

**FINAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF THE STATE FIRE MARSHAL (SFM)
REGARDING THE ADOPTION BY REFERENCE OF THE
2009 EDITION OF THE INTERNATIONAL FIRE CODE (IFC)
WITH AMENDMENTS INTO THE 2010 CALIFORNIA FIRE CODE (CFC)
CALIFORNIA CODE OF REGULATIONS TITLE 24, PART 9**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a final statement of reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

INTRODUCTION TO FINAL STATEMENT OF REASONS

California's first partnership with the International Building and Fire Codes was completed January 30, 2007 with the adoption and July 4, 2008 publication of the 2007 California Building Standards Codes. Over the past 18 months, the SFM has been working to revise certain elements of the California Building Code and California Fire Code for the triennial rulemaking cycle. This adoption by reference of the 2009 International Building Code and 2009 International Fire Code and these proposed modifications and amendments; correct omissions, complete tasks originally sought and further augment the adoption of the California Codes and to continue bring you the best set of building and fire code proposals possible. Several key things are important to remember:

- The SFM is committed to this adoption and believes strongly in the value of the ICC model code process and the overall quality of the I-Codes as many of the SFM amendments are proposed to the model codes themselves.
- The SFM has taken extraordinary measures to ensure that this package represents the best in fire and life safety considerations, stakeholder involvement and economic considerations.
- Both Fire and Building Code professionals, industry and many other stakeholders have worked with the SFM to develop this rulemaking package.

The adoption of an entire new set of building and fire codes is a complex task. The SFM has promulgated this rulemaking package in an effort to continue to foster, promote and develop additional ways and means of protecting life and property against fire and panic while minimizing the economic impact.

The specific purpose of this rulemaking effort by the SFM is to act accordance with Health and Safety Code section 18928, which requires all proposed regulations to specifically comply with this section in regards to the adoption by reference with amendments to a model code within one year after its publication.

The actions described above are reasonably necessary to carry out the purpose for which it is proposed. The rationale for these actions is to establish minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in occupancies addressed in the 2009 International Fire Code and be published as the 2010 California Fire Code.

The general purpose of this proposed action is principally intended to update and codify a new edition of the California Fire Code (California Code of Regulations, Title 24, Part 9) based upon a more current edition of a model code. The current California Fire Code in effect is the 2007 California Fire Code which is based upon the 2006 International Fire Code of the International Code Council. This proposed action:

- Repeal the adoption by reference of the 2006 International Fire Code of the International Code Council and incorporate and adopt by reference in its place the 2009 International Fire Code of the International Code Council for application and effectiveness in the 2010 California Fire Code pursuant to Health and Safety

Code 18928. Health and Safety Code 18928 requires any state agency adopting model codes to adopt the most recent edition.

- Repeal certain amendments to the 2006 International Fire Code and/or California Building Standards not addressed by the model code that are no longer necessary pursuant with Health and Safety Code 18930(a)(7)..
- Adopt new building standards or necessary amendments to the 2009 International Fire Code that address inadequacies of the 2009 International Fire Code as they pertain to California laws.
- Bring forward previously existing California building standards or amendments, which represent no change in their effect from the 2007 California Fire Code.
- Codify non-substantive editorial and formatting amendments from the format based upon the 2006 International Fire Code to the format of the 2009 International Fire Code.

Health and Safety Code Section 18930 is part of the Building Standards Law that includes a nine-point written analysis that is required to be submitted by the State Fire Marshal (SFM) for approval by the California Building Standards Commission (Commission) prior to the adoption of building standards submitted by the SFM. Under subpart (d) the Commission must give great weight to the determinations and analysis of the SFM for each of the nine-point criteria submitted. Any factual determination used in the nine-point analysis by the SFM shall be considered conclusive by the Commission unless the Commission specifically finds and sets forth in its reasoning in writing that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the SFM.

UPDATES TO THE INITIAL STATEMENT OF REASONS

(Government Code Section 11346.9(a)(1) requires an update of the information contained in the initial statement of reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the initial statement of reasons, the state agency shall comply with Government Code Section 11347.1)

The Initial Statement of Reasons has been updated, as follows:

Chapter 25

Amended Sections 2501.1, 2504.2, 2505.1, 2505.4, 2505.7, 2505.8, 2505.9, 2506.1, 2508.1, 2508.2

Current waste tire storage standards found in California Integrated Waste Management Board (CIWMB) CCR, Title 14, Sections 17350-17356, were promulgated in 1993. Both indoor and outdoor storage standards were based on National Fire Protection Association (NFPA) Standard 231D and the Uniform Fire Code. NFPA subsequently replaced this standard with NFPA 230, which was recently replaced by NFPA 1.

Several significant differences between some of the fire related provisions in the waste tire regulations and the IFC (e.g., 10 foot separation between waste tires and property lines in the CCR, Title 14 regulations and 50 foot setback in CFC). Under existing CCR, Title 14 regulations, fire related permit conditions are often deferred to local fire officials to utilize their discretion in applying appropriate fire standards. For example, CCR, Title 14, Section 17355, states:

Waste tires stored indoors must be stored under conditions that meet or exceed those in "The Standard for Storage of Rubber Tires", National Fire Protection Association, NFPA 231D-1989 edition, published by the National Fire Protection Association, which is incorporated by reference. *This requirement shall apply unless the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property... (emphasis added).*

The SFM has expressed great concern that waste tires, whole or in part, constitute a fire threat. The SFM acknowledges that a wide variation in enforcement of the CFC between local fire agencies exists. We have stated that some provisions of the CFC were provided as guidance to local fire agencies for local adoption and had not been adopted by the SFM as minimum standards that must be applied and enforced statewide. These provisions are part of the base model code that have been incorporated into the CFC for adoption by the local fire agencies. For example, CFC, Chapter 25 "Tire Rebuilding and Tire Storage" has not been adopted by the SFM.

However, as a result of AB1249 the SFM has developed in coordination with the CIWMB amendments to the above Sections in an effort to adopt the 2009 IFC Chapter 25 provisions for tire storage. Under this statute, codified in PRC 42820 (b), the SFM would develop, in consultation with the CIWMB, fire related regulations for major waste tire facilities. Under AB 1249, the CIWMB in consultation with Office of Environmental Health Hazard Assessment

(OEHHA) would then adopt regulations including by reference the regulations adopted by the SFM. These amendments proposed either correlate or supersede the CWIMB regulations contained in CCR, Title 14.

Consideration of Modifications of Waste Tire Storage Requirements (provided by CIWMB)

Introduction

Several waste tire processors and stakeholders have expressed the need for more waste tire regulation flexibility so they can store and have ready for delivery sufficient amounts of altered tires needed for large Tire Derived Aggregate (TDA) product orders. CIWMB staff is working closely with many state and local agencies to increase the number of TDA projects constructed throughout California, recognizing that the use of tire projects represent opportunities for significantly increasing waste tire diversion.

Waste tire processors and other stakeholders have also looked askance at CIWMB regulations applied to bagged and other “end stage” processed waste tire material at permitted facilities, believing that it should be accorded the same exemption from requirements currently enjoyed by crumb rubber and molded rubber products. At CIWMB hearings last summer, a report to the Legislature entitled “Options to Increase Waste Tire Diversion Rates”, prompted the CIWMB took testimony and gave direction to staff to reexamine the issue.

The CIWMB recognizes the need to accommodate large piles of TDA and other forms of processed waste tires. Regulations must take into consideration the potential environmental and health impacts which inadequate or improper storage of waste tires and/or waste tire products may engender.

A recent change to the National Fire Code affects the safe handling and storage of flammable waste tires, TDA and other forms of processed waste tires and tire derived products. CIWMB Staff is consulting with the State Fire Marshal and reviewing Public Resources Code and recently updated Fire Code sections to ensure that waste tire facilities, and all the waste tire products they contain, meet applicable fire prevention standards.

