cell door 14 shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

-HOUSING UNIT 3

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

2. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation 03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

A. The items are stored in a closable metal locker.
B. The items are stored in a fire resistant container.
C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05

-HOUSING UNIT 2

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

2. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation 03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

A. The items are stored in a closable metal locker.
B. The items are stored in a fire resistant container.
C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05

-HOUSING UNIT 1

1. Wastebaskets and other waste containers shall be of noncombustible or other approved materials. Waste containers with a capacity exceeding 20 gal (76 L) shall be provided with a noncombustible lid or lid of other approved material. Shall provide approved waste containers throughout this facility. NFPA 101, 23.7.4.5

2. Books, clothing, and other combustible personal property allowed in sleeping rooms shall be stored in closable metal lockers or a fire-resistant container. NFPA 101, 23.7.2 Official Interpretation 03-05: Books, Clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

A. The items are stored in a closable metal locker.
B. The items are stored in a fire resistant container.

C. The entire building is fire sprinkler protected and the total amount of storage per person does not exceed for (4) cubic feet.

On the day on inspection this facility did not meet the requirements of NFPA 101, 23.7.2 or Official Interpretation 03-05

-ACTIVITIES CENTER

1. Incompliance on 9-29-15

-LIBRARY

1. Incompliance on 9-29-15

-NRTS

1. Incompliance on 9-29-15

-WAREHOUSE

Warehouse, east side

1. Incompliance on 9-29-15

-Warehouse, center part

1. Incompliance on 9-29-15

-Warehouse, west side

1. The northwest exit door shall be repaired or replaced. On the day of inspection this door did not meet the forces required to fully open the door in a means of egress. NFPA 101, 7.2.1.4.5

-Maintenance Storage building south of Warehouse

1. Incompliance on 10-30-14

-MAINTENANCE STORAGE BUILDING

1. Incompliance on 9-29-15

-MAINTENANCE SHOP

1. Incompliance on 9-29-15

-WELDING SHOP

1. Incompliance on 9-29-15

-VEHICAL MAINTENANCE SHOP

1. Incompliance on 9-29-15

-POWER HOUSE

1. Incompliance on 9-29-15

POWER HOUSE MAINTENANCE SHOP (C.U.P)

1. Incompliance on 9-29-15

-CERT BUILDING

1. Incompliance on 9-29-15

Tower 1

1. Incompliance on 9-28-15

Tower 2

1. Incompliance on 9-29-15

Tower 3

1. Incompliance on 9-29-15

Tower 4

1. Incompliance on 9-28-15

Tower 5

1. Incompliance on 9-28-15

Tower 6

1. Incompliance on 9-28-15

Tower 7

1. Incompliance on 9-28-15

Tower 8

1. Incompliance on 9-28-15

Tower 10

1. Incompliance on 9-28-15

All items must be corrected to comply with the laws of the State of Nebraska and with rules and regulations adopted by the State Fire Marshal as mandated by section 81-502 to 81-541.01

It is the duty of the owner or person in charge of the above-named facility to immediately take measures to bring the facility into compliance with state regulations. **ALL CORRECTIONS SHALL BE MADE AND ALL ITEMS CORRECTED ON OR BEFORE.** November 9th 2015

Any damage proximately caused by failure to remedy the above-listed deficiencies shall be deemed to be the sole responsibility of the owner or person in charge by virtue of this notification and order.

Witness my signature at Lincoln Nebraska this 1st day of October 2015

By: _____
Deputy State Fire Marshal Clinton Rossman, #8727

NEBRASKA STATE FIRE MARSHAL
OFFICIAL INTERPRETATION

Interpretation Number: 03-05

Date: 1 February 2007

Pamphlet Number: NFPA 101, 2000 Ed.

Section(s): 22, 23.7.2

Comments:
This interpretation does not apply to extremely small amounts of personal property such as photographs, as accepted by the Authority Having Jurisdiction

Question: Under what conditions are books, clothing and other combustible personal property allowed in sleeping rooms of Detention and Correctional occupancies?

Response: Books, clothing and other combustible personal property is permitted in sleeping rooms when one of the following is met:

1. The items are stored in a closable metal locker.
2. The items are stored in a fire-resistant container.
3. The entire building is fire sprinkler protected, and the total amount of storage per person does not exceed four (4) cubic feet.

Containers meeting the California State Fire Marshal's Office criteria for fire resistance is acceptable. Documentation of any fire-resistant treatment is required and shall be available at the facility for review.

