



Department of Commerce

Division of State Fire Marshal
John R. Kasich, Governor
Jacqueline T. Williams, Director



Technical Bulletin #16-002

Unattended Motor Fuel-Dispensing Facilities at Airports

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Code provisions analyzed/referenced: OAC § 1301:7-7-22(D)(3); OFC § 2204.3
OAC § 1301:7-7-22(A)(1)(a); OFC § 2201.1.1
OAC § 1301:7-7-22(B)(1); OFC § 2202.1
OAC § 1301:7-7-9(C)(4)(a); OFC § 903.4.1
OAC § 1301:7-7-1(B)(1)(a); OFC § 102.1.1
OAC § 1301:7-7-1(D)(8); OFC § 104.8

Recently, the Ohio Department of Commerce, Division of State Fire Marshal (SFM) was asked for a clarification of SFM Technical Bulletin #15-005 (*Unattended Self Service Motor Fuel-Dispensing Facilities – Required Fire Protection*) (TB #15-005). TB #15-005 addresses the application of the specific provisions of OFC § 2204.3.11 to unattended compressed natural gas fueling facilities that are open to the public. The recent inquiry concerns the application of those same provisions to fueling operations at regional county airports if the airport operates as an unattended fueling facility.

OFC § 2204.3.11 states:

Required fire protection. In addition to fire protection equipment otherwise required by this code, an unattended motor fuel-dispensing facility shall also include automatic fixed suppression systems, and automatic fire detection, and transmission of an alarm to an off-site approved supervising station in accordance with paragraph (C)(4)(a)(903.4.1) of rule 1301:7-7-09 of the Administrative Code.

The purpose of this bulletin is to clarify whether or not a regional county airport would become subject to these provisions by installing a credit card reader that could be used by the general aviation public to purchase fuel at the airport for aircraft and/or helicopters throughout the day and night. The installation of the credit card reader would obviate the necessity of having an attendant on-duty (or on-call) twenty four hours a day for refueling purposes. The provisions of

the OFC specifically distinguish between attended and unattended motor fuel dispensing facilities and additional safety measures (including those in OFC § 2204.3.11) are in place for those facilities that will not have trained staff on site while fuel dispensing is occurring. This is true regardless of whether the facility will be unattended for all or only a portion of the time.

The language of OFC § 2204.3.11 requires suppression, detection, and transmission of an alarm at **all** unattended motor fuel-dispensing facilities that are open to the public, regardless of fuel type. However, these requirements did not become mandatory until the most current version of the OFC, which became effective November 1, 2011. Generally, facilities legally in existence are not subject to later enacted OFC provisions unless they are altered, renovated, undergo a change of use or condition, or circumstances arise that constitute a distinct hazard to life or property in the opinion of the fire code official. See OFC §§ 102.1.1 and 2201.1.1. Therefore, barring a renovation or change of use, etc., a facility legally in existence prior to November 1, 2011, would not have to comply with the provisions of 2204.3.11.

Nonetheless, the change of a facility (an airport or otherwise) from an attended to an unattended motor fuel-dispensing facility that will be open to the public, does alter how the facility will be utilized and subjects the motor fuel-dispensing facility to the current OFC requirements.

A “motor fuel dispensing facility” is defined as follows:

“Motor fuel-dispensing facility.” That portion of a property where flammable or combustible liquids or gases used as a fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles or marine craft or into approved containers, including all equipment used in connection therewith.

See OFC § 2202.1. Further analysis of terms within this definition and other terminology used within the OFC indicate that a regional county airport where fuel is dispensed from fixed equipment into the fuel tank of an aircraft is a motor fuel-dispensing facility. Therefore, if an airport facility will be unattended and open to the public, the provisions of OFC § 2204.3 do apply and the airport must comply with the requirements set forth therein. In addition to the specific provisions of OFC § 2204.3.11, which specifically addresses required fire protection, OFC §§ 2204.3.1 through 2204.3.13 set forth additional safety features that are required for unattended motor fuel-dispensing facilities that are open to the public. These include:

- i. Daily site visits, regular equipment inspections and maintenance must be conducted in accordance with OFC § 2204.3.1;
- ii. Dispensing devices must comply with the provisions of OFC § 2206.7 and dispensing devices operated by the insertion of coins or currency shall not be used unless approved by the authority having jurisdiction (see OFC § 2204.3.2);

