

NOTICE OF PROPOSED RULEMAKING

OFFICE OF THE STATE FIRE MARSHAL California Code of Regulations Title -19

The State Fire Marshal proposes to adopt the proposed regulations described below after considering all comments, objections or recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

The State Fire Marshal will accept written comments regarding this regulatory action from July 2, 2010 until 5:00 PM on August 16, 2010. Please address your comments to:

OFFICE OF THE STATE FIRE MARSHAL
P.O. Box 944246
Sacramento, CA 94244-2460
Attention: Diane Arend
Or by e-mail to
diane.arend@fire.ca.gov

Or you may fax your comments to:
Attention: Diane Arend
(916) 327-4998

PUBLIC HEARING

The State Fire Marshal has not scheduled a public hearing on this proposed action, however, a public hearing will be held if a written request is received from any interested party or their authorized representative no later than 15 days before the end of the 45-day comment period.

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Section 19818 with reference to 19818, Health and Safety Code.

INFORMATIVE DIGEST - POLICY STATEMENT OVERVIEW

The State Fire Marshal proposes to amend Title 19 Section 1160.10 to delete reference to National Fire Protection Association (NFPA) Standard Number 702-75, and instead reference Title 16, Code of Federal Regulations, Chapter II, Subchapter D.

Health and Safety Code Section 19818 mandates the State Fire Marshal to adopt flammability standards and promulgate regulations relating to the use of fabric and fabric-like materials in items including, but not limited to examination gowns, sleepwear, sheets, and pillowcases, used in acute general hospitals and acute psychiatric hospitals or in skilled nursing facilities and intermediate care facilities.

Current regulations state that fabric or fabric-like materials used in examination gowns and sleepwear be tested in accordance with NFPA 702. However, NFPA 702 has been repealed by NFPA and NFPA now defers to Title 16, Code of Federal Regulations, Chapter II, Subchapter D as the test standard for fabrics formerly tested to NFPA 702. The State Fire Marshal proposes to amend current Title 19 regulations to delete the reference to NFPA 702 and instead reference Title 16, Code of Federal Regulations, Chapter II, Subchapter D.

The State Fire Marshal utilized the State Fire Marshal Flame Retardant Advisory Committee to analyze the proposed amendments and they agree with the proposed amendments.

Proposed Title 19 Modified Sections

Title 19, Section 1160.10 is being proposed to be amended to delete reference to NFPA 702 and instead cite Title 16, Code of Federal Regulations, Chapter II, Subchapter D. In addition Section 1160.10 exceptions addressing NFPA 702 issues are being repealed since those issues are already addressed in Title 16, Code of Federal Regulations, Chapter II, Subchapter D.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following determinations:

1. Mandate on local agencies and school districts: **None**
2. Cost or savings to any other State agency: **None**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Section 17561: **None**
4. Other non-discretionary cost or savings imposed upon local agencies: **None**
5. Cost or savings in federal funding to the State: **None**
6. Significant adverse economic effect directly effecting business, including the ability of California businesses to compete with businesses in other States: **None**
7. Cost impact on private persons or directly affected businesses: The State Fire Marshal is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- a) create or eliminate jobs within California;
 - b) create new businesses or eliminate existing businesses within California;
- or

- c) affect the expansion of businesses currently doing business within California.
8. Significant effect on housing costs: **None**

SMALL BUSINESS EFFECTS

The State Fire Marshal has made the initial determination that the amendments to these regulations will have no substantial effect to small businesses and the State Fire Marshal has not identified any alternatives that would lessen any adverse impact, if any, on small businesses. There is no effect on small business because small businesses are not involved in the testing of these fabrics.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5 subdivision (a)(13), the State Fire Marshal must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to the attention of the Agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed regulatory action, or requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, or other information upon which the rulemaking is based may be directed to:

Diane Arend, Senior Deputy State Fire Marshal
Telephone: (916) 324-9592
Fax: (916) 445-8459
Email: diane.arend@fire.ca.gov

Alternate Contact:

Jeannie Smith, Deputy State Fire Marshal
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 445-8533
E-mail: jeannie.smith@fire.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office of the State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, shown above. As of this date, this notice is published in the Notice Register the State Fire Marshal rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons for the proposed action. The full text of the regulations, along with the final statement of reasons upon which the changes are based is available from the contact person as shown. Copies may be obtained from the contact person at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the 45-day comment period, the State Fire Marshal may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text – with changes indicated – shall be made available to the public for at least 15 days before the State Fire Marshal adopts (amends or repeals) the regulations as revised. Requests for copies of any modified regulations should be sent to Diane Arend at the address indicated above. The State Fire Marshal will accept written comments on the modified regulations for 15 days after the date on which they are made available.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Diane Arend at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of proposed regulations, highlighted in underline and strikeout, can be accessed through our web-site at <http://osfm.fire.ca.gov>. Review of the referenced standard may be accessed through the US law web-site at http://law.justia.com/us/cfr/title16/16cfrv2_02.html