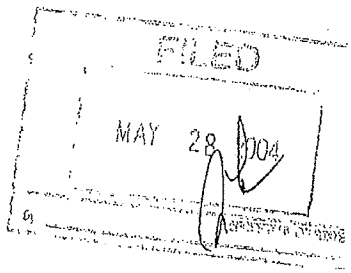
Signature: John E. Falgione **Date:** 02/01/07

Title: John E. Falgione, State of Nebraska Fire Marshal

NEBRASKA ADMINISTRATIVE CODE

Last date issued: January 28, 2001

➢Update - Spring 2004 update.



Title 153 - STATE FIRE MARSHAL

Chapter 1 - NEBRASKA STATE FIRE CODE REGULATIONS

001. The following list of National Fire Protection Association standard codes is adopted by reference in their entirety as they existed on the date these regulations became effective, unless otherwise noted. The full text of these regulations is available for viewing at the office of the State Fire Marshal, 246 S. 14th Street, Lincoln, Nebraska 68508 and at the Nebraska Secretary of State, Rules and Regulations Division, Room 343, State Capitol, Lincoln, Nebraska.

		NFPA Code Pamphlet No.
002.	Agricultural Commodities and Food Products Facilities, Prevention of Fires and Dust Explosions (amended for existing facilities)	61- 1995 ed.
003.	Air Conditioning and Ventilating Systems	90A -2002 ed.
004.	Aircraft Fueling Ramp Drainage	415 -2002 ed.
005.	Aircraft Fuel Servicing	407 -2001 ed.
006.	Aircraft Hangars	409 -2001 ed.
007.	Airport Terminal Buildings (Repealed 2004)	416 -1993 ed.
008.	Ammonium Nitrate, Storage of	490 -2002 ed.
009.	Aluminum Processing, Finishing (Repealed 2004)	65-1993 ed.
010.	Automotive and Marine Service Station Code	30A - 2000 ed.
011.	Building Construction and Demolition Operations	241 -2000 ed.
012.	Building Construction, Types of	220 - 1999 ed.
013.	Carbon Dioxide Extinguishing Systems	12- 2000 ed.
014.	Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances	211 - 2003 ed.

APPROVED
JON BRUNING
ATTORNEY GENERAL

APR 08 2004

BY Lynn A. Melbo
ASSISTANT ATTORNEY GENERAL

APPROVED

MAY 28 2004

MIKE JOHANNS
GOVERNOR

OCT 04 2006

Amendments

	NFPA Pamphlet No.
035. Fire Extinguishers, Portable	10 - 2002 ed.
036. Fire Hose (Repealed 2004)	1961-1992 ed.
037. Fire Hose, Care, Use, Service, and Testing (Repealed 2004)	1962 - 1993 ed.
038. Fire Pumps, Centrifugal	20 - 1999 ed.
039. Fire Walls and Fire Barrier Walls	221 - 2001 ed.
040. Fireworks, Manufacture, Transportation and Storage	1124 - 2003 ed.
041. Flammable and Combustible Liquids Code	30 - 2000 ed.
042. Flammable and Combustible Liquids, Farm Storage of	395 - 1993 ed.
043. Flammable and Combustible Liquids, Tank Vehicles for	385 - 2000 ed.
044. Flammable and Combustible Liquids, Underground Leakage of	329 - 1999 ed.
045. Flammable Liquids and Gases in Manholes, Sewers (Repealed 2004)	328 - 1992 ed.
046. Foam, Low Expansion	11 - 2002 ed.
047. Foam Systems, Medium and High Expansion	11A- 1999 ed.
048. Foam-Water Sprinkler and Spray Systems	16 - 2003 ed.
049. Fuel Gas Code, National (as amended)	54 - 2002 ed.
050. Garages, Repair	88B - 1991 ed.
051. Halon 1301 Fire Extinguishing Systems	12A - 1997 ed.
052. Health Care Facilities	99 - 2002 ed.
053. Hypobaric Facilities	99B- 1999 ed.
054. Incinerators, Waste and Linen Handling Systems and Equipment	82 - 1999 ed.
055. Industrial Trucks, Powered	505 - 2002 ed.