- iii. Emergency controls that are manually resettable only shall be provided in accordance with OFC § 2204.3.3;
- iv. Operating instructions and emergency procedures shall be conspicuously posted in conformance with and shall conform to the provisions of OFC §§ 2204.3.4 and 2204.3.5;
- v. A telephone not requiring a coin to operate or another approved device shall be provided for purposes of notifying the fire department in conformance with OFC § 2204.3.6; the device shall be clearly identified and shall be at a location approved by the authority having jurisdiction;
- vi. Dispensing equipment shall have established quantity limits in accordance with OFC § 2204.3.7;
- vii. Spill containment shall be provided in accordance with OFC § 2204.3.8;
- viii. Dispensing devices shall be in accordance with OFC § 2204.3.9;
- ix. Smoking shall be prohibited in conformance with OFC § 2204.3.10;
- x. Signs shall be provided in conformance with OFC §§ 2204.3.12 and 2204.3.13.

Therefore, if an airport changes from being an attended facility to being an unattended facility, through the installation of a credit card reader, or otherwise, it would be need to comply with **all** of the provisions of OFC §§ 2204.3.1 through 2204.3.13. Likewise, the facility would need to comply with all other currently applicable OFC provisions.

Notwithstanding, the above, the SFM is well aware that strict application of certain provisions of OFC § 2204.3 may be impractical and cost prohibitive, if not impossible, as applied to airports. With regard to some specific provisions of OFC § 2204.3, the SFM is considering modifications to the provisions as they are applicable to airports (specifically fixed automatic suppression systems, automatic fire detection, and quantity limits). However, unless and until any modifications regarding these provisions as they apply to airports become effective, any airport changing its fuel-dispensing operations from attended to unattended would need to either fully comply with all applicable provisions of the OFC or would need to obtain a variance from the SFM.

The SFM may grant a variance to the provisions of the OFC pursuant to OFC § 104.8, which states:

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

1. That the variance will not threaten the public health, safety or welfare; and

2. That the party will provide measures to protect the public health, safety and welfare that are substantially equivalent to the measures otherwise required under the state fire code or other applicable laws, rules and regulations.

Therefore, should an airport want to convert its fuel-dispensing facility from an attended to an unattended facility, and should an airport want a variance from specific provisions of the OFC, the airport should submit a letter to the SFM requesting a variance in accordance with the above. The application should clearly identify what specific OFC provision(s) the facility is requesting to operate in variance of, and should clearly demonstrate the practical difficulties in complying with the specific OFC provision(s). The variance request must clearly demonstrate how the operation of the airport in the proposed manner would not threaten public health, safety and welfare, and should likewise demonstrate what other substantially equivalent measures will be instituted to protect the public health, safety and welfare.

Absent a variance issued by the SFM, a facility would need to comply with all current OFC provisions. An airport operating a motor fuel-dispensing facility that is not in compliance with all applicable OFC provisions, would be operating in violation of the OFC and could be subject to an enforcement action. An application to the SFM for a variance does not need to be a formal or lengthy document, but **does** need to be in writing and demonstrate the practical difficulties with complying with the OFC provision(s) from which the applicant wants relief. The variance also needs to clearly show the parameters for granting a variance as set forth in numbers 1 and 2 above.

If a variance request is submitted from any entity, it will be evaluated on its merit and the SFM will make a determination regarding whether or not the public is adequately protected. The applicant will receive a written response from the SFM, usually within two weeks from the time the variance request is received.

The SFM recently received a variance request from the Airport Authority for the Van Wert County Regional Airport (Van Wert), seeking relief from the required suppression, detection and quantity limits set forth in the OFC. While the SFM cannot guarantee a given result regarding a potential request for a variance or any conditions that may be imposed to ensure public safety, the SFM did grant Van Wert's variance request and will strongly consider any application for a variance submitted by an airport facility, particularly regarding these same provisions. For reference, a copy of the variance issued to Van Wert can be obtained by sending a request to SFMInfoTechBulletins@com.state.oh.us or by calling the SFM's Code Enforcement Bureau.

For questions or clarification on the provisions of this Technical Bulletin, interested parties should contact the SFM's Code Enforcement Bureau at (614)728-5460 or (888)276-0303.

This Technical Bulletin is intended only as an informational tool. Affected individuals and code enforcement officials should consult their legal advisor to determine specific requirements, their applicability, and courses of action that should be taken to ensure compliance with all applicable requirements and standards.