

the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as Webster's.

"Animal remains" means the animal carcass, any portion of an animal carcass, tissue samples, and associated items that may include, but are not limited to, bedding and other personal effects that are delivered with the animal carcass.

"Laboratory" or "AHDL" means the New Jersey Department of Agriculture, Animal Health Diagnostic Laboratory.

"Submitter" means any individual who engages the services of the laboratory. Such individuals may include animal owners, veterinarians, members of law enforcement, or agents of business entities including non-profit organizations and corporations.

2:10-2.2 Animal remains

(a) Due to risk of disease transmission, animal remains and specimens shall not be returned after submission to the AHDL and will be disposed of at the discretion of AHDL, subject to the exemptions of this subsection.

(b) Upon written request of the submitter or animal owner prior to start of a necropsy procedure, animal remains shall be released to licensed private crematorium for private services at no cost to the laboratory.

(c) Notwithstanding (b) above, animal remains that are regulated medical waste, as defined by N.J.A.C. 7:26-3A.6(a)5, shall be disposed of pursuant to all applicable State and Federal laws, rules, and regulations.

(d) Upon written request by the animal owner or submitter, specimens may be released directly from AHDL to another laboratory for confirmatory testing or to seek professional opinion, or as required by Federal or State law.

2:10-2.3 Records designated confidential

In addition to records designated as confidential pursuant to the provisions of the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., any other law, rule, Executive Order, or complete (final) and intermediate (interim) reports, including necropsy reports, shall not be considered government records subject to public access pursuant to OPRA.

COMMUNITY AFFAIRS

(a)

DIVISION OF FIRE SAFETY

Uniform Fire Code

Adopted Amendments: N.J.A.C. 5:70-2.7 and 3.2

Proposed: July 2, 2018, at 50 N.J.R. 1465(a).

Adopted: December 12, 2018, by Lt. Governor Sheila Y. Oliver,

Commissioner, Department of Community Affairs.

Filed: January 8, 2019, as R.2019 d.015, **without change**.

Authority: N.J.S.A. 52:27D-198 and P.L. 2017, c. 92.

Effective Date: February 4, 2019.

Expiration Date: January 9, 2025.

Summary of Public Comments and Agency Responses:

Comments were received from Michael A. Cifaloglio, Fire Marshal, City of Vineland Fire Department; Josh Lazarus, Owner, J Lazarus Consulting & Training, LLC; Scott McCormick, Fire Official, Hamilton Township Fire District 7, Fire Prevention Bureau; Paul Murphy, Fire Inspector, Borough of Atlantic Highlands; Richard A. Soltis, Jr., Fire Sub Code Official, Lawrence Township, and Past President, Central Jersey Code Officials Association; Keith Thedinga, Fire Marshal, Borough of Somerville; and Charles Walker, Director of Compliance, TNT Fireworks.

1. COMMENT: Fire Marshal Cifaloglio and Official McCormick commented that a Type 1 permit should be required for displays below the amount of 125 pounds. They cited safety concerns. They also commented that requiring a permit would provide the relevant fire official with appropriate notice that the novelties and devices are on the premises, especially since smaller locations are likely to have displays of novelties and devices under 125 pounds.

RESPONSE: The Department determined that amounts below 125 pounds should not require a permit. Chapters 6 and 7 of the NFPA 1124 (2006 Edition) shall not apply where the net weight of the pyrotechnic content of the sparkling devices or novelties does not exceed 125 pounds. Further, the Department believes that requiring a Type 1 Permit for less than 125 pounds would add an unreasonable burden on businesses, as it would require businesses with a minimal amount of sparkling devices and novelties to apply for a permit. This rule is consistent with P.L. 2017, c. 92, which establishes that these sparkling devices and novelties are not to be considered fireworks. Pursuant to N.J.S.A. 40:48-1, sparkling devices and novelties, including their sale and use, shall not be subject to further municipal regulations.

2. COMMENT: Mr. Lazarus stated that he is in support of this rulemaking, but commented that there should be some type of notification to the fire officials when the pyrotechnic product is below the permitting requirements.