In light of these factors, Staff is soliciting comments from stakeholders on what direction they would like to see the CIWMB Board take relative to consideration of the revision of the statute and/or regulations regarding current tire storage requirements. To that end, staff intends to hold a workshop for stakeholders in Sacramento. In order to stimulate thought prior to the workshop, CIWMB staff has summarized the issues surrounding the storage of processed waste tires, and presented some options for discussion.

Background

Current waste tire storage permits (minor waste tire facility permit for sites with greater than 500 waste tires and less than 5,000 waste tires) place limits on the number of waste tires that may be stored on-site at any given waste tire facility. There are no regulatory limits on the number of tires that can be stored at a major tire facility; however, limits are determined by site specific operational and design conditions, the ability of the facility to comply with the tire storage requirements and financial assurances, and local land use approvals and CEQA conditions. Some facilities may have waste tire storage limits included within their permits that do not optimize the facilities storage potential.

As defined below, “waste tires” include “altered waste tires” that are counted as “passenger tire equivalents.” Whole waste tires and passenger tire equivalents are summed to determine the total quantity of waste tires being stored.

The definitions and regulatory citations below are used in the ensuing discussion.

“Waste tires” are defined in statute at Public Resources Code (PRC) section 42807 as follows:

“ . . . a tire that is no longer mounted on a vehicle and is no longer suitable for use as a vehicle tire due to wear, damage, or deviation from the manufacturer's original specifications. A waste tire includes a repairable tire, scrap tire, altered waste tire, and a used tire that is not organized for inspection and resale by size in a rack or a stack in accordance with Section 42806.5, but does not include a tire derived product or crumb rubber.”

Altered waste tires are defined at PRC section 42801.5(a) as:

"Altered waste tire" means a waste tire that has been baled, shredded, chopped, or split apart. "Altered waste tire" does not mean crumb rubber."

"Tire derived aggregate" (TDA) means shredded tires that meet certain specifications for various civil engineering projects.

"Passenger tire equivalent" as defined in Title 14 California Code of Regulations (14 CCR) section 17225.770 is intended to mean the amount of tire rubber equal to that of a passenger car tire. It is calculated by the following formula: "...means the total weight of altered waste tires, in pounds divided by 20 pounds."

Below are definitions for "Tire derived product," "molded products," and "crumb rubber." None are considered a "waste tire" based on PRC section 42807, and, therefore, they are not regulated as such by the CIWMB at this time. However, the 2007 Uniform Fire Code does specify storage requirements and/or fire suppression requirements associated with the flammability of these materials.

"Crumb rubber" as defined in PRC section 42801.7 "... means rubber granules derived from a waste tire that are less than or equal to, one-quarter inch or six millimeters in size."

"Tire derived product" (TDP) is defined in PRC section 42805.7 "...means material that meets both of the following requirements:

- (a) Is derived from a process using whole tires as a feedstock. A process using whole tires includes, but is not limited to, shredding, crumbing, or chipping.
- (b) **Has been sold and removed from the processing facility.**" (emphasis added)

"Molded Products", although not specifically mentioned in PRC section 42807, are by inference not a waste tire. Molded products include rubber mats and similar items.

Note that at the July 2008 Board Meeting (Discussion Of Calculations Relative To Waste Tire Counts, Including Tire Shreds, Chips, And Bagged Product, At Waste Tire Storage Sites - (Committee Item F), another term, "PDWT", was introduced to describe certain waste tire derived products onsite and their regulatory status. PDWT, or "products derived from waste tires" is not currently defined in statute or regulation but has relevance for this discussion. Specifically, PDWT is:

"Products derived from waste tires" (PDWT) is material not yet sold and/or removed from the facility and larger in size than crumb rubber. Examples include primary or secondary shreds, final stage or near final stage processed products being prepared for sale, bagged, boxed or bulk shreds or chips greater than ¼ inch nominal size used for mulch, bedding and similar products.

State Minimum Standards – Fire Protection

Title 14 CCR Sections 17350-55 reference State Minimum Standards, including those for fire prevention and waste tire storage at waste tire facilities. Among other requirements are those: specifying minimum setbacks of waste tires from property lines and flammable materials; maximum area and height dimensions for waste tire piles; and amount of available fire fighting water supply. The regulations do allow a local fire authority having jurisdiction over a particular facility to determine that a different requirement is necessary or adequate to meet the intent of these regulations for the prevention of fire and the protection of life and property. Any changes to the State requirements approved by the local fire authority are subject to Board concurrence at the time of issuance or renewal of the permit. It should also be noted that approved changes to the Fire Code in 2007 will have a bearing on these discretionary decisions by local fire departments and any subsequent Board approvals. The 2007 changes to the Fire Code will be outlined later in this issue paper.

Scope of the CIWMB Waste Tire Storage Standards

Standards apply to waste tire processing facilities but once PDWT are sold and removed from the facility, they are not regulated. For example, when TDA is processed, sold and shipped to a job site, even when it may be stored for an extended period of time before use, it is not regulated by the Board.

Ongoing Issues

Tire Derived Aggregate (TDA):

The State has a vested interest in promoting projects using TDA. CIWMB staff has estimated that annually, over 10 million waste tires still go to landfills. The State is committed to diverting more waste tires from landfills, and TDA projects use large quantities of waste tires.

The rationale for flexibility with TDA storage is that the vast majority of TDA projects are constructed from May through October, which causes a significant spike in demand for TDA during this seasonal period. TDA projects in particular require extremely large amounts of product all at once; for example, the TDA fill for the Dixon Landing Interchange consumed 600,000 waste tires in a very short time window. In these cases, the delivery of TDA must be planned well in advance, necessitating temporary storage of TDA until the required amount is produced and the project is ready for construction. Unfortunately, if a tire processor receives a large order like the TDA needed for a Dixon Landing type project, the amount of TDA it needs to manufacture in advance of the project might put the company over its permitted storage capacity.

While not a permitting issue, it has come to the attention of staff that there have been instances where LEA, state staff and civil engineering contractors have not been aware of the requirements and exemptions under law relative to the transport and storage of tire derived product. For example, waste tire haulers have the option of seeking an exemption letter from staff so that they can legally haul tire derived product without a manifest (see Section 18451(c)). To avoid confusion, some haulers choose not to obtain exemption letters and just use manifests. However, using manifests requires issuance of a TPID number to the end use site. Since TDA projects are temporary sites that must be issued new TPID numbers, this can lead to further confusion for the haulers. Unfortunately, not all construction sites can accommodate the storage of large volumes of TDA in advance of project construction due to timing or available storage space. For certain projects there will still be a need to store large volumes of TDA at processing facilities or other locations in advance of project commencement.

Crumb Rubber, TDP and Molded Rubber Products:

Statute stipulates that crumb rubber (tire shreds less than ¼" in size) are not waste tires. Therefore, the storage of crumb rubber is exempt from the requirement to obtain a waste tire permit, and the amount of crumb rubber is not included in the permit application.

Similarly, molded rubber products such as mats are statutorily excluded from being regulated as a waste tire, and therefore are also not included in the calculation of waste tires onsite (See PRC Section 42807).

Although both crumb rubber and molded rubber products are potentially flammable, neither product type must meet Waste Board imposed State Minimum Standards including fire prevention due to their statutory exemption from permitting requirements. However, these products are subject to local fire agency requirements for the storage of flammable materials. As such, the need for appropriate fire protection with respect to storage requirements for all waste tire products onsite has to be considered by the Board in calculating a site's overall storage capacity for those materials and products under its regulatory purview.

TDP, that is waste tire product material which has been sold and delivered offsite, is not regulated at the delivery or customer location by CIWMB regulations but is subject to local fire agency requirements for the storage of flammable materials if it is to be stored at the receiving location.

Products Derived from Waste Tires (PDWT):

PDWT stands for "products derived from waste tires." PDWT is different from the term tire derived product (TDP). TDP is defined in statute as a material that has been "sold and removed from the processing facility" [Section 42805.7(b)]. **PDWT is material not yet sold and/or removed from the facility and is not crumb rubber (emphasis added).** Examples of PDWT are intermediate processed products, primary or secondary shreds, final stage or near final stage processed products being prepared for sale, bagged, boxed or bulk shreds or chips greater than ¼" nominal size used for mulch, bedding and similar products including TDA, discussed below.

