April 20, 2016

Steven M. Jacob

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.
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
Assistant Attorney General

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

Enclosure

46-004-29
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
Agency Legal Counsel and Legislative Liaison
-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

-ADMINISTRATION 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 RECYCLING
1. Incompliance on 9-28-15

HOUSING UNIT 7
1. Waste baskets 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. Waste baskets 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 of 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 (4) cubic feet.

On the day of 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 of 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 of 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. Waste baskets 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. Waste baskets 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. Waste baskets 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, #6722
**Interpretation Number:** 03-05

**Date:** 1 February 2007

**Pamphlet Number:** NFPA 101, 2000 Ed.

**Section(s):** 22, 23.7.2

**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.

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<tr>
<th>Code Section</th>
<th>Description</th>
<th>NFPA Code Pamphlet No.</th>
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<tr>
<td>002</td>
<td>Agricultural Commodities and Food Products Facilities, Prevention of Fires and Dust Explosions (amended for existing facilities)</td>
<td>61-1995 ed.</td>
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<tr>
<td>004</td>
<td>Aircraft Fueling Ramp Drainage</td>
<td>415 -2002 ed.</td>
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<td>005</td>
<td>Aircraft Fuel Servicing</td>
<td>407 -2001 ed.</td>
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<td>008</td>
<td>Ammonium Nitrate, Storage of</td>
<td>490 -2002 ed.</td>
</tr>
<tr>
<td>010</td>
<td>Automotive and Marine Service Station Code</td>
<td>30A - 2000 ed.</td>
</tr>
</tbody>
</table>

APPROVED

MAY 28, 2004

OCT 04, 2006

APR 08, 2004

BY: JYM A. MULN
ASSISTANT ATTORNEY GENERAL

APPROVED

JON BRUNING
ATTORNEY GENERAL
035. Fire Extinguishers, Portable

036. Fire Hose (Repealed 2004)

037. Fire Hose, Care, Use, Service, and Testing (Repealed 2004)

038. Fire Pumps, Centrifugal

039. Fire Walls and Fire Barrier Walls

040. Fireworks, Manufacture, Transportation and Storage

041. Flammable and Combustible Liquids Code

042. Flammable and Combustible Liquids, Farm Storage of

043. Flammable and Combustible Liquids, Tank Vehicles for

044. Flammable and Combustible Liquids, Underground Leakage of

045. Flammable Liquids and Gases in Manholes, Sewers (Repealed 2004)

046. Foam, Low Expansion

047. Foam Systems, Medium and High Expansion

048. Foam-Water Sprinkler and Spray Systems

049. Fuel Gas Code, National (as amended)

050. Garages, Repair

051. Halon 1301 Fire Extinguishing Systems

052. Health Care Facilities

053. Hypobaric Facilities

054. Incliners, Waste and Linen Handling Systems and Equipment

055. Industrial Trucks, Powered
<table>
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<tr>
<th>NFPA Pamphlet No.</th>
<th>Year</th>
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</table>
056. Laboratories Using Chemicals

057. Life Safety Code (As Amended)
    "New Amendments and Deletions"

    Sections 8-4.6.2 & 8-4.6.3 and 9-4.6.2 & 9-4.6.3. (Repealed 2004)

    Sections 16-3.7 & 18-3.7. (Repealed 2004)

058. Liquefied Natural Gas, Production,
    Storage and Handling

059. Liquefied Natural Gas, Vehicular Fuel
    Systems

060. Liquefied Petroleum Gases at Utility
    Gas Plants

061. Liquefied Petroleum Gases,
    Storage and Handling (as amended)

062. Manufacture and Storage of Aerosol
    Products

063. Manufactured Home Installations, Sites
    and Communities

064. Marinas and Boatyard

065. Mobile Foam Apparatus  (Repealed 2004)

066. Oil Burning Equipment, Installation of

067. Organic Peroxide, Storage of  (Repealed 2004)

068. Ovens and Furnace
<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Edition</th>
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</table>
086. Standpipe and Hose Systems

087. Static Electricity

088. Storage, General (Repealed - 2004)

089. Tanks, Containers, Small, Cleaning (Repealed - 2004)

090. Tents and Membrane Structures, Assembly Seating

091. Terminals, Motor Freight (Repealed - 2004)

092. Warm Air Heating and Air Conditioning Systems, Installation of

093. Water Spray Fixed Systems

094. Water-based Fire Protection Systems Inspection, Testing and Maintenance

095. Water Tanks for Private Fire Protection

096. Wet Chemical Extinguishing Systems

097. Wetting Agents

098. Wood Processing and Woodworking, Dust Explosion Prevention

099. Guide to Alternative Approaches to Life Safety

100. Fire Prevention Code

101. Solvent Extraction Plants

TITLE 153 - STATE FIRE MARSHAL
Chapter 1

New Codes In 2004 (No. # 103. To #133)


104. Liquefied Hydrogen Systems at Consumer Sites 50B - 99 ed.


113. Fire Test for Window and Glass Block Assemblies 257 - 2000 ed.

115. Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture

116. Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes

117. Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls

118. Method of Test for Fire Characteristics of Mattresses and Bedding Assemblies Exposed to Flaming Ignition Source

119. Methods of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish To Room Fire Growth

120. Aircraft Hand Portable Fire Extinguishers

121. Heliports

122. Storage of Organic Peroxide Formulations

123. Standard for Combustible Metals, Metal Powders, and Metal Dusts


125. Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials

126. Water Mist Fire Protection Systems

127. Fire Protection in Waste-water Treatment and Collection Facilities

128. Use of Pyrotechnics Before a Proximate Audience

129. Protection of Life and Property from Wildfire
TITLE 153 - STATE FIRE MARSHAL

Chapter 1

130. Recreational Vehicle Parks and Campgrounds


132. Marinas and Boatyards

133. Handling Releases of Flammable and Combustible Liquids and Gases.

Previous amendments to Title 153, Chapter 1, Sec. 057 (NFPA 101) and Title 153, Chapter 1, Sec. 061 (NFPA 59) are repealed.

Statutory Authority:


Legal Citation:

Title 153, Ch. 1, Nebraska State Fire Marshal.
STATE OF NEBRASKA

NEBRASKA ADMINISTRATIVE CODE

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  
Nebraska State Fire Marshal
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.


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).