RESPONSE: The Department appreciates the commenter's affirmative comment in support of this rulemaking. The rules require a permit for the sale or storage of these sparkling devices and novelties of greater than 125 pounds of pyrotechnic material. This permit serves as notification to the fire official. The Department believes that requiring a permit for under 125 pounds is unnecessary as it would require a business with a minimal amount to apply for a permit.

3. COMMENT: Mr. Lazarus commented that the rules should require a merchant to verify that a purchaser is 16 years old or older. Fire Official McCormick also commented that no one under the age of 16 should be permitted to purchase sparkling devices and novelties.

RESPONSE: Pursuant to P.L. 2017, c. 92 (N.J.S.A. 21:3-2), it is unlawful for anyone to sell sparkling devices or novelties to anyone under the age of 16. Vendors, therefore, are obligated to comply with this statutory requirement. The rules appropriately address those areas dealing with fire safety.

4. COMMENT: Fire Inspector Murphy commented that allowing the sale of fireworks or any pyrotechnics circumvents the IBC, IFC, and N.J.A.C. 5:70 and is dangerous. He notes that the Consumer Product Safety Commission (CPSC) facts and figures on injuries attributable to fireworks and pyrotechnics demonstrates the danger and, further, the risk of fire attributable to such items is unknown as the National Fire Incident Reporting System (NIFRS) data has not been modified to collect such data.

RESPONSE: P.L. 2017, c. 92 amended and established that these sparkling devices and novelties are not to be considered fireworks. The sale and use of fireworks and pyrotechnic devices remain prohibited in New Jersey, unless the local enforcing agency has issued a permit under N.J.A.C. 5:70-2.7. The NFIRS system does capture fireworks data from fire departments and has been modified to capture sparkling device and novelty data.

5. COMMENT: Fire Sub Code Official Richard Soltis, Jr. commented that the definition of "sparkling devices and novelties" contradicts the definition of "Fireworks" in IFC 2015. He states that the IFC definition of "Fireworks 1.4G" includes "sparkling devices and novelties" and adding the definition will cause confusion. He further comments that N.J.A.C. 5:70-2.7(a)lviii should only mention "Fireworks 1.4G."

RESPONSE: This rulemaking amends the definition of fireworks in the International Fire Code 2015, New Jersey Edition, to exempt sparkling devices and novelties, consistent with P.L. 2017, c. 92. The law does not exempt all consumer 1.4G fireworks, but only specific types of sparkling devices and novelties.

6. COMMENT: Fire Marshall Thedinga and Mr. Walker commented that the rules should provide for an exemption from the permit requirement for retail locations that carry items with a pyrotechnic content of 250 or less that have an approved sprinkler system installed. They state that not providing the exemption is inconsistent with NFPA 1124. Mr. Walker commented that this requirement is inconsistent with what the Fire Codes Advisory Council previously approved.

RESPONSE: NFPA 1124 establishes the fire code requirements for the sparkling devices and novelties. NFPA 1124 does not require permits but rather provides that a permit is required when established by state laws or regulations. Through these rules, the State is establishing the permit

requirements. Regardless of the permit requirements, the fire code requirements in the NFPA apply.

The Fire Codes Advisory Council's and Fire Safety Commission's function is to assist and advise the Commissioner in the administration of the Fire Safety Act. The Fire Codes Advisory Council addressed a rulemaking in November, 2017. That rulemaking, however, was revised and the Fire Codes Advisory Council reviewed and approved the final rulemaking.

Federal Standards Statement

No Federal standards analysis is required because the amendments are not being adopted under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements.

Full text of the adoption follows:

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT

5:70-2.7 Permits required

(a) Permits shall be required and obtained from the local enforcement agency for the activities specified in this section, except where they are an integral part of a process or activity by reason of which the use is required to be registered and regulated as a life hazard use. Permits shall at all times be kept in the premises designated therein and shall at all times be subject to inspection by the fire official.

1.-3. (No change.)