PDWT is counted as passenger tire equivalents when determining if a permit is required, and/or what type of permit is required (minor or major). Staff recognizes that some stakeholders are or were not clear on the distinction between TDP and PDWT leading to inconsistency in previous permit applications.

Any time whole waste tires and altered waste tires are stored at a facility there is the threat of mosquito breeding and fires. Mosquitoes may not be a significant issue in this discussion because in most cases PDWT will not hold water. Fire on the other hand is a threat to both whole tires and PDWT. There was one instance of tire derived product catching fire at Atlos Rubber's facility in Los Angeles years ago on the Fourth of July. These were tire buffings that

were ignited probably by fireworks. There was also a fire at Golden By Products in Merced County last year when a fire ignited primary and secondary shreds. According to local fire officials, the fire could have been much worse if not for water supply improvements and product storage requirements imposed by enforcement order and permit modifications. Therefore, the need for large piles of TDA and other forms of processed waste tires ready for delivery must be balanced against the significant environmental and health impacts of potential tire fires.

Relevant Studies:

In 1993, the CIWMB sponsored a study through the State Fire Marshal's Office entitled "Fire Safety Assessment of the Scrap Tire Storage Methods." The study was conducted by Dr. Brady Williamson of the University of California at Berkeley. Whole tires, baled tires, and tire shreds (two inch chips) were burned to assess the Board's waste tire storage standards and to compare the characteristics of tire fires. The study revealed that once ignited, the spread of flames across the pile of tire shreds was much more rapid than across the pile of whole tires; however, the overall temperatures for the burning shreds were about one-third lower than those for the whole tires. The shred pile took on the burning characteristics of a pile of coke. The ash/residue remained on the surface of the pile and the burning/pyrolyzation of shredded tires moved slowly into the core of the pile. As the ash residue layer covered the surface of the shred pile the flame height diminished. Under undisturbed conditions the shredded pile burned more slowly and cleanly than the pile of whole tires. Based on this information Dr. Williamson suggested that piles of shreds should be no larger than 500 sq. ft. size, because of how rapid fire spreads across a shred pile. However, because of the reduced heat in a burning shred pile, Dr. Williamson did not believe that shred piles needed to be spaced as far apart as specified in the current regulations.

Thus, any proposed change to accommodate the storage of large quantities of PDWT may also need to include changes to how material is stored and under what conditions, which raises several issues related to environmental and public health and safety concerns. The Board's tire regulations are designed to ensure safe, well-managed tire storage facilities that can meet appropriate fire standards and control vectors. There is warranted concern that if the requirements were modified, increased or unrestricted stockpiling of PDWT could adversely impact public health and environmental protection. From a fire prevention standpoint, shreds or packaged product pose a fire potential, as noted above, which suggests the need for clear minimum standards related to fire prevention.

Relevant CIWMB storage standards and local fire authority implementation:

As background, the Board's current waste tire storage standards found in sections 17350-17356, Title 14 CCR, were promulgated in 1993. Both indoor and outdoor storage standards were based on National Fire Protection Association (NFPA) Standard 231D and the Uniform Fire Code. NFPA subsequently replaced this standard with NFPA 230, which was recently replaced by NFPA 1. The Uniform Fire Code (2001 California Fire Code) was replaced by Title 24, Part 9 the 2007 California Fire Code (CFC) which adopts by reference and incorporates the 2006 International Fire Code.

In addition, section 17354(c) allows local fire departments to determine that an alternative waste tire storage configuration outside of the specified width, height, and volume waste tire storage requirements is "adequate to meet the intent of the regulations for purposes of the prevention of fire and the protection of life and property." However, many local fire authorities have had little experience with waste tire storage or tire fires, and would not be willing to take the time and devote the resources to making these determinations without further guidance and technical assistance.

California Fire Code and opinions of the Office of State Fire Marshal:

As a result of changes in the codes and standards for the storage of waste tires and lack of experience that many local fire authorities have with storage of waste tires, CIWMB staff met with the State Fire Marshal's Office staff.

During the meeting, SFM staff expressed concerns about the flammability of tire related products and the arability in implementation of the State Fire Code by local fire districts. Staff explained that to date the SFM had not been able to initiate work pursuant to AB 1249. Under this statute, codified in PRC 42820 (b), the SFM will develop, in consultation with the CIWMB, fire related regulations for major waste tire facilities. Under AB 1249, the CIWMB in consultation with OEHHA will then adopt regulations including by reference the regulations adopted by the SFM. The SFM has indicated that it may take up to two years for the SFM to adopt waste tire storage regulations, due to SFM's internal review procedures and the Building Standards Law's rulemaking process (commencing with Health and Safety Code Section 18900). However, as a stopgap SFM staff suggest a bulletin be prepared addressing the storage of waste tires. The SFM routinely prepares bulletins on specific subjects and circulates these bulletins to local fire authorities throughout the state. These bulletins do not carry the weight of regulation, but they do provide

guidance for local fire authorities on specific issues. A waste tire bulletin could embody proposed standards for both indoor and outdoor storage of waste tires, or could reference existing regulations, codes, and standards that address the storage of waste tires and waste tire product. The SFM will be working with CIWMB staff over the next several months developing an Information Bulletin.

A bulletin would dovetail with our current regulations and provide interim guidance to local fire agencies on alternative standards to apply and enforce pending the adoption of regulation pursuant to AB 1249. This should help to educate local fire agencies on appropriate sections of the current CFC that they may apply and enforce where an alternative to the Board's regulations would be more appropriate. It is staff's intent to propose the Board make formal request of the State Fire Marshall's office to prepare this bulletin to provide direction to local fire authorities on tire storage matters while AB 1249 regulations are being developed.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

(Pursuant to Government Code Section 11346.9(a)(2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s))

The SFM has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S)

(Government Code Section 11346.9(a)(3)) [List a summary of EACH objection or recommendation regarding the specific adoption, amendment, or repeal proposed, and explanation of how the proposed action was changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the actions or reasons for making no change. Irrelevant or repetitive comments may be aggregated and summarized as a group]

The following is the Office of the State Fire Marshal's summary of and response to comments specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the actions or reasons for making no change:

COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD.

Pursuant to the requirements of Government Code Section 11346.8 (c), and Section 44 of Title 1 of the California Code of Regulations, the California Building Standards Commission provided a notice of proposed adoption by reference of the 2009 edition of the International Fire Code with California Amendments into the California Code of Regulations Title 24, Part 9 which were the subject of a Notice of Proposed Action (Register 2009, Volume No. 40-Z, notice File No. Z-2009-0922-30).

The text with the modifications clearly indicated, were made available to the public for a 45-day written public comment period from October 2, 2009 to November 16, 2009.

[Section 202]

Name/Organization: Larry G. Williams, FPO, Ventura County Fire Protection District

Comments: Commenter states 2 years of age implies somewhere between a persons 2nd and 3rd birthday. Commenter identified the age for children should begin at 2 years of age and older to clarify exactly what the cut off is between an infant and a child. Commenter has identified variations of subjective language exists in other sections of the CBC, CFC and IRC as well. The commenter identifies clarifying language to the term infant to mean any child under 2 years of age and correlates definition with other statutes and CCR Title 22 regulations.

Commenter identified that adding the word "day" to the title of these sections clarifies that it is applicable to day care and eliminates confusion with the existing term "child care facilities" that provide care on a 24-hour basis. For Section 308.5.1 the commenter identified the term "infant" is defined as a child under 2 years of age which coincides with Title 22. Further, commenter states the exception in 308.5.1 is no longer applicable because the exception in Section 305.2 overrides and is more restrictive regarding day care occupants who need physical assistance for evacuation during an emergency.

