



STATE FIRE MARSHAL
Flame Retardant Advisory Committee
November 16th, 2023, Meeting Minutes, 9:00 A.M. to 12:00 P.M.
Pacific Daylight Time (PDT)
Office of the State Fire Marshal
Hybrid Zoom Meeting Conference Call
Meeting ID: 867 4610 4113

MEMBERS PRESENT

Shannon Sanders, Huntington Beach Fire Department
Beth McDowell, Sacramento City Fire Department
Kathleen Newman, Fire Tech
Mike Ohirko, Impact Images
Christopher Lovato, Flamecheck
Bobby Brown, SGS North America, Inc.
John Kardos, Advanced Textiles Association

MEMBERS ABSENT

Almeda Hall, Fort Irwin Fire Department
Ellen Atkins, Delta Pacific Technologies, Inc.
Jonathan Ramos, Disney Live Entertainment
Brian Dement, Diversified Testing Laboratories
Duraisamy Ravichandran (Robbie), Intertek

OSFM STAFF

Patricia Setter, Committee Chairperson, OSFM
Greg Andersen, OSFM
Cortney Walker, OSFM
Jeffrey Schwartz, OSFM
Adam Stewart, OSFM

PUBLIC GUESTS

None

I. CALL TO ORDER

A. Welcome and Logistics Briefing

The meeting was called to order by Chairperson Patricia Setter, at 9:24 A.M. PDT on November 16th, 2023.

Attendees were informed of meeting logistics and etiquette.

B. Roll Call/Determine Quorum

Roll call was conducted by Adam Stewart, and it was determined that a quorum (7 of 12) of members was present.

C. Introductions

All attendees introduced themselves.

D. Approval of Minutes for January, April, and May 2023 will be postponed.

It was moved by Member Kathleen Newman to postpone the minutes as presented; motion seconded by Member John Kardos.

E. Announcements

There were no announcements.

II. OLD BUSINESS

A. Title 19, Chapter 8, Proposed Regulation Update for the Chiefs.

Chairperson Patricia Setter mentioned a briefing of the Chiefs regarding the committee's work group. She stated that the group has continued with chapter 8, 1171 through 1250. Chairperson Patricia Setter mentioned that the group has issues with the definition. She mentioned as a team, they have come together with fabricators, manufacturers, and rentals that they've either been withdrawn, modified, or clarified using the Webster's dictionary.

Chairperson Patricia Setter stated that the group wants to add large scale and small scale but that they need to get it to a testing portion first. She mentioned that 1205 through 1250 have minor revisions or relocations.

Chairperson Patricia Setter stated that the work group unanimously wanted a penalty of perjury to accompany their application if applicants treated the material before sending to the laboratories. She mentioned that she had to create a penalty of perjury to add to the regulations. She mentioned that would include details of the method it was applied, the curing process and the duration.

Chairperson Patricia Setter stated that the group concluded that 1222, the laundry or dry cleaning with water soluble chemicals, would need to be retreated after it has been cleaned.

Member John Kardos stated that the group felt flame retardants would not survive the new economic friendly dry-cleaning methods and that's why the group took that route.

Chief Greg Andersen asked if that is now the standard being used throughout the state.

Member John Kardos stated that is correct.

Chief Jeffrey Schwartz asked Chairperson Patricia Setter if they have a timeframe for the regulations package to be complete.

Chairperson Patricia Setter stated that the group is making progress but when it gets close to finishing up, they would invite either Chief Andersen or Chief Schwartz to help with the testing portion.

Chairperson Patricia Setter asked the group if they had a chance to look over the January, April and May, minutes.

Chairperson Patricia Setter asked the committee if they wanted to table the three different minutes till a later meeting and the committee agreed.

It was moved by Member Kathleen Newman to postpone the minutes as presented; motion seconded by Member John Kardos.

Member Shannon Sanders asked if OFSM could send out a reminder email to the committee on reviewing the previous meeting, to look at them and be prepared to vote on them at the next meeting.

Member Kathleen Newman asked if the committee could have a two week notice on everything that the committee is going to be voting on, so that the group could prepare for the next meeting and what issues are going to be voted on.

Chief Greg Andersen stated that OSFM can attach the minutes and other documents to the meeting invite as well.