OCT 0 4 2006

	NFPA Pamphlet No.
015. Clean Agent Fire Extinguishing Systems	2001 - 2000 ed.
016. Closed-Head Foam-Water Sprinkler Systems (Repealed 2004)	16A - 1994 ed.
017. Combustion Engines and Gas Turbines, Stationary	37 - 2002 ed.
018. Communications Systems, Public Fire Service (Repealed 2004)	1221 - 1994 ed.
019. Compressed Natural Gas (CNG) Vehicular Fuel Systems	52 - 2002 ed.
020. Computer/Data Processing Equipment, Protection of	75 - 1999 ed.
021. Commercial Cooking Operations, Ventilation and Fire Protection of	96 -2001 ed.
022. Cooling Towers, Water	214 - 2000 ed.
023. Dipping and Coating Processes Using Flammable or Combustible Liquids	34 - 2000 ed.
024. Dry Chemical Extinguishing Systems	17 - 2002 ed.
025. Dry-Cleaning Plants	32 - 2000 ed.
026. Electrical Code, National	70 - 2002 ed.
027. Electrical Maintenance for One- and Two-Family Dwellings (Repealed 2004)	73 - 1994 ed.
028. Electrical Safety Requirements for Employee Workplaces (Repealed 2004)	70E - 1995 ed.
029. Emergency and Standby Power Systems	110 - 2002 ed.
030. Emergency and Standby Power Systems, Stored Energy	111- 2001 ed.
031. Exhaust Systems for Air Conveying of Materials	91 - 1999 ed.
032. Explosion Prevention Systems	69 - 2002 ed.
033. Fire Alarm Code, National	72 - 2002 ed.
034. Fire Doors and Windows	80 - 1999 ed.

OCT 0 4 2006

	NFPA Pamphlet No. ▼
056. Laboratories Using Chemicals	**45 - 2000 ed.**
057. Life Safety Code (As Amended) *New Amendments and Deletions	**101 - 2000 ed.**
A] Amendments to Life Safety Cod, "Special Amusement Buildings" Sections 8-4.6.2 & 8-4.6.3 and 9-4.6.2 & 9-4.6.3. **(Repealed 2004)**	101-1994 ed.
B] Amendments to Life Safety Code, "Subdivision of Building Spaces" Sections 16-3.7 & 18-3.7. **(Repealed 2004)**	101 - 1994 ed.
058. Liquefied Natural Gas, Production, Storage and Handling	**59A - 2001 ed.**
059. Liquefied Natural Gas, Vehicular Fuel Systems	**57 - 2002 ed.**
060. Liquefied Petroleum Gases at Utility Gas Plants	59 - 2001 ed.
061. Liquefied Petroleum Gases, Storage and Handling **(as amended)**	**58 - 2001 ed.**
062. Manufacture and Storage of Aerosol Products	**30B - 2002 ed.**
063. Manufactured Home Installations, Sites and Communities	**501A - 2003 ed.**
064. Marinas and Boatyard	**303 - 2000 ed.**
065. Mobile Foam Apparatus (Repealed 2004)	**11C - 1995 ed.**
066. Oil Burning Equipment, Installation of	**31 - 2001 ed.**
067. Organic Peroxide, Storage of (Repealed 2004)	**43B - 1993 ed.**
068. Ovens and Furnace	**86 - 1999 ed.**

OCT 0 4 2006

	NFPA Pamphlet No.▼
069. Oxidizing Materials, Liquid and Solid, Storage of	430 - 2000 ed.
070. Oxygen-Fuel Gas Systems for Welding and Cutting	51 - 2002 ed.
071. Oxygen Systems, Bulk, at Consumer Sites	50 - 2001 ed.
072. Parking Structures	88A - 2002 ed.
073. Pesticides, Storage of (as amended January 2001)	43D - 1994 ed.
074. Plastics, Chemical, Dye and Pharmaceutical Industries, Dust Explosions in	654-2000 ed.
075. Portable Cylinder, Storage, Use & Handling of Compressed & Liquefied Gases	55 - 2003 ed.
076. Private Fire Service Mains, Installation of	24 - 2002 ed.
077. Racetrack Stables, Fire Safety in	150-2000 ed.
078. Rack Storage of Materials (Repealed 2004)	231C-1995 ed.
079. Rubber Tires, Storage of (Repealed 2004)	231D-1994 ed.
080. Safe Entry of Underground Storage Tanks	326 - 1999 ed.
081. Smoke-Management Systems in Malls, Atria, and Large Areas (Repealed - 2001)	92B - 1995 ed.
082. Spray Application Using Flammable & Combustible Materials	33 - 2000 ed.
083. Sprinkler Systems, Installation of	13 - 2002 ed.
084. Sprinkler Systems, Installation in Residential Occupancies	13R - 2002 ed.
085. Sprinkler Systems, One-and Two-Family Dwellings	13D - 2002 ed.