Response: The SFM agrees with the commenter and made the following modifications as shown below and made available for comment during the 15-day comment period from November 25, 2009 to December 9, 2009:

OSFM change to accommodate as follows:

Section 202 General Definitions

CHILD CARE FACILITIES. Facilities that provide care on a 24-hour basis to more than ~~five-six~~ children, ~~2 1/2 years of age or less under 2 years of age.~~

INFANT, for the purpose of these regulations, shall mean any child who because of age only, is unable to walk and requires the aid of another person to evacuate the building. In no case shall the term "infant" mean a child ~~beyond two years of age-2 years of age or older.~~

OCCUPANCY CLASSIFICATION

Educational Group E. Educational Group E occupancy includes, among others, the use of a building or structure, or a portion thereof, by ~~six or more~~ *than six* persons at any one time for educational purposes through the 12th grade. Religious educational rooms and religious auditoriums, which are accessory to churches in accordance with Section 508.3.1 of the ~~International California Building Code~~ and have occupant loads of less than 100, shall be classified as A-3 occupancies.

Exception: A residence used as a home school for the children who normally reside at the residence. Such residences shall remain classified as Group R-2, or Group R-3 Occupancies.

Day care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than ~~five-six~~ children ~~older than 2 1/2~~ years of age and older, shall be classified as a Group E occupancy.

Exception: [SFM] A Daycare facility not otherwise classified as an R-3 occupancy, where occupants are not capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group I-4.

Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption and in a place other than the home of the person cared for. A facility such as the above with ~~five-six~~ or fewer ~~persons~~ *clients* shall be classified as a Group R-3 or shall comply with the ~~International California Residential Code in accordance with Section 101.2.~~ Places of worship during religious functions are not included.

Adult day care facility. A facility that provides accommodations for less than 24 hours for more than ~~five-six~~ unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

Exception: A facility where occupants are capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group A-3.

Child day care facility. A facility that provides supervision and personal care on less than a 24-hour basis for more than ~~five-six~~ children ~~2 1/2 years of age or less under 2 years of age~~ shall be classified as Group I-4.

Exception: A child day care facility which provides care for more than ~~five-six~~ but no more than 100 children ~~2 1/2 years of age or less under 2 years of age~~, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

Rational for modification (from Part 2): The SFM is proposing modification to Sections 305.2, 308.3.1, 308.5.1, 308.5.2 and 310.2 definitions that revise age limitations based on other statutory definitions of infant and to correlate with CCR Title 22 regulations for child care and infants. However, the use of "age 2" or "2 years of age" does not

meet the intent of the SFM. Age 2 or 2 years of age means a child who is somewhere between their 2nd birthday, but has not reached their 3rd birthday. Title 22 Sec 101152 defines "Infant as a child under 2 years of age". This is also born out by the definition of child with in the Building Code and Title 22: "Child or children is a person under 18 years of age". A person, who is 17 years, 11 months, 29 days is a "child". As such, a person who is 2 years, 11 months, 29 days would still be "age 2". The same reasoning should be used for determining whether a code requirement applies to a child or infant. Additional code amendments are being proposed for other sections of the CBC, CFC and IRC that contain the same issue and are also proposed for revision to the definition of "infant" to correlate with Title 22. This modification has no change in regulatory effect.

Additional modifications to Sections 308.5.1 and 308.5.2 are proposed by adding the word "day" to the title of these sections clarifies that it is applicable to day care. The term "child care facility" is already defined in Section 308.3.1 as facilities that provide care on a 24-hour basis. The intent of Section 308.5.1 and 308.5.2 is for less than 24 hour care facilities. This modification has no change in regulatory effect.

For the specific purpose and rational for each section containing California regulation, modification, amendment or repeal see the Statement of Reasons for Part 2 California Building Code (CBC). The SFM is correlating amendments for Part 9 California Fire Code (CFC) which are derived from the amendments proposed to the CBC.

The promulgation and format of the IBC and IFC necessitate this action. Code sections are generally considered by the ICC General and or Egress Code Development Committee for the IBC and correlated into the IFC where necessary. SFM is following the format of the code in these instances; where the primary code is the CBC and SFM is proposing amendments to the section, those same amendments are correlated into the CFC as amendments.

[Section 808.1]

Name/Organization: State Fire Marshal

Comment: The SFM is proposing this editorial modification.

808.1 Wastebaskets and linen containers in Group I-2 and I-3 occupancies. Wastebaskets, linen containers and other waste containers, including their lids, located in Group I-2 and I-3 occupancies shall be constructed of noncombustible materials or of materials that meet a peak rate of heat release not exceeding 300 kW/m² when tested in accordance with ASTM E 1354 at an incident heat flux of 50 kW/m² in the horizontal orientation. Metal waste baskets and other metal waste containers with a capacity of 20 gallons (75.7 L) or more shall be *listed* in accordance with UL 1315 and shall be provided with a noncombustible lid. Portable containers exceeding 32 gallons (121 L) shall be stored in an area classified as a waste and linen collection room and constructed in accordance with Table 508.2.5 of the *International Building Code*.

Rational for modification: The SFM is making editorial modification to correct the Table reference in the last sentence of 808.1. This modification has no change in regulatory effect.

[Section 903.2.18]

Name/Organization: State Fire Marshal

Comment: The SFM is proposing this editorial modification.

903.2.18 Group U private garages and carports accessory to Group R-3 occupancies. ~~Private carports~~ Carports with habitable space above and attached garages accessory to Group R-3 occupancies shall be protected by residential fire sprinklers in accordance with this Section. Residential fire sprinklers shall be connected to, and installed in accordance with, an automatic residential fire sprinkler system that complies with Section R313 of the California Residential Code or with NFPA 13D. Fire sprinklers shall be residential sprinklers or quick-response sprinklers, designed to provide a density of 0.05 gpm/ft² (2.04 mm/min) over the area of the garage and/or carport, but not to exceed two sprinklers. Garage doors shall not be considered obstructions with respect to sprinkler placement.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing carports or garages that do not have an automatic residential fire sprinkler system installed in accordance with this Section.

Rational for modification: The title has been revised to be consistent with the text of the section to provide better guidance to the code user. The rest of the revisions are made for clarity and consistency with other sections using code text generally used throughout the IBC and IFC.

[Section 904.11]

Name/Organization: Shea Johnson, Ventura County Fire Protection District

Comment: Commenter states that carrying over language from the 2007 CBC, 2007 CFC to the 2010 Code is unnecessary and problematic. The requirement deadline to change out an existing system has passed (Jan 1st 2009 being the last possible date) There is no reason to keep language as it would imply that existing non-UL 33 systems are still acceptable until the second service date after January 1, 2011. This language will clarify requirements for systems to comply with UL 300 as required under current 2007 CBC / CFC. It will also allow for consistent enforcement throughout the state.

Response: The SFM agrees with the commenter and made the following modifications as shown below and made available for comment during the 15-day comment period from November 25, 2009 to December 9, 2009:

OSFM change to accommodate as follows:

~~904.11 Commercial cooking systems. The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems of the type and arrangement protected. Preengineered automatic dry and wet chemical extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. Other types of automatic fire extinguishing systems shall be listed and labeled for specific use as protection for commercial cooking operations. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions. Automatic fire extinguishing systems of the following types shall be installed in accordance with the referenced standard indicated, as follows:~~

- ~~1. Carbon dioxide extinguishing systems, NFPA 12.~~
- ~~2. Automatic sprinkler systems, NFPA 13.~~
- ~~3. Foam water sprinkler system or foam water spray systems, NFPA 16.~~
- ~~4. Dry chemical extinguishing systems, NFPA 17.~~
- ~~5. Wet chemical extinguishing systems, NFPA 17A.~~

~~Commercial cooking equipment that produce grease laden vapors shall be provided with a Type I Hood, in accordance with the California Mechanical Code, and an automatic fire extinguishing system that is listed and labeled for its intended use as follows:~~

- ~~1. Wet chemical extinguishing system, complying with UL 300.~~
- ~~2. Carbon dioxide extinguishing systems,~~
- ~~3. Automatic fire sprinkler systems.~~

~~All existing dry chemical and wet chemical extinguishing systems shall comply with UL 300, no later than the second required servicing of the system following the effective date of this section,~~

~~**Exception** Public schools kitchens, without deep-fat fryers, shall be upgraded to a UL 300 compliant system during state funded modernization projects that are under the jurisdiction of the Division of the State Architect~~

~~All systems shall be installed in accordance with the California Mechanical Code, appropriate adopted standards, their listing and the manufacturers' installation instructions.~~

~~**Exception:** Factory-built commercial cooking recirculating systems that are tested, listed, labeled and installed in accordance with UL 710B. and listed, labeled and installed in accordance with Section 304.1 of the International Mechanical Code.~~

Rational for modifications: The SFM is proposing modification to eliminate provisions no longer necessary as they relate to the servicing date deadline. The requirement deadline to change out an existing system has passed (January 1, 2009 being the last possible date). There is no reason to keep language as it would imply that existing non-UL 33 systems are still acceptable until the second service date after January 1, 2011. This language will clarify requirements for systems to comply with UL 300 as required under current 2007 CBC and CFC. Furthermore, it will also allow for consistent enforcement throughout the state. This modification has no change in regulatory effect.

