

FINAL STATEMENT OF REASONS (FSOR)

**California Code of Regulations
TITLE 19. Public Safety
DIVISION 1. State Fire Marshal
CHAPTER 8. Regulations Relating to Flame-Retardant Chemicals, Fabrics,
and Application Concerns
ARTICLE 1. Title, Purpose and Scope
Section 1179 Fees**

**For
FEE STRUCTURE FOR FLAME RETARDANT CHEMICALS, FABRICS AND
APPLICATION CONCERNS**

UPDATE OF INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons (ISOR), released February 11, 2022, is incorporated by reference herein, and contained a description of the rationale for the adoption of the proposed regulations. On February 11, 2022, all documents relied upon and referenced in the ISOR were made available to the public.

The Office of the State Fire Marshal (OSFM) received two (2) relevant public comments as originally noticed during the 45-day comment period. Upon review and consideration of the comments received, the OSFM determined that modification to the text of the regulations was unnecessary.

The OSFM has considered all relevant matters presented to it and recommends approval of the proposed regulatory action.

PUBLIC COMMENT PERIOD

The original text of the proposed regulations was made available to the public for 45 days from February 11, 2022 through March 29, 2022. No public hearings were requested or held for the proposed regulations and no changes to the text of the regulations were warranted.

SMALL BUSINESS EFFECTS

The OSFM has determined that the proposed regulations have no “substantial” effect to small business and the OSFM has not identified any alternatives that would lessen any adverse impact on small business and still allow the OSFM to effectively enforce the regulations.

CONSIDERATION OF ALTERNATIVES

For the reasons set forth in the ISOR, and staff’s responses to comments received during public comment, and this Final Statement of Reasons (FSOR), the OSFM has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as

effective as and less burdensome to affected private persons, or would be more cost-effective to affected persons and equally effective in implementing the statutory policy or other provisions of the law than the action taken by the OSFM.

ALTERNATIVES TO THE REGULATION

The OSFM invited interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the public comment period.

One alternative was proposed by Omid Yasharpour of Ben Textiles Inc. Evaluation of this alternative was considered and further discussed in the response to comments received. However, the alternative was ultimately rejected because the proposed alternative would not create sufficient revenue to meet the State Marshal Licensing and Certification Fund statutory requirements.

ALTERNATIVES DETERMINATION

In accordance with Government Code section 11346.9(a)(4), the OSFM has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts it will place upon the industry. No alternatives considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would they be as effective as and less burdensome to affected private persons or businesses than the proposed action, and more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The OSFM did not consider any other reasonable alternatives to be less burdensome to businesses in carrying out the purposes of the proposed regulation beyond that previously identified in the Initial Statement of Reasons.

LOCAL MANDATE DETERMINATION

The OSFM has determined that this regulatory action will not result in a mandate to any local agencies or school districts pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

COORDINATION WITH FEDERAL LAW

The OSFM has determined that this proposed regulatory action neither conflicts with, nor duplicates, any federal regulation contained in the Code of Federal Regulations

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD.

The OSFM accepted public comments from February 11, 2022 through March 29, 2022. A public hearing was not requested nor scheduled, and no oral comments were received.

The SFM received written comments from two (2) licensees that were directly related to the proposed regulations. After considering the comments received, the OSFM determined that modification to the text of the regulations was unnecessary.

Below is a summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change.

Additional comments were received in response to the 45 Day Notice of Proposed Action. However, these comments are irrelevant as they are not directly related to the contents of the regulations. Irrelevant comments are not included in this document. Only objections or recommendations directed at the agency's proposed action or the procedures followed by the agency in proposing or adopting the action are summarized as permitted by Government Code, Title 2, Section 11346.9.

Comment 1:

Omid Yasharpour of Ben Textiles Inc. provided comments that it is understood that prices have risen in general, however the proposed increase is too drastic. They would request a price increase in the range of 10% to 15% and waiting to increase fees until the industry has shown more recovery from the impacts of the pandemic.

Response to Comment 1:

The Office of the State Fire Marshal acknowledges the commentor and recognizes the repercussions of COVID-19 pandemic. However, this proposed fee increase was planned prior to the COVID-19 pandemic.

A price increase of 10% to 15% would not create enough revenue to meet the requirements of the State Fire Marshal Licensing and Certification Fund. The current fee schedule was established in the 1980s and is insufficient to sustain the Flame Retardant Chemicals and Fabrics Program without incurring a deficit. Since the 1980s, Program costs have risen significantly due to inflation, increasing personnel costs, an increase in the number of licensing and certification applications received, improved testing process, and online application processing.

The State Fire Marshal Licensing and Certification Fund is a special fund and does not receive any general funding. Health and Safety Code Section 13137 governs the use of the State Fire Marshal Licensing and Certification Fund. This fund houses fees from the Flame Retardant Chemicals and Fabrics Program, and fees from the OSFM's other Licensing and Certification programs. Additional revenue is necessary to meet the Fund's requirements, which specify that the total amount of fees collected are projected to support program costs while not exceeding the actual costs.

The SFM did not make any changes to the text of regulations in response to this public comment.

Comment 2: Frank Petizian of Naizil Canada, requested a summary of the impacts to their company. Frank Petizian also asked what would be needed for their company's license renewal.

Response to Comment 2:

Naizil Canda was provided with a copy of the Express Terms of the regulations, which lists the costs for each license type offered by the OSFM. Staff confirmed that this is a fee increase and it will not take effect until it is formally adopted, which may be after the Naizil Canada's next license renewal. Renewal periods are set by statute.

The SFM did not make any changes to the text of regulations in response to this public comment.