OCT 0 4 2006

	NFPA Pamphlet No.
086. Standpipe and Hose Systems	14 -2003 ed.
087. Static Electricity	77 - 2000 ed.
088. Storage, General (Repealed - 2004)	231-1995 ed.
089. Tanks, Containers, Small, Cleaning (Repealed - 2004)	327 -1993 ed.
090. Tents and Membrane Structures, Assembly Seating	102 -1995 ed.
091. Terminals, Motor Freight (Repealed - 2004)	513- 1994 ed.
092. Warm Air Heating and Air Conditioning Systems, Installation of	90B - 2002 ed.
093. Water Spray Fixed Systems	15 - 2001 ed.
094. Water-based Fire Protection Systems Inspection, Testing and Maintenance	25 - 2002 ed.
095. Water Tanks for Private Fire Protection	22 -2003 ed.
096. Wet Chemical Extinguishing Systems	17A -2002 ed.
097. Wetting Agents	18 -1995 ed
098. Wood Processing and Woodworking, Dust Explosion Prevention	664 -2002 ed.
099. Guide to Alternative Approaches to Life Safety	101A - 2001 ed.
100. Fire Prevention Code	1 - 2003 ed.
101. Solvent Extraction Plants	36 - 2001 ed.
102. Standard System for the Identification of the Hazards of Materials for Emergency Response	704 - 2001 ed.

OCT 0 4 2006

TITLE 153 - STATE FIRE MARSHAL
Chapter 1

	NFPA Pamphlet No.
New Codes In 2004 (No. # 103. To #133)	
103.Gaseous Hydrogen Systems at Consumer Sites	50A -1999 ed.
104. Liquefied Hydrogen Systems at Consumer Sites	50B - 99 ed.
105. Boiler and Combustion Systems Hazards Code	85 - 2001 ed.
106. Flame Effects Before an Audience	160 - 2001 ed.
107. Fire Protection of Storage	230 - 2003 ed.
108. Methods of Tests of Fire Endurance Building Construction and Materials	251 -1999 ed.
109. Methods of Fire Tests of Door Assemblies	252-1999 ed.
110. Methods of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source	253-2000 ed.
111. Method of Test Surface Burning Characteristics of Building Materials	255 - 2000 ed.
112. Methods of Fire Tests of Roof Coverings	256 - 1998 ed.
113. Fire Test for Window and Glass Block Assemblies	257 - 2000 ed.
114. Test Method for Potential Heat of Building Materials	259 - 2003 ed.

OCT 0 4 2006

TITLE 153 - STATE FIRE MARSHAL
Chapter 1

		NFPA Pamphlet No.
115.	Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture	260 - 1998 ed.
116.	Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes	261 - 1998 ed.
117.	Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls	265-2002 ed.
118.	Method of Test for Fire Characteristics of Mattresses and Bedding Assemblies Exposed to Flaming Ignition Source	267 - 1998 ed.
119.	Methods of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish To Room Fire Growth	286- 2000 ed.
120.	Aircraft Hand Portable Fire Extinguishers	408 - 1999 ed.
121.	Heliports	418 - 2001 ed.
122.	Storage of Organic Peroxide Formulations	432 - 2002 ed.
123.	Standard for Combustible Metals, Metal Powders, and Metal Dusts	484 - 2002 ed.
124.	Methods of Fire Tests for Flame Propagation of Textiles and Films	701 - 1999 ed.
125.	Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials	703 - 2000 ed.
126.	Water Mist Fire Protection Systems	750 - 2003 ed.
127.	Fire Protection in Waste-water Treatment and Collection Facilities	820 - 1999 ed.
128.	Use of Pyrotechnics Before a Proximate Audience	1126 - 2001 ed.
129.	Protection of Life and Property from Wildfire	1144 -2002 ed.

OCT 0 4 2006

NFPA Pamphlet No.

130. Recreational Vehicle Parks and Campgrounds	1194 - 2002 ed.
131. Life Safety Code Handbook	101 - 2000 ed.
132. Marinas and Boatyards	303 - 2000 ed.
133. Handling Releases of Flammable and Combustible Liquids and Gases.	329 - 1999 ed.

Previous amendments to Title 153, Chapter 1, Sec. 057 (NFPA 101) and Title 153, Chapter 1, Sec. 061 (NFPA 58) are repealed.

Statutory Authority:

Neb. Rev. Stat. 81-502 (1996 Reissue)

Legal Citation:

Title 153, Ch. 1, Nebraska State Fire Marshal.