[Section 909.12]

Name/Organization: Rick Thornberry, PE, The Code Consortium, Inc. on behalf of the California Fire Safety Advisory Council (CFSAC)

Comment: (909.12, Pt 2) The commenter identifies clarifying language for dampers to identify status using limit or proximity switches. The commenter states that the proposed amendment will help to clarify the intent of this paragraph being added to Section 909.12 for the situation where multiple dampers are grouped together to control the airflow through a large duct or plenum. It clarifies that when there are multiple dampers mechanically linked together and controlled by a separate actuator or actuators, that the group of dampers as a whole can be provided with a single limit or proximity switch in lieu of requiring each damper to have its own actuator and limit or proximity switch. It also further clarifies that the group of mechanically linked dampers could actually consist of more than one grouping of dampers to completely fill the opening in the duct or plenum with each mechanically linked group of dampers having its own actuator or actuators and its own limit or proximity switch.

Response: The SFM agrees with the commenter and made the following modifications as shown below and made available for comment during the 15-day comment period from November 25, 2009 to December 9, 2009:

OSFM change to accommodate as follows:

909.12 Detection and control systems. Fire detection systems providing control input or output signals to mechanical smoke control systems or elements thereof shall comply with the requirements of Section 907. Such systems shall be equipped with a control unit complying with UL 864 and listed as smoke control equipment.

Control systems for mechanical smoke control systems shall include provisions for verification. Verification shall include positive confirmation of actuation, testing, manual override, the presence of power downstream of all disconnects and, through a preprogrammed weekly test sequence, report abnormal conditions audibly, visually and by printed report.

The status of dampers shall be determined using limit or proximity switches installed at the damper or incorporated into the damper actuator. Where multiple dampers are grouped together in an assembly requiring one or more actuators, each ~~group of dampers~~ shall be independently controlled ~~independently~~ by a separate actuator and provided with an individual limit or proximity switch, or the dampers shall be ~~permanently~~ linked together and by permanent mechanical means into one or more groups controlled by one or more actuators with each group provided with a common limit or proximity switch.

The status of fans shall be determined by sensing the air flow downstream of the fans using pressure differential switches or transmitters, or by other means of positive proof of air flow where approved by the enforcing authority.

Rational for modification: The SFM is proposing modification to clarify the intent of this paragraph being added to Section 909.12 for the situation where multiple dampers are grouped together to control the airflow through a large duct or plenum. It clarifies that when there are multiple dampers mechanically linked together and controlled by a separate actuator or actuators that the group of dampers as a whole can be provided with a single limit or proximity switch in lieu of requiring each damper to have its own actuator and limit or proximity switch. It also further clarifies that the group of mechanically linked dampers could actually consist of more than one grouping of dampers to completely fill the opening in the duct or plenum with each mechanically linked group of dampers having its own actuator or actuators and its own limit or proximity switch.

[Section 1011.6]

Name/Organization: Manny Muniz, Manny Muniz Associates, LLC

Comment: The regulations originally adopted by the State Fire Marshal in the early 1990's included Group E Occupancies as required by Health and Safety Code Section 13143. Subsequent editions of the California Building Code (1989 Supplement, 1991 CBC, 1995 CBC, 1998 CBC, 2001 CBC) also included Group E Occupancies as required by Health and Safety Code Section 13143. It is not clear if the omission of Group E Occupancies in the 2007 California Building Code occurred as the result of a rulemaking proposal or whether the omission was the result of a publishing or other editorial error. The issue of what occupancies are required to have distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor is clearly specified in Health & Safety Code Section 13143 and specifically includes "...school, or any similar occupancy of any capacity,...".

Response: The SFM agrees with the commenter and made the following modifications as shown below and made available for comment during the 15-day comment period from November 25, 2009 to December 9, 2009:

OSFM change to accommodate as follows:

1011.6 Floor-level exit signs. Where exit signs are required by Chapter 10, additional approved low-level exit signs which are internally or externally illuminated photoluminescent or self-luminous, shall be provided in all interior corridors of Group A, ~~E, occupancies, Group I and R-2.1 occupancies~~ and in all interior rated exit corridors serving guest rooms of hotels in Group R, Division 1 occupancies.

Exceptions:

1. Group A occupancies that are protected throughout by an approved supervised fire sprinkler system.
2. Group E Occupancies where direct exits have been provided from each classroom.
- ~~2.3. Group I and R-2.1 occupancies which are provided with smoke barriers constructed in accordance with Section 407.4~~
- ~~3.4. Group I, Division 3 I-3 occupancies.~~

The bottom of the sign shall not be less than 6 inches (152 mm) or more than 8 inches (203 mm) above the floor level and shall indicate the path of exit travel. For exit and exit-access doors, the sign shall be on the door or adjacent to the door with the closest edge of the sign or marker within 4 inches (102 mm) of the door frame.

Note: Pursuant to Health and Safety Code Section 13143, this California amendment applies to all newly constructed buildings or structures subject to this section for which a building permit is issued (or construction commenced, where no building permit is issued) on or after January 1, 1989.

Rational for modification (from Part 2): The SFM received comments during the 45 day comment period expressing concern that provisions relating to Group E occupancy floor level exit signs having not been adequately addressed during the triennial adoption of Title 24, Part 2, for the 2007 California Building Code (CBC). The SFM has reviewed the prior rulemaking records and concurs, this modification is necessary to correct an omission made during the SFM original adoption and amendments of the CBC. During the adoption and amendment of the 2007 CBC and CFC the initial draft language for these sections was not correctly brought forward from the 2001 CBC for Group E occupancies. The SFM is submitting this modification as a change without regulatory effect to Part 2, Chapter 10, Sections 1011.6 in accordance with Health and Safety Code 13143. This modification has no change in regulatory effect.

For the specific purpose and rational for each section containing California regulation, modification, amendment or repeal see the Statement of Reasons for Part 2 California Building Code (CBC). The SFM is correlating amendments for Part 9 California Fire Code (CFC) which are derived from the amendments proposed to the CBC.

The promulgation and format of the IBC and IFC necessitate this action. Code sections are generally considered by the ICC General and or Egress Code Development Committee for the IBC and correlated into the IFC where necessary. SFM is following the format of the code in these instances; where the primary code is the CBC and SFM is proposing amendments to the section, those same amendments are correlated into the CFC as amendments.

[Table 1016.1]

Name/Organization: State Fire Marshal

Comment: The SFM is proposing this editorial modification.