III. NEW BUSINESS

A. AB 267

Chief Greg Andersen stated that the new legislation AB 267 passed. He mentioned that OSFM does review bills but cannot share an opinion on them until the Governor agrees with OSFM's opinion. He also stated that the Governor has sign Bill AB 267.

Chief Greg Andersen summarized Bill AB 267 stating that if a tent that holds 15 people and is made from synthetic fiber, it is considered inherently flame resistant.

Chairperson Patricia Setter mentioned that she looked over the Bill AB 267 and stated that we still will require inherently flame-resistant fabrics to be tested.

Chief Greg Andersen mentioned that Section 13115 has been updated. The law added the section C2 and section B, changing the size of the tent from 15 people to 10.

Member Christopher Lovato asked if there are going to be two exits for the tents.

Chairperson Patricia Setter answered "yes".

Member Mike Ohirko asked the purpose of the change from a 15-person tent to 10.

Chief Greg Andersen stated that he talked with proponents and mentioned that REI is moving to get rid of flame retardants because of the long-term health issue concerns.

Chairperson Patricia Setter mentioned to member Mike Ohirko that he should not be affected by this because most of his sales are canopies.

Member Mike Ohirko stated that he understood that but was just wanting to ask the question why. The flame-retardant fabrics are relevant in his area for day-to-day life, especially with the homeless. He mentioned that it did not make a lot of sense for the switch from 15-person occupancy tents to 10.

Member Kathleen Newman stated that there was no proof of what hazardous chemical was being addressed. She mentioned that all the hazardous chemicals are already on the red list.

Member Christopher Lovato stated that synthetic fibers require a halogen and a synergist. He mentioned that's where the problem was originally, they were toxic. He mentioned the reason you had halogen synergist combinations, was to deal with the synthetics.

Chief Greg Andersen stated that the law does not require the use of synthetic fibers, it just allows them. He also mentioned that we are not at this meeting to debate whether this was a good idea or not, passing Bill AB 267 but to discuss that it is law now.

Chairperson Patricia Setter asked member Beth McDowell, if you had a close tent with 15 occupancies, would you require two exits?

Member Beth McDowell answered “yes”.

Chairperson Patricia Setter asked member Shannon Snaders the same question.

Member Shannon Sanders stated that her gut instinct is to say “no”, but she would need to look the code up.

Chief Greg Andersen stated normally in camping tents, the fire service isn't out doing inspections. He mentioned when you're looking at an assembly area, you would be looking for things like that. He stated the fire code does say two exits but would be unlikely for a fire department to enforce, due to staffing.

Member Shannon Sanders stated in her area they issue tent permits but go based on the sizing of the tent. She mentioned that if a tent is an open 700 square foot tent or a 400 square foot tent with enclosed walls, her department would not be enforcing that.

Member Kathleen Newman asked who will track the statistics of casualties, injury, and death when this law changes.

Chairperson Patricia Setter stated that she has run the stats. She mentioned that the problem they had is when the fire departments were doing the coding, they were not coding correctly. Chairperson Patricia Setter mentioned when they pulled the numbers, the numbers did not designate between encampment fires and homeless encampments.

Chief Greg Andersen stated that the national system or data is in the process of updating their system, which “may” include new categories for collecting data such as this. He mentioned that OSFM will be working on some training, specifically on firework data collecting. Chief Greg Andersen also mentioned that they have received data from the city of Los Angeles on the fires they have had in their homeless camps. Chief Andersen mentioned that the State Fire Marshal has created a new position in our office, dedicated on data collecting.

Member Christopher Lovato mentioned in Arizona that this is a big problem because the homeless set fires to each other's tents, which results in many of these specific type fires.

Member Kathleen Newman stated again that long term health effects were never properly addressed, and chemicals were never discussed. Chairperson Patricia Setter stated that it still reads in our regulations, that regardless of the material being flame inherently resistant, they will still have to be tested.

IV. OPEN FORUM

Chairperson Patricia Setter opened the floor for open forum.

Member Mike Ohirko stated he would like more clarification on enforcement and certifications. He wanted to know the consequences of someone fraudulently utilizing somebody else's number or license.

Chief Greg Andersen stated that even though we can't stop someone from doing this, our office can follow up with investigations. He mentioned that OSFM has a legal department and investigators to work on these types of criminal activity. Chief Andersen stated that OSFM will do it's best to persecute the offenders through the legal system.

