

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-67 Rule Number Saf-C 1100

<p>1. Agency Name & Address:</p> <p>Department of Safety 33 Hazen Drive Concord, NH 03305</p>	<p>2. RSA Authority: RSA 21-P:14, II(s); RSA 21-P:4, VII</p> <p>3. Federal Authority: N/A</p> <p>4. Type of Action:</p> <p><input type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment (only if Initial Proposal was filed before 9/27/20.)</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **Authority to Cite Fire Safety Violators Rules**

6. Contact person for copies and questions:

Name:	Marta Modigliani	Title:	Administrator
Address:	Department of Safety 33 Hazen Drive Concord, NH 03305	Phone #:	603 227-0040

7. The rulemaking notice appeared in the Rulemaking Register on April 28, 2022

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

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1. Agency Name & Address: Department of Safety 33 Hazen Drive Concord, NH 03305	2. RSA Authority: RSA 21-P:14, II (s); RSA 21-P:4, VII 3. Federal Authority: N/A 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment X
5. Short Title: Authority to Cite Fire Safety Violators Rules	

6. (a) Summary of what the rule says and of any proposed amendments:

The proposed rulemaking action readopts with certain amendments the existing Saf-C 1100, Authority to Cite Fire Safety Violators, which will expire May 23, 2022 but is subject to extension pursuant to RSA 541-A:14-a. Saf-C 1100 sets forth the procedures for qualified individuals to receive the authority to issue citations for violations of fire safety rules adopted under RSA 153:4-a, RSA 153:5, and RSA 160-C. The proposed amendments correct certain statutory and rule references; incorporate by reference the application for citation authority form; recognize current certification by the ProBoard as evidence of successful completion of an examination specific to the application of building or fire codes; and, amends Saf-C 1102.04(a)(1) so that the successful completion of a refresher course shall qualify for the automatic renewal of one's authorization to issue citations under Saf-C 1100.

6. (b) Brief description of the groups affected:

The groups affected by the proposed rules are fire prevention officers or fire investigators for a fire department or State Fire Marshal's Office; state and local fire and building officials; code enforcement officers who request authority to issue citations to any unlicensed person who performs actions requiring a license under RSA 153:28 or RSA 153:29-a; and the Department of Safety, State Fire Marshal's Office.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Provision of the Proposed Rule	Specific State or Federal Statutes or Regulations which the Rule is Intended to Implement
Saf-C 1101.01-Saf-C 1101.03	RSA 541-A:7
Saf-C 1101.04	RSA 21-P:26; RSA 541-A:7
Saf-C 1101.05	RSA 541-A:7
Saf-C 1101.06	RSA 106-L:3; RSA 541-A:7
Saf-C 1101.07 through Saf-C 1101.12	RSA 541-A:7
Saf-C 1102.01 through Saf-C 1102.07	RSA 21-P:14, II(s), RSA 21-P:4, VII and RSA 153:4-A, IV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Marta Modigliani	Title:	Administrator
Address:	Department of Safety, Legal Unit 33 Hazen Drive Concord, NH 03305	Phone #:	603-227-0040
		Fax#:	603-271-1033
		E-mail:	rules@dos.nh.gov

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, June 9, 2022 at 8:15 a.m.**

☒ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, June 1, 2022 at 1:00 p.m.**

Place: **Second Floor Conference Room
Department of Safety
33 Hazen Drive
Concord, NH 03305**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **22:072**, dated **04/20/2022**

Fiscal Impact Statement for Department of Safety rules governing Authority to Cite Fire Safety Violators Rules. [Saf-C 1100]

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**
There is no difference in cost between the proposed rules and the existing rules.
2. **Cite the Federal mandate. Identify the impact on state funds:**
No federal mandate, no impact on state funds.
3. **Cost and benefits of the proposed rule(s):**
 - A. **To State general or State special funds:**
None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

1. **The proposed rule do not create a new program or responsibility.**
2. **The proposed rules do not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.**
3. **No state funding is necessary because the proposed rule does not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.**

Readopt with amendment Saf-C 1100, effective May 23, 2012 (Document #10137), to read as follows:

CHAPTER Saf-C 1100 AUTHORITY TO CITE FIRE SAFETY VIOLATORS

Statutory Authority: RSA 21-P:14, II(s)

PART Saf-C 1101 DEFINITIONS

Saf-C 1101.01 "Applicant" means a person requesting authorization to issue citations for a violation of fire safety or applicable licensing rules.

Saf-C 1101.02 "Building official" means the code enforcement or other designated authority charged with the administration and enforcement of the building code, or a duly authorized representative.