TABLE 1016.1
EXIT ACCESS TRAVEL DISTANCE^a

OCCUPANCY	WITHOUT SPRINKLER SYSTEM (feet)	WITH SPRINKLER SYSTEM (feet)
A, E, F-1, I-1 M, R, S-1	200	250 ^b
B	200	300 ^c

F-2, S-2, U	300	400 ^c
H-1	Not Permitted	75 ^c
H-2	Not Permitted	100 ^c
H-3	Not Permitted	150 ^c
H-4	Not Permitted	175 ^c
H-5	Not Permitted	200 ^c
I-2, I-2.1 , I-3 ^d , I-4	150	200 ^c
L	Not Permitted	200 ^c

For SI: 1 foot = 304.8 mm.

a. See the following sections for modifications to exit access travel distance requirements:

Section 402.4: For the distance limitation in malls.

Section 404.9: For the distance limitation through an atrium space.

Section 407.4: For the distance limitation in Group I-2.

Sections 408.6.1 and 408.8.1: For the distance limitations in Group I-3.

Section 411.4: For the distance limitation in Special Amusement Buildings.

Section 1014.2.2: For the distance limitation in Group I-2 Hospital Suites.

Section 1015.4: For the distance limitation in refrigeration machinery rooms.

Section 1015.5: For the distance limitation in refrigerated rooms and spaces.

Section 1021.2: For buildings with one exit.

Section 1028.7: For increased limitation in assembly seating.

Section 1028.7: For increased limitation for assembly open-air seating.

Section 3103.4: For temporary structures.

Section 3104.9: For pedestrian walkways.

b. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2. See Section 903 for occupancies where automatic sprinkler systems in accordance with Section 903.3.1.2 are permitted.

c. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1

d. Not permitted in non-sprinklered Group I-3 Occupancies

Rational for modification (from Part 2): The SFM is proposing editorial modification to add Group I-2.1 occupancies to Table 1016.1, currently the table gives no direction. This modification has no change in regulatory effect. This modification has no change in regulatory effect.

For the specific purpose and rational for each section containing California regulation, modification, amendment or repeal see the Statement of Reasons for Part 2 California Building Code (CBC). The SFM is correlating amendments for Part 9 California Fire Code (CFC) which are derived from the amendments proposed to the CBC.

The promulgation and format of the IBC and IFC necessitate this action. Code sections are generally considered by the ICC General and or Egress Code Development Committee for the IBC and correlated into the IFC where necessary. SFM is following the format of the code in these instances; where the primary code is the CBC and SFM is proposing amendments to the section, those same amendments are correlated into the CFC as amendments.

[Section 1201.1.1]

Name/Organization: State Fire Marshal

Comment: The SFM proposed modification to remove the limitation on existing dry cleaning plants and provided additional editorial modification.

~~1201.1.1 Compliance alternate existing for dry cleaning plants. Existing dry Dry cleaning plants constructed or officially authorized prior to January 1, 2008, may, as an alternative to the requirements of this chapter shall be permitted to comply with the provisions of NFPA 32 in its entirety as an acceptable alternative to the requirements of this chapter.~~

Rational for modification: The SFM is proposing modification to remove the limitation for existing buildings only in part as a result of actions taken at the national code development code hearings for the 2012 International Fire Code (IFC). During the IFC Fire Committee hearings October 2009 an action to allow similar exemptions contained in the 2010 NFPA 32 were unanimously approved for the IFC (proposal F153–09/10). This action would make certain exemptions for Type III dry cleaning plants new or existing without an automatic sprinkler system. However, this proposal F153–09/10 does not include provisions for compartmentalization with fire barriers that the NFPA 32 standard requires. The SFM maintains that where these systems are utilized in buildings without automatic sprinkler protection compartmentalization must be maintained. The SFM further sees the need to allow the provisions of NFPA 32, including compartmentalization to new and existing due to the time frames established by the California ARB for the phase out of drycleaning machines using perchloroethylene by January 2023.

[Section 2501.1, 2505.4]

Name/Organization: **Michael R. Flanigan, Registered Lobbyist, California, on behalf of Les Schwab Tire Centers**

Comments: The commenter identifies tire storage 50-foot setback as unreasonable and current code at least allows for "requests for approval to use an alternative" subject to authorization by the local fire marshal (FM). The proposed 50-foot and 20-foot setbacks are even more unreasonable that tire retailers may have to purchase neighboring properties in some locations in order to meet these requirements in order to stay in business and will likely force tire stores to close in California.

Commenter states consideration of alternatives such as, but not limited to: tire storage within SFM certified firewalls, tire storage inside certain trailers, or the use of SFM certified fire retardant tarps in specified situations, as well as consideration of adopting reasonable "safe harbor" language with regard to tire storage standards. Commenter requests consideration of the following examples of "safe harbor" alternative approaches:

1. Proposes the regulation not apply to any tire storage facility that has tires stored no higher than six feet inside a fenced area with less than 3,000 square feet of floor area. If the exterior of the tire storage facility is at least a 4-hour fire rated wall, the facility should be (perhaps) no longer than 5,000 square feet of floor area.
2. Proposes the regulation not apply to outdoor tire storage comprised of 4-hour fire rated walls where the facility is less than 5,000 square feet in floor size and tires are not stacked higher than six feet. This would allow small, specially constructed tire storage facilities that would protect neighboring properties.

Commenter states neither the code nor proposal identifies a definition for "tire storage pile" which leaves it to the discretion of the local Fire Marshal. Suggests a definition based upon height and volume of outdoor stacks of tires and defined as, "an outdoor stack of tires that is taller than six feet, wider than six feet and longer than 50 feet."

Response: See response below.

[Section 2501.1, 2505.4]

Name/Organization: **Terry Leveille, President, TL & Associates; registered lobbyist representing California Tire Dealers Association**

Comments: The commenter identifies definitions of tire rebuilding plant, tire and tire storage are needed. Commenter identifies new or relocating Minor Waste Tire Facility sites, with required 50-foot buffers between tires and lot lines and buildings, will necessitate the purchase or leasing of large and prohibitively expensive properties. This requirement, particularly in costly urban areas, will not be economical for small businesses, such as tire retail, tire recycling and tire processing, to operate. Commenter states a number of current owner/operators have been granted proximity variances from lot lines and buildings/offices by local enforcement agencies. Those proximity variances in many cases are closer than the Exception allows (i.e., 10-feet from lot lines, 50-feet from buildings). Commenter identifies request for Alternate Means of Protection pursuant to CFC, Chapter 1, Division 1, Section 1.11, as means that variances were granted by enforcement agencies. These variances were based on a variety of factors, including tire pile height, type of lot fencing, fire vehicle access, surrounding land use, etc. For the state Fire Code to disallow such variances—even in exempting facilities legally permitted prior to January 1, 2011— would be unfair and require existing businesses to seek larger sites, a prospect that would put some owner/operators out of business.

Response: See response below.

[Section 2501.1, 2505.4]

Name/Organization: Randy Sanks, Reliable Tire Inc., San Diego

Comments: The commenter identifies that Minor Waste Tire Facilities are issued permits by the California Integrated Waste Management Board, and exclusion from proposed regulations is appropriate. New or relocating Minor Waste Tire Facility sites, with required 50-foot buffers between tires and lot lines and tires and buildings, will necessitate the purchase or leasing of large and prohibitively expensive properties. This requirement, particularly in costly urban areas, will not be economical for small businesses, such as tire retail, tire recycling and tire processing, to operate. The California Integrated Waste Management Board references the State Fire Marshal Standards in its approval of Major and Minor Waste Tire Facility permits, and without an exception for Minor Waste Tire Facilities, the California Integrated Waste Management Board may require that all facilities follow State Fire Marshal Standards despite local fire authority waivers.

Response: [Section 2501.1, 2505.4]

The SFM agrees in part with the above commenter's and made the following modifications as shown below and made available for comment during the 15-day comment period from November 25, 2009 to December 9, 2009:

OSFM change to accommodate as follows:

2501.1 Scope. Tire rebuilding plants, tire storage (*including tire derived products as defined in Public Resources Code Section 42805.7(a)*) and tire byproduct facilities shall comply with this chapter, other applicable requirements of this code and NFPA 13. Tire storage in buildings shall also comply with Chapter 23.

2505.4 Distance from lot lines and buildings. Tire storage piles shall be located at least 50 feet (15 240 mm) from lot lines and buildings.

