



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL
FIRE ENGINEERING DIVISION
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Flame Retardant Advisory Committee
MINUTES
Tuesday, October 26, 2010
Teleconference

Committee Goal: To provide a means of communications between the Office of the State Fire Marshal (OSFM), representatives of industry, the public and the fire service; and to seek comments and specific views on proposed regulations and intended future action.

SFM STAFF:

Jeannie Smith, Chair
Diane Arend, Technical Advisor
Glenn Tong, Technical Advisor
James Parsegian, Technical Advisor

MEMBERS ON LINE:

Amber Anderson, Cosumnes Community Services District
Tom Andrews, Turning Star, Inc.
Ellen Atkins, Delta Pacific Technologies, Flame Retardant/Flameproofing
Juli Case, Industrial Fabrics Association International (IFAI)
Jonathan Curtsinger, Fabric Flameproofing
Wendy Holt, Contract Services Administration Trust Fund
Michael Lantier, City of Napa Fire Department
Joe McNally, Mountain View Christmas Tree Farm
Kathy Newman, Firetect Flame Retardants

MEMBERS ABSENT:

Chris Bowness, QAI Laboratories
Bobby Puett, Diversified Testing Laboratories
Pedro Vega, Dazian Fabrics

GUEST:

David Buffington, Glen Raven

I. CALL TO ORDER

The teleconference was called to order at 10:02 A.M., on Tuesday, October 26, 2010. A roll call was conducted; and a quorum was established.

II. APPROVAL OF MINUTES

The Chair requested a motion to approve the August 25, 2010 minutes as corrected; adding Ellen Atkins' comments regarding the seriousness of applying flame retardants. Ellen Atkins motioned to approve the August 25, 2010 minutes as corrected; it was seconded by Wendy Holt; and with no objections, approved.

The Chair requested a motion to approve the September 23, 2010 minutes as submitted. Wendy Holt motioned to approve the September 23, 2010 minutes; it was seconded by Juli Case; and with no objections, approved.

III. OLD BUSINESS

A. Section 1280(a) – “Performs for a Fee”

The Chair referred to Attorney General Opinion 47-261 which was emailed to the members on October 14, 2010. The Chair provided a brief overview and conclusion. During the June 2010 meeting, the Committee reviewed the proposed Article 5, Registration of Flame-Retardant Application Concerns. While reviewing Section 1280(a), it was stressed by several members verbally and in written recommendations that the wording “perform for a fee” be deleted. Health and Safety Code Section 13127¹ defines general or limited applicator as “a concern that engages in the business of or performs for a fee the application of a flame-retardant compound or chemical...” During a subsequent meeting, Chief Ho had stated that since the wording is in statute, the question is whether the State Fire Marshal has the authority to change the regulation and that an inquiry would be sent to CAL FIRE's Legal Office for an opinion. While researching this issue for submittal to the Legal Office, staff found an existing Attorney General's Opinion (No. 47-261-January 2, 1948) regarding the intent of the Health and Safety Code. The Opinion also specified that the power to adopt rules and regulations does not give the authority to legislate or broaden the scope of the statute.² Since this Opinion is still valid and legally binding, the wording will remain in the regulations as written.

Several members voiced their concerns regarding the need to change the statute. It should be noted that not all members were in agreement. It was reiterated that the scope of the Advisory Committee is to review the proposed regulations and make recommendations; changing statute is not within that scope.

There is a formal process to change statute. To change the law, an individual would need to seek a legislator to sponsor legislation/bill. This bill would go through the legislative process. If it passes the Legislature, the bill would go to the Governor where it would be signed or vetoed. The State Fire Marshal may also be petitioned to sponsor legislation.

¹ In 1994, Section 13127 was changed to include the definitions of “General Applicator” and “Limited Applicator.”

² “...when the power is given by the Legislature to any public officer to adopt rules and regulations to carry out laws adopted by the Legislature such officer is not thereby given the power to legislate or broaden the scope of the legislative enactment. The power of the officer is limited to the adoption of the rules and regulations that are within the limits of the statute but in furtherance thereof.”

B. Task Groups

Laboratories Testing Procedures Task Group

Glenn Tong reviewed revised Sections 1264.5-1264.9; this includes the water extraction and accelerated weathering tests. Tom Andrews had a concern regarding the tests for exterior fabrics. He felt that it was a little extreme to have the product tested before and after the water extraction and weathering. He felt that it would be sufficient to have it tested only after the water extraction and weathering. He would like to have Chris Bowness' input before a decision is made.

Juli Case questioned the status of the Alternate Test Method. Glenn stated that the Task Group needed further time for review before bringing it forward to the Committee.

Juli stated that if the SFM's concern is that the flame retardant characteristics remain in the fabric for the length of its use; her recommendation is that the weathering test would cover that rather than having a whole second test method.

C. Article 6 (Pages 29-32)

The Chair presented the revised Article 6 which included the recommended and approved edits from the last meeting. Items discussed:

- Section 1293 – Language is approved. There was discussion regarding labeling of containers; however, this will be brought up with the review of Article 8.
- Section 1303 – This section will be deleted.

IV. NEW BUSINESS

Page-by-Page Proposed Regulations Review

Article 7 (Proposed Regulations – Page 32)

After discussion of the field test requirements, e.g. size of sample, type of flame exposure, etc., this item was tabled until the next meeting. It was agreed that the members would submit their recommended changes to the Chair, which will be sent out with the next meeting's agenda. Ellen Atkins noted that she had a report that listed temperatures of different heat sources, e.g. kitchen-type match, butane lighters, etc., that she would share with the members.

Juli Case relayed Industry's concern that the field test be done in a consistent manner. It was suggested that the SFM implement some way to train field inspectors on how to perform a field test the correct way; providing instructions and maybe a "how to" video on the SFM webpage.

Action Item: Members to provide their recommended changes to Article 7 to the Chair before November 30, 2010.

Action Item: Ellen Atkins to share a copy of the report listing temperatures of different heat sources to the Chair/Members before November 30, 2010.

Action Item: Staff to research possibility of providing instructional aid on how to correctly perform a field test.

V. OPEN FORUM

Juli Case brought up the issue of graphics that was discussed at the last meeting. At that meeting, there was discussion about adding regulatory language requiring testing of assembled materials which include coatings, adhesive or any other added materials as they are actually installed. However, before a decision can be made, staff needs to determine if there is a problem. Since there is no data to support a change, the Chair sent an email to the members asking for any data they may have regarding whether the flame resistance qualities of a product is impaired if a coating (ink, paint, adhesives) is applied to an IFR or topically treated material, or when a flame retardant product is applied over the coating. Any data received from the members would become public information. The members suggested a due date be placed on this request for data; therefore, the information is due within 30 days of this meeting.

Joe McNally suggested using the California Fire Code's (CFC) "10%" rule regarding the permissible amount of decorative materials on a wall or ceiling areas. Amber Anderson stated that the CFC [Section 807] deals with combustible materials and it was her impression that the added coatings were flammable not combustible.

The Chair stated that once staff has completed their research, the findings will be shared with the Committee and brought back to a future meeting.

Action Item: Committee Members that have any documentation pertaining to the loss of fire resistance on coated products are to provide data to the Chair within 30 days [or no later than December 1, 2010].

Action Item: After staff's review and evaluation, place "Fire Resistance – Coatings" on agenda under Old Business.

VI. SCHEDULE NEXT MEETING

The next teleconference was scheduled for Tuesday, November 30, 2010, at 10:00 A.M. – 12:00 P.M.

VII. MEETING ADJOURNMENT

The meeting adjourned at 11:45 a.m.