Member Mike Ohirko stated that if we have no actions in place to these rules and regulations that the committee is developing, this issue will be a revolving problem. He stated if there are no real consequences for this issue, people in the industry that are doing things the correct way, will have no incentive to do the correct way.

Member Christopher Lovato suggested imposing a \$100,000.00 dollar fine.

Chief Greg Andersen stated that the punishment comes from the legislation. He stated there are set laws and based on the law that someone violates, determines the punishment or fine by the court. Chief Andersen mentioned that the DA must want to pursue the crime before the violating party would see any legal fine or punishment from the court. Chief Andersen stated that OSFM can only do things within our legal authority.

Member Chris Lovato mentioned using the fraud statues to prosecute offenders.

Chairperson Patricia Setter asked Chief Greg Andersen if private business could go through the business and professional codes for violations.

Chief Greg Andersen mentioned that businesses could go through the civil courts. Businesses would be able to show the court the financial impact and damages this crime could have on private businesses.

Chief Jeffrey Schwartz stated in summary that we present the cases to the local city attorney's office and it's up to the local DA's whether they want to pursue the

case or not. Chief Schwartz mentioned the big problem with these types of crimes, is the fact that the DA is not that interested in filing on these licensing crimes.

Chairperson Patricia Setter asked member Beth McDowell if her fire department were to have a fraudulent registration, what kind of actions could her department take.

Member Beth McDowell stated that they would have to go through the city's code and determine that it was an imminent safety to life. She mentioned if it was determined to be imminent to life safety or death, it would allow them to have level A hazard, which would bring a \$25,000.00 dollar fine, per day and per violation.

Chairperson Patricia Setter asked member Shannon Snaders the same question.

Member Shannon Sanders stated that they have similar fines and can issue citations, but her department just would not because of limited staff and resources.

Member Bobby Brown stated that his company could relate on a laboratory level. He mentioned on a weekly and even daily basis that his company is contacted by various Fire Marshal's from around the country about fraudulent tampering with test reports. Member Bobby Brown also mentioned the city of Boston's Fire Marshal Fire Science Department processes with encountering fraudulent applications. Member Bobby Brown mentioned being in the industry for years and that this problem is not going to change overnight and is a continuous work in progress.

Member Mike Ohirko stated in the beginning of forming this Flame Retardant Committee, he asked the question of the purpose of rewriting regulations. He asked was it for improving the safety of the general public or was it to drive some revenue for CALFIRE, to get more certifications. He mentioned that the perception he received was for the general safety of the public. Member Mike Ohirko stated his concern for the safety of the products being sold in the industry because of the fraudulent acts being done. He mentioned since the government wasn't that concerned on prosecuting these types of crimes, we need to find a different way to make safety a priority.

Chairperson Patricia Setter mentioned that she has just finished the Beta testing training course. She mentioned that this will allow you to visit different fire jurisdictions in the State of California and utilize your fire inspectors more. Chairperson Patricia Setter stated one big problem that the Flame Retardant Program has, is that the inspectors are not as trained and educated as the member of the committee. She stated that once the information gets out to our

inspectors and they know they have access to our records, there will be a lot more movement in tackling this problem.

Chief Jeffrey Schwartz and Chairperson Patricia Setter asked the committee for setting dates for next year's meeting.

Member Shannon Sanders suggested for the first meeting in 2024 be on January 24th.

Chief Greg Andersen suggested the second meeting be on April 24th, the third meeting be on July 24th and the fourth meeting on October 23rd.

It was moved by Member Bobby Brown to accept the meeting dates for 2024; motion seconded by Member Shannon Sanders.

Member Bobby Brown asked Chief Greg Andersen if he knew of a committee in California that dealt with Lithium-Ion batteries.

Chief Greg Andersen said at this time, there is not a committee set up but that he would forward over all the information he had.

V. PUBLIC COMMENT

Chairperson Patricia Setter opened the floor for public comment. There was no public comment.

VI. SCHEDULE FOR FUTURE MEETING

The next Committee Meeting is scheduled for January 24th, 2024.

VII. ADJOURNMENT

Chairperson Patricia Setter and Chief Greg Andersen thanked everyone for their participation and asked for a motion to adjourn the meeting.

It was moved by Member Bobby Brown to adjourn the meeting, motion seconded by Member Christopher Lovato; all in favor of adjournment. Chairperson Patricia Setter adjourned the meeting at 10:14 A.M. PDT.