Exceptions:

1. Tire storage piles containing less than 500 tires shall be permitted to be located no closer than 10 feet (3048 mm) from lot lines or from buildings. Tire storage piles shall not exceed 6 feet (1829 mm) in height when within 20 feet of any property line, building, or perimeter fencing. Side slopes shall not exceed 60 degrees. When approved by the fire code official in accordance with Section 111.2.4 distances of less than 10 feet (3048 mm) from lot lines or from buildings may be approved.

2. When approved by the fire code official in accordance with Section 111.2.4, exempted facilities defined in Public Resources Code Sections 42808(c) and 42831 and used tires as defined in 42806.5, tire storage piles shall be permitted to be located no closer than 10 feet (3 048 mm) from lot lines or 10 feet (15 240 mm) from buildings. Tire storage piles shall not exceed 6 feet (1829 mm) in height when within 20 feet of any property line or perimeter fencing. Side slopes shall not exceed 60 degrees.

3. When approved by the fire code official in accordance with Section 111.2.4, "minor waste tire facilities" as defined in Public Resources Code Section 42808, tire storage piles shall be permitted to be located no closer than 10 feet (3 048 mm) from lot lines or 50 feet (15 240 mm) from buildings. Tire storage piles shall not exceed 6 feet (1829 mm) in height when within 20 feet of any property line or perimeter fencing. Side slopes shall not exceed 60 degrees.

4. Existing "minor waste tire storage facilities" as defined in Public Resources Code Section 42808, legally permitted prior to January 1, 2011, shall be permitted to maintain tire storage piles located no closer than 10 feet (3048 mm) from lot lines or 50 feet (15240 mm) from buildings. Tire storage piles shall not exceed 6 feet (1829 mm) in height when within 20 feet (6096 mm) of any property line or perimeter fencing. Side slopes shall not exceed 60 degrees.

2508.2 Fire extinguishers. Buildings or structures shall be provided with portable fire extinguishers in accordance with Section 906. Fuel-fired vehicles operating in the storage yard shall be equipped with a minimum ~~2-A:20-B:C~~ 4-A:40-B:C rated portable fire extinguisher.

Rational for modification: The SFM has included additional scoping in Section 2501.1 to further clarify the intent as it relates to the storage of derived products in accordance with Public Resources Code 42820(b). This modification has no change in regulatory effect.

The SFM received comments during the 45 day comment period expressing concern that distance provisions contained in 2505.4 negatively impacted both tire retailers/dealers and installers, small tire storage areas and new minor waste tire storage facilities. The SFM has added additional exemptions one and two to address these areas of concern.

Exception one addresses small tire storage piles typically found at small tire retailers/dealers and installers by allowing limited storage of tires up to 10 feet. The SFM is utilizing dimensions derived in CCR Title 14, Section 17354 and NFPA 1 which has additional exemptions. Additionally this exception includes provisions for closer proximity to the lot line or building where an alternate mean of protection (e.g. 3 – 4 hour fire separation walls, other fire protection systems) has been provided and approved by the local fire code official.

Exception two addresses tire dealers, auto dismantlers that store less than 1500 waste tires, tire retreading businesses storing less than 3000 waste tires and agricultural operations storing less than 5000 waste tires by allowing limited storage of tires up to 10 feet in accordance with Public Resources Code 42808(c), 42831 and 42806.5. The SFM is utilizing dimensions derived in CCR Title 14, Section 17354 related to waste tire storage. However, this exception includes provisions for approval by the local fire code official as a precursor based on site conditions, water flow, fire access, resources, etc. and may further necessitate additional fire protection features including but not limited to 3 – 4 hour fire separation walls, other fire protection systems.

Exception three addresses minor waste tire storage facilities by allowing limited storage of tires up to 10 feet. The SFM is utilizing dimensions derived in CCR Title 14, Section 17354 related to waste tire storage. However, this exception includes provisions for approval by the local fire code official as a precursor based on site conditions, water flow, fire access, resources, etc. and may further necessitate additional fire protection features including but not limited to 3 – 4 hour fire separation walls, other fire protection systems.

Additional modification proposed to Section 2508.2 correlate existing provisions for portable fire extinguishers contained in CCR, Title 14, Section 17351 with the CFC. This modification has no change in regulatory effect.

[Chapter 33]

Name/Organization: Captain John Hentsch, County of Los Angeles Fire Department

Comments: The commenter requests the SFM adopt all of IFC Chapter 33 for Explosives and Fireworks with section numbers unchanged, or alternately, adopt only those sections the State chooses and leave the remainder of the model code language in place without reserving any existing sections. Commenter states local AHJ's attempting to adopt by ordinance model code sections won't be faced with a section number conflict. Suggests state adopts a separate Chapter 33A and leave Chapter 33 for locals to adopt if they choose.

Response: Although the proposed amendments sought by the commenter may have merit such amendments are beyond scope of this rulemaking. The SFM has considered in future rulemaking cycles to review all pertinent federal laws, California statutes, current California regulations and other national standards for correlation, adoption and modification. However, until a workgroup is put together to discuss all concerns that the SFM, local enforcing agencies, federal regulators and affected stakeholders have, the current amendments, adoptions and provisions contained in CCR, Title 19, Title 24 and laws contained in Health and Safety Code regulating fireworks and explosives must be maintained.

Additional information regarding the use and knowledge of the laws contained in Health and Safety Code commencing with section 12000 for explosives and 12500 for fireworks, regulations contained in CCR Title 19 Sections 1550 thru 1584.4 for explosives and sections 979 thru 1046 for fireworks are available on the SFM webpages. In addition there are the federal requirements for storage located in Title 27 Federal Code of Regulations part 55 sub-part k. Transportation requirements are located in Title 13 CCR hazardous materials transportation commencing with sections 1150 thru 1167 and California Vehicle Code section 34500 safety regulations.

[Section Appendix Chapter 4, Section 425.8.3.3]

Name/Organization: Larry G. Williams, FPO, Ventura County Fire Protection District

Comments: The commenter suggests editorial modification for additional language that clarifies this section is only applicable to R-3.1 occupancies without automatic fire sprinklers per Section 903.

Response: The SFM agrees with the commenter and made the following modifications as shown below and made available for comment during the 15-day comment period from November 25, 2009 to December 9, 2009:

OSFM change to accommodate as follows:

**APPENDIX CHAPTER 4
SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY**

425.8.3.3 Group R-3.1 occupancies housing only one bedridden clients. In Group R-3.1 occupancies housing a bedridden client and not provided with an approved automatic fire sprinkler system, all of the following shall apply:

1. In Group R-3.1 Occupancies housing a bedridden client, a direct exit to the exterior of the residence shall be provided from the client sleeping room.
2. Doors to a bedridden client's sleeping room shall be of a self-closing, positive latching 1-³/₈ inch solid wood door. Such doors shall be provided with a gasket so installed as to provide a seal where the door meets the jam on both sides and across the top. Doors shall be maintained self-closing or shall be automatic closing by actuation of a smoke alarm in accordance with California Building Code Section 715.4.7715.4.8.
3. Group R-3.1 Occupancies housing a bedridden client, shall not have a night latch, dead bolt, security chain or any similar locking device installed on any interior door leading from a bedridden client's sleeping room to any interior area such as a corridor, hallway and or general use areas of the residence in accordance with Chapter 10.
4. The exterior exit door to a bedridden client's sleeping room shall be operable from both the interior and exterior of the residence.
5. Every required exit doorway from a bedridden client sleeping room shall be of a size as to permit the installation of a door not less than 3 feet (914 mm) in width and not less than 6 feet 8 inches (2032 mm) in height. When installed in exit doorways, exit doors shall be capable of opening at least 90 degrees and shall be so mounted that the clear width of the exit way is not less than 32 inches (813 mm).

Note: A sliding glass door can be used as an exterior exit doorway as long as it is operable from the inside and outside and the clear width of the exit way is not less than 32 inches (813mm).