FILED
MAY 28 2004
SECRETARY OF STATE

APPROVED
MAY 28 2004
MIKE JOHANNS
GOVERNOR

Amendments
APPROVED
JON BRUNING
ATTORNEY GENERAL

APR 08 2004

BY Lynn A. Melson
ASSISTANT ATTORNEY GENERAL

OCT 04 2006

STATE OF NEBRASKA

Mike Johanns
Governor

NEBRASKA ADMINISTRATIVE CODE

STATE FIRE MARSHAL
Dennis Hohbein
Fire Marshal

CERTIFICATE OF ADOPTION

STATE OF NEBRASKA)
)
COUNTY OF LANCASTER)

I, Dennis C. Hohbein, the Nebraska State Fire Marshal, hereby certifies and adopts by reference an amended copy of **Title 153- Nebraska Administrative Code - Chapter 1** as a true and accurate document of the agency's rulemaking process. These new and updated regulations are concerned with Nebraska's state fire code regulations. These regulations are being promulgated pursuant to N.R.S. § 81-502(5) (1996 Reissue). Notice of the public hearing was published in the Lincoln Journal-Star on July 15, 2003. The public hearing was held on August 27, 2003 in Lincoln, Nebraska. These amendments are hereby adopted by me as the State Fire Marshal.

Dated this 17th day of February, 2004 Dennis C. Hohbein

Dennis C. Hohbein
Nebraska State Fire Marshal

☐ MAIN OFFICE and
☐ DISTRICT A
246 South 14th Street
Lincoln, NE 68508-1804
(402) 471-2027

☐ DISTRICT B
438 West Market
Albion, NE 68620-1241
(402) 395-2164

☐ DISTRICT C
200 South Silber
North Platte, NE 69101-4200
(308) 535-8181

FUELS DIVISION
☐ FLST ☐ PIPELINE
246 South 14th Street
Lincoln, NE 68508-1804
(402) 471-2027

☐ TRAINING DIVISION
2410 North Wheeler Avenue
Suite 112
Grand Island, NE 68801-2358
(308) 385-6892

An Equal Opportunity/Affirmative Action Employer

Printed with soy ink on recycled paper

81-502. State Fire Marshal; fire prevention and safety; duties; delegation of authority to local fire prevention personnel; rules and regulations; compliance; late penalty.

(1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire;

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health and Human Services, pursuant to section 71-4635; and

(d) After a careful study and investigation of relevant data, to adopt, promulgate, alter, and enforce, through inspections and code compliance, orders, rules, and regulations covering:

(i) The prevention of fires;

(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;

(iv) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;

(v) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;

(vi) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and

(vii) Accessibility standards and specifications adopted pursuant to section 81-5,147.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-

501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee set out in subdivision (4)(a) of section 81-505.01.

Source: Laws 1925, c. 183, § 2, p. 479; C.S.1929, § 81-5502; R.S.1943, § 81-502; Laws 1947, c. 313, § 1, p. 949; Laws 1967, c. 446, § 3, p. 1389; Laws 1969, c. 794, § 1, p. 3000; Laws 1972, LB 782, § 1; Laws 1973, LB 180, § 1; Laws 1976, LB 986, § 3; Laws 1981, LB 266, § 2; Laws 1982, LB 792, § 1; Laws 1983, LB 498, § 5; Laws 1984, LB 130, § 15; Laws 1985, LB 253, § 9; Laws 1986, LB 217, § 12; Laws 1987, LB 459, § 6; Laws 1989, LB 215, § 18; Laws 1993, LB 251, § 4; Laws 1993, LB 348, § 79; Laws 1993, LB 377, § 7; Laws 1995, LB 401, § 44; Laws 1996, LB 1044, § 837; Laws 1997, LB 307, § 215; Laws 1999, LB 594, § 70; Laws 2000, LB 819, § 153; Laws 2007, LB296, § 728; Laws 2013, LB265, § 47.

Cross References

Arson Reporting Immunity Act, see section 81-5,115.
Health Care Facility Licensure Act, see section 71-401.
Inspection of businesses credentialed under the Uniform Credentialing Act, see section 38-139.
Nebraska Natural Gas Pipeline Safety Act of 1969, see section 81-552.
Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.
Storage tank registration, see sections 81-1575 to 81-1577.01.

Annotations

Where state fire marshals had reliable information about existence of incendiary device, action of going upon property and inspecting for existence of fire without actual entry or search of building was proper. State v. Howard, 184 Neb. 274, 167

N.W.2d 80 (1969).