Saf-C 1101.03 "Citation" means any summons, ticket, or other document issued by a person authorized by RSA 21-P:4,VII and the provisions of these rules for a violation of fire safety rules adopted pursuant to RSA 153:4-a, RSA 153:5 and RSA 160-C, and to unlicensed persons who perform actions that require a license pursuant to RSA 153:28 or RSA 153:29-a, ordering the person named in the document to appear in the court specified.

Saf-C 1101.04 "Commission" means the New Hampshire fire standards and training commission established pursuant to RSA 21-P:26.

Saf-C 1101.05 "Commissioner" means the commissioner of the department of safety or the commissioner's designee.

Saf-C 1101.06 "Council" means the New Hampshire police standards and training council established pursuant to RSA 106-L:3.

Saf-C 1101.07 "Fire chief" means the person in charge of a fire department as defined in RSA 154:1-d, I(e).

Saf-C 1101.08 "Fire prevention officer" means a person engaged in the inspection of buildings or structures for the purpose of determining whether they are safe and in compliance with fire codes. The term includes a fire inspector or a fire marshal.

Saf-C 1101.09 "Fire investigator" means a person principally engaged in the investigation of the origin and cause of fires.

Saf-C 1101.10 "Full-time work experience" means a work assignment that is a person's principal source of employment and is on a permanent basis, the number of hours per week having been established by the hiring authority as a full-time work week.

Saf-C 1101.11 "Licensing inspector" means a person engaged in the inspection of persons employed to do work involving mechanical codes, licenses, or certifications in the fields of electrical, gas, oil, or plumbing for the purpose of determining whether the work performed is safe and in compliance with applicable codes, as well as to ensure that all proper licenses have been obtained.

Saf-C 1101.12 "Part-time work experience" means a work assignment that is less than full-time experience.

PART SAF-C 1102 GENERAL APPLICATION REQUIREMENTS

Saf-C 1102.01 Application for Citation Authority.

(a) An applicant requesting authorization to issue citations for a violation of fire safety rules or applicable licensing rules shall complete and submit an application on form DSFS 142, "Citation Authority Application," (rev. 6/22).

(b) An applicant shall have, at minimum, one year of full-time work experience or 2 years of part-time work experience as a fire chief, fire prevention officer, fire investigator, licensing inspector, building official, or code enforcement officer for the state or a fire department of the state or any political subdivision thereof.

(c) An applicant shall have successfully completed a course, as evidenced by the issuance of a certificate, conducted by the council and the commission that is composed of the following elements:

- (1) Search and seizure;
- (2) Fire safety rules and state laws and codes;
- (3) Evidence gathering; and
- (4) Procedures for issuing a citation.

(d) An applicant shall have a total point accumulation of a minimum of 100 points, as set forth in (e) below.

(e) Points shall be accumulated on the following basis:

- (1) Successful completion of a fire inspector promotional examination given by a municipality or the commission shall entitle a person to 50 points;
- (2) Attainment of an associate, bachelors, or master's degree in fire protection from an accredited higher educational institution shall entitle a person to 100 points;
- (3) Current certification by the commission as a fire inspector or fire officer shall entitle a person to 100 points;
- (4) Current certification by the National Fire Protection Association, International Code Council, Pro Board, or other nationally accredited certifying agency as evidenced by successful completion of an examination specific to the application of building or fire codes, shall entitle a person to 100 points;
- (5) Current certification by the council as a part-time or full-time police officer, as defined in Pol 101.30 and Pol 101.24 respectively, shall entitle a person to 100 points; and
- (6) Successful completion of a course in fire investigation, fire inspection, building inspection, or fire or building codes offered by the New Hampshire technical college, the division of fire standards and training and emergency medical services, the National Fire Academy, the National Fire Protection Association, the International Code Council, the commission, or an accredited institution or organization shall entitle a person to 25 points for each course.

(f) An applicant shall submit a letter of recommendation or endorsement from the executive office of the department at which the person is employed and copies of certificates or other evidence of completion that meet the criteria of this rule.

(g) An applicant shall sign and date the DSFS 142 form, “Citation Authority Application”, and in doing so, shall certify the following under the penalties of unsworn falsification pursuant to RSA 641:3: “I certify that I have read the foregoing and affirm that every statement contained herein is true and correct. I also certify that I am familiar with all state laws, regulations and local ordinances relating to the issuance of fire safety violations.”

Saf-C 1102.02 Denial of Authorization.