4. Type 2 permit:

i.-v. (No change.)

vi. Unoccupied or vacant buildings or structures 12,000 square feet or more, but less than 100,000 square feet, in gross floor area;

vii. The use of any building, or portion thereof, previously registered as a Life Hazard Use for mercantile purposes on a temporary basis.

(1) Exception: No permit shall be required for any mercantile use registered as a Life Hazard Use; or

viii. The storage or retail sales of sparkling devices and novelties in any temporary or permanent structure, when the pyrotechnic content exceeds 125 pounds; as defined in Section 202, and shall comply with Section 5609, and NFPA 1124.

5.-7. (No change.)

(b)-(j) (No change.)

SUBCHAPTER 3. STATE FIRE PREVENTION CODE

5:70-3.2 Modifications

(a) The following articles or sections of the State Fire Prevention Code are modified as follows:

1. (No change.)

2. Chapter 2, Definitions, shall be amended as follows:

i. (No change.)

ii. Section 202, General Definitions, shall be amended to include the following definitions:

(1)-(21) (No change.)

(22) The definition of FIREWORKS shall be deleted in its entirety and the following text shall be inserted into the definition of FIREWORKS:

"FIREWORKS. Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, *deflagration* or *detonation* that meets the definition of 1.4G fireworks or 1.3G fireworks.

Fireworks, 1.4G. Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks which comply with the construction, chemical composition and labeling regulations of the DOTn for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR Parts 1500 and 1507, are not *explosive materials* for the purpose of this code.

Fireworks, 1.3G. Large fireworks devices, which are *explosive materials*, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, *deflagration* or *detonation*. Such 1.3G fireworks include, but are not limited to, firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial

shells containing more than 40 grams of pyrotechnic composition and other display pieces which exceed the limits for classification as 1.4G fireworks. Such 1.3G fireworks are also described as Fireworks, UN 0335 by the DOTn.

Fireworks include any combustible or explosive composition, and any substance and combination of substances and articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks shall include blank cartridges, toy pistols, toy cannons, toy canes and toy guns in which explosives are utilized; firecrackers, torpedoes, skyrockets, Roman candles, sparklers and other devices of similar construction; any device containing any explosive or flammable compound; and any tablets and other devices containing any explosive substance.

The term "fireworks" shall not include sparkling devices and novelties. Sparkling devices and novelties mean:

a. wood sticks or wire sparklers of not more than 100 grams of pyrotechnic mixture per item;

b. hand held or ground based sparkling devices which are non-explosive and non-aerial, which may produce a crackling or whistling effect, and contain 75 grams or less of pyrotechnic composition per tube or a total of 500 grams or less for multiple tubes; and

c. snakes and glow worms, smoke devices, and trick noisemakers, which include party poppers, snappers, and drop pops, each consisting of 25/100 grains or less of explosive mixture; and

d. automobile flares, paper caps containing not more than an average of 0.25 grain (16 mg) of explosive content per cap, and toy pistols, toy canes, toy guns and other devices utilizing such caps.

The sale and utilization of the types of sparkling devices and novelties listed herein which are not considered fireworks shall be permitted at all times. See Chapter 56 Explosives and Fireworks."

(23)-(52) (No change.)

3.-55. (No change.)

56. Explosives and Fireworks, shall be amended as follows:

i.-xii. (No change.)

xiii. A new Section 5608.2.2.1 shall be inserted as follows: "Section 5608.2.2.1 The use of proximate pyrotechnics, as defined by NFPA 1126, in theaters or public halls, shall be subject to prior approval by the fire official and the following conditions shall apply:

1.-5. (No change.)

xiv. Delete section 5609 in its entirety and insert new Section 5609 as follows:

"5609 Temporary Storage and Retail Sales of Consumer Fireworks, Sparkling Devices and Novelties.

5609.1, General. Where the temporary storage and retail sales of consumer fireworks, sparkling devices and novelties, 1.4G is allowed by Section 5601.1.3, Exception 4, such storage shall comply with the applicable requirements of NFPA 1124."

57.-81. (No change.)