Rational for modification (from Part 2): The additional language clarifies that this section is only applicable to Group R-3.1 occupancies without automatic fire sprinklers per Section 903. This modification has no change in regulatory effect.

For the specific purpose and rational for each section containing California regulation, modification, amendment or repeal see the Statement of Reasons for Part 2 California Building Code (CBC). The SFM is correlating amendments for Part 9 California Fire Code (CFC) which are derived from the amendments proposed to the CBC.

The promulgation and format of the IBC and IFC necessitate this action. Code sections are generally considered by the ICC General and or Egress Code Development Committee for the IBC and correlated into the IFC where necessary. SFM is following the format of the code in these instances; where the primary code is the CBC and SFM is proposing amendments to the section, those same amendments are correlated into the CFC as amendments.

COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD.

Subsequent to the original public comment period, text with the modifications clearly indicated, was made available to the public for a 15-day public written comment period from November 25, 2009 to December 9, 2009.

[Section 909.12]

Name/Organization: John A. Lee, P.E.

Comments: The commenter disagrees with modification and identifies that a single limit switch to monitor grouped dampers is inconsistent with confirming actuation because multiple dampers are susceptible to linkage failures and actuator failures, which cannot be detected by a single limit switch. The commenter further states that such modification conflicts with published ICC guidance.

Response: Item 1. The commenter states that a single limit switch used to monitor the position of group dampers is inconsistent with the current requirements for confirmation of actuation. The current requirements for verification are found in the second paragraph of Section 909.12 Detection and Control Systems.

The commenter goes on to suggest that the single limit switch fails to satisfy the requirement because multiple dampers may be susceptible to linkage and actuator failures which cannot be detected by a single limit switch. However, multiple dampers which are indicated as "multiple assemblies" in UL 555S, the standard for listing smoke dampers used in smoke control systems, are required to pass several severe performance tests to assure the reliability and durability of the damper assembly, including the actuators and linkages. In fact, one of the tests in UL

555S requires that the damper assemblies be cycled a minimum 20,000 times. Also, Section 6 Actuators of UL 555S requires the actuator to “be formed and assembled to have the strength and rigidity required to resist the abuses to which it is subjected, without the loosening or displacement of any parts, or other serious defects.”

The commenter further states that during commissioning of smoke control systems, his company has experienced linkage slippage and actuator failure in group damper assemblies. Linkage slippage and actuator failure are critical and can be devastating to the performance of the smoke control system, however this seems to indicate that there is either a problem in the field with inappropriate dampers being used that are not listed per UL 555S as required by Section 909.10.4 or the dampers are not being installed in accordance with the manufacturer’s listing instructions. Or, possibly, there could be a problem with the installation and not adequately testing the actuators and linkages of group assemblies known as multiple assemblies in UL 555S. At any rate, this would not be an issue or a problem that is related to the contents of the paragraph under discussion.

Item 2. The commenter states that the proposed modification to Section 909.12 is in direct conflict with published ICC guidance because it fails to detect linkage or actuator failure. It should be noted that the code is a minimum standard that specifies performance to be achieved. This performance is verified in the field by initial testing, as well as follow up inspection, maintenance, and additional periodic testing, as specified in Section 909.20. And, as stated above, the dampers used in smoke control systems are required to be listed in accordance with UL 555S per Section 909.10.4.

The guide referenced in the commenter’s comment is merely that – a guide. It is not intended to represent minimum code requirements nor does it represent the official opinion of the ICC. It is provided for use by designers of smoke control systems and for the enforcing agency as a tool. It indicates several options for determining how to monitor automatic dampers used in smoke control systems and suggests ways that may provide a reliable means for accomplishing positive verification that may exceed that required by the code minimums. So this is not a conflict; it is simply a matter of design versus minimum code requirements.

However, following multiple discussions with the commenter and the original proponent of the modifications to the 45-day language have lead to further non-substantive revisions to the language. Revisions made clarify the intent of damper linking by “...*reliable and durable mechanical or otherwise permanent means*...” opposed to “*permanent mechanical means*” (which may have excluded “welding” as an approved fastening method.). Further editorial/non-substantive revisions eliminate redundant language.

OSFM change to accommodate as follows:

909.12 Detection and control systems. Fire detection systems providing control input or output signals to mechanical smoke control systems or elements thereof shall comply with the requirements of Section 907. Such systems shall be equipped with a control unit complying with UL 864 and listed as smoke control equipment.

Control systems for mechanical smoke control systems shall include provisions for verification. Verification shall include positive confirmation of actuation, testing, manual override, the presence of power downstream of all disconnects and, through a preprogrammed weekly test sequence, report abnormal conditions audibly, visually and by printed report.

The status of dampers shall be determined using limit or proximity switches installed at the damper or incorporated into the damper actuator. Where multiple dampers are grouped together in an assembly requiring one or more actuators, each damper shall be independently controlled by a separate actuator and provided with an individual limit or proximity switch, or the dampers shall be linked together by a reliable and durable mechanical or otherwise permanent mechanical means into one or more groups, controlled by one or more actuators with each group provided with a common limit or proximity switch.

The status of fans shall be determined by sensing the air flow downstream of the fans using pressure differential switches or transmitters, or by other means of positive proof of air flow where approved by the enforcing authority.

[Section 2501.1]

Name/Organization: Terry Leveille, President, TL & Associates, Registered California lobbyist representing CRM Company, Compton

Comments: Commenter identifies tire "crumb rubber," which are rubber granules derived from a waste tire that are less than or equal to, one-quarter inch or six millimeters in size (PRC 42801.7), are exempt by statute from the definition of a waste tire, and therefore storage and amount of crumb rubber should be exempt from the requirement to obtain a waste tire permit. Further, crumb rubber is conventionally stored in closed, woven polypropylene fabric "supersacks" that are on wooden pallets. Fire code officials routinely exempt such supersacks from proximity limits of buildings and lot lines. The commenter further states that Section 2505.4 of Chapter 25 violates Health and Safety Code Section 18930 (a) (3) The public interest requires the adoption of the building standards; and (4) The proposed building standard is not unreasonable, arbitrary, unfair or capricious, in whole or in part.

Response: The SFM disagrees with comments made that the provisions of CFC Chapter 25 should exempt certain products only because they may be exempt from a permit issued by the California Integrated Waste Board. The modifications to the exemptions provide the fire code official the authority grant lesser setbacks on a case by case basis.

[Section 2505.4]

Name/Organization: Christina Buchanan, City of San Diego Solid Waste Local Enforcement Agency

Comment: Commenter submitted modification to correct the 50 foot distance to the building as identified in the SFM rational for 15-day modification for Section 2505.4 exception #2 and #3.

Response: The SFM agrees and has made the editorial revision to reflect the intent and rationalized in the Statement of Reasons contained in the 15-day modification rational for exception #2. However, the SFM has not made the revision to exception #3 regarding tire storage distance to buildings for minor waste tire storage facilities to avoid conflict the existing CCR, Title 14 regulations as well as note exceeding the scope of this rulemaking cycle. Reductions in setbacks from building will need to be addressed in future rulemaking cycles if necessary.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

(Government Code Section 11346.9(a)(4))

The SFM has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation.

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

(Government Code Section 11346.9(a)(5))

No proposed alternatives were received by SFM.

COMMENTS MADE BY THE OFFICE OF SMALL BUSINESS ADVOCATE

(Government Code Section 11347.6) [List each comment by the Trade and Commerce Agency directed at the proposed regulation or at the procedures followed by the Agency in proposing or adopting the regulation, and a response to each comment, including the basis why a comment was rejected, if applicable.]

No comments were received from the Office of Small Business Advocate.

COMMENTS MADE BY THE TRADE AND COMMERCE AGENCY

(Government Code Section 11347.6) [List each comment by the Trade and Commerce Agency directed at the proposed regulation or at the procedures followed by the Agency in proposing or adopting the regulation, and a response to each comment, including the basis why a comment was rejected, if applicable.]

No comments were received from the Trade and Commerce Agency.