(a) In determining whether to grant or deny citation authority, the commissioner shall review the application for citation authority, and grant authority if the applicant complies with the provisions of Saf-C 1102.01.

(b) The commissioner shall deny an application for citation authority if the applicant has been convicted of any of the following:

- (1) A crime against person or property; or
- (2) A crime involving the breach of a fiduciary duty.

(c) The commissioner shall notify the applicant, in writing, of the reason(s) for denial of citation authority.

Saf-C 1102.03 Grant of Authorization.

(a) Upon review of the application for citation authority pursuant to Saf-C 1102.01, if the commissioner grants authority to issue citations, the applicant shall be notified, by letter.

(b) An authorization to issue citations shall be valid until:

- (1) The authority is revoked, pursuant to Saf-C 1102.05; or
- (2) The person terminates employment with a fire department of the state or any political subdivision thereof.

(c) Any person who has been issued authorization to issue citations shall notify the commissioner within 30 days of the termination of their employment with the department or political subdivision at which the person was employed when the authority was issued. Unless the person is employed with another fire department or political subdivision and provides the letter of recommendation or endorsement, as set forth in Saf-C 1102.01(f), the person shall turn in their letter of authorization to the commissioner.

Saf-C 1102.04 Automatic Renewal of Authorization.

(a) An authorization to issue citations shall be automatically renewed, without application, if the person:

- (1) Successfully completes a refresher course; or

(2) Successfully demonstrates a minimum of 8 hours of continuing education on an annual basis, composed of the elements listed in (b) below.

(b) For the purposes of (a)(1) above, a refresher course shall be composed of the following elements:

- (1) Review of search and seizure laws and procedures;
- (2) Review of updates and changes to fire safety rules, applicable licensing rules, and state laws and codes;
- (3) Review of evidence gathering procedures; and
- (4) Review of procedures for issuing a citation.

(c) A refresher course conducted by the commission and council shall be deemed to meet the requirements of (b) above. All other refresher courses shall be approved by the commission and council, to ensure that the requirements of (b) above are met.

(d) The person shall be responsible for maintaining all records of completed courses and continuing education. Such records shall be made available to the commissioner, upon request.

Saf-C 1102.05 Revocation of Authorization.

(a) The commissioner shall, after an opportunity for a hearing, revoke a person's authority to issue citations for any of the following:

- (1) Failure to turn in the letter of authorization, pursuant to Saf-C 1102.03(c);
- (2) Materially false or misleading information in the person's application;
- (3) Misuse or abuse of the citation authority; or
- (4) Failure to abide by any provision of these rules.

(b) All hearings shall be conducted by the bureau of hearings in accordance with the requirements of Saf-C 200.

Saf-C 1102.06 Refresher Course.

(a) The commissioner shall require any person who has been granted citation authority to complete a refresher training course pursuant to Saf-C 1102.04(b) when:

- (1) The person has evidenced a lack of understanding of the fire safety or applicable licensing rules;
- (2) The fire safety or applicable licensing rules have been amended, in order for the person to have current knowledge of the rules; or
- (3) The person has not maintained the continuing education requirement pursuant to Saf-C 1102.04(a)(2).

Saf-C 1102.07 Restoration of Authorization.

(a) Any person whose authority to issue citations has been suspended for termination of employment pursuant to Saf-C 1102.03(b)(2) shall have that authority restored within 2 years of the termination if the person:

- (1) Submits evidence of re-employment as a fire prevention officer, fire chief, fire inspector, fire marshal, fire investigator, licensing inspector, building official, or code enforcement officer for the state, or a fire department of the state or any political subdivision thereof;
- (2) Meets the requirements of Saf-C 1102.01; and
- (3) Successfully completes a refresher course.

(b) Any person whose authority to issue citations has been suspended for termination of employment pursuant to Saf-C 1102.03(b)(2) for more than 2 years, shall make application for citation authority pursuant to Saf-C 1102.01.

APPENDIX

Provision of the Proposed Rule	Specific State or Federal Statutes or Regulations which the Rule is Intended to Implement
Saf-C 1101.01-Saf-C 1101.03	RSA 541-A:7
Saf-C 1101.04	RSA 21-P:26; RSA 541-A:7
Saf-C 1101.05	RSA 541-A:7
Saf-C 1101.06	RSA 106-L:3; RSA 541-A:7
Saf-C 1101.07 through Saf-C 1101.12	RSA 541-A:7
Saf-C 1102.01 through Saf-C 1102.07	RSA 21-P:14, II(s), RSA 21-P:4, VII and RSA 153:4-A, IV