Addendum to the INITIAL STATEMENT OF REASONS (ISOR)
15 Day Comment Period August 19, 2022, to September 4, 2022

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

STATUTORY AUTHORITY TO COLLECT FEES FROM FLAME RETARDANT CHEMICALS, FABRICS, AND APPLICATION CONCERNS
Pursuant to Health and Safety Code Sections 13120, 13121, 13122, 13123, 13124, 13125, 13126, and 13127, the Office of the State Fire Marshal (OSFM) has statutory authority to operate the Flame Retardant Chemicals and Fabrics Program, and to collect fees which do not exceed the actual costs of operating the program.

Health and Safety Code Section 13137 governs the use of the State Fire Marshal Licensing and Certification Fund. This fund houses fees from the Flame Retardant Chemicals and Fabrics Program, and fees from the OSFM's other Licensing and Certification programs. Section 13137 specifies that 1) fees may not exceed the actual cost of administrating the OSFM's Licensing and Certification programs, and 2) fees must be used for the benefit of the same group they are collected from.

Implementation of the statutory enforcement mandates in Health and Safety Code Sections 13120, 13121, 13122, 13123, 13124, 13125, 13126, and 13127 requires the OSFM to provide detailed enforcement information to applicants and collect pertinent information. In order to provide a consistent format to share and collect information, this regulatory proposal also incorporates program applications.

In addition, Government Code Section 6157(b) authorizes a State agency to charge an appropriate fee to cover the cost of any returned or dishonored checks. This section is applicable to the Flame Retardant Chemicals and Fabrics Program because the program accepts checks for fees.

The fees assessed by the Flame Retardant Chemicals and Fabrics Program support compliance with statutory and regulatory requirements which protect life and property against fire and panic, enhancing public safety and worker safety.

PROBLEM, BENEFITS, and RATIONALE
1. Problems being addressed: The current fee amounts collected from the regulated community are deposited in the State Fire Marshal Licensing and Certification Fund. The fund’s statute limits the use of monies to the group that the fees are collected from. However, the current fee amounts are not sufficient to cover the actual costs to operate the
Flame Retardant Chemicals and Fabrics Program, and the program does not currently have additional fiscal options. There is substantial evidence that the program must obtain additional revenue in order to maintain compliance with the fund’s statutory requirements, which effectuate the purpose of Health and Safety Code Section 13137. Program applications are necessary because they consolidate a significant amount of information in a single location, and they provide space for licensees to respond in line with each requirement. Program applications provide consistency for both the OSFM and applicants for licensure.

In addition, the OSFM does not currently have a method to recover the fees from dishonored or returned checks, these regulations would add a fee for that purpose.

2. Anticipated benefits from this regulatory action:
This regulatory proposal would provide a stable and complete funding source for the current operational expenses of the Flame Retardant Chemicals and Fabrics Program, which will enable the OSFM to retain compliance with the statutory requirements of the State Fire Marshal Licensing and Certification Fund (uniform fund code 0102) and therefore retain use of the Fund. This program implements the statutory enforcement mandates in Health and Safety Code Sections 13120, 13121, 13122, 13123, 13124, 13125, 13126, and 13127. These fire prevention measures provide a public safety benefit for patrons and enhanced worker safety for individuals working at the physical location of public assembly occupancies. The criteria for assembly occupancies are specified in Health and Safety Code Section 13115 and 13119. The regulatory proposal would also incorporate program applications, in order to provide and collect information in the least burdensome fashion.

In addition, the proposed regulations would allow the OSFM to recover costs from dishonored and returned checks.

These requirements also support the OSFM’s broad public safety mission to foster and promote the protection of life and property against fire and panic.

3. Factual Basis, Rationale:
Materials and businesses regulated by the Flame Retardant Chemicals and Fabrics Program include flame retardant chemicals, nonflammable materials, fabrics treated with flame retardant chemicals, and entities that apply these materials. Chemicals and fabrics must meet requirements for registration. In order to be placed on the approved registration list, businesses must meet specific requirements and are issued a license to show their compliance with these requirements. Forms provide an outline of the fees and technical requirements per license type and provide licensees a consistent method to provide information to the program. Fees are collected from the regulated community through registration, license, and laboratory fees. The fee structure includes a specific cost for each service provided by the program. Fees are deposited in and appropriated from, the State Fire Marshal Licensing and Certification Fund. Fees are currently the only source of revenue for the program.

In 2018, the OSFM initiated the process of fully assessing the operating expenses of the Flame Retardant Chemicals and Fabrics Program, in order to determine if the existing program revenues meet statutory requirements to use program fees for the benefit of the
group they are collected from. Through this evaluation, the OSFM determined that annual revenue under the current fee structure is insufficient to operate the program and therefore does not meet the requirements of Health and Safety Code 13137. Additional revenue is necessary in order for the program to implement the fund’s statutory requirements, as detailed in Health and Safety Code Section 13137.

In addition, the program’s applications for license have not been incorporated into regulations. Program applications are necessary because they provide information to applicants in line with the required questions. The Program applications are used to record the information required for applying for a Fabric or Chemical Registration, and both types of Applicator License. The program application statements and questions are directly related to enforcement for the Program. These include an outline of fees and license types, contact information for the OSFM, contact information for applicants, business and public safety related legal requirements, and technical information which is used for ongoing verification of safety measures and as a reference in case of failure of performance.

Finally, currently costs from dishonored and returned checks must be absorbed by the program, which is also not consistent with the fund requirements.

The current fee schedule was established in the 1980s and is insufficient to sustain the Flame Retardant Chemicals and Fabrics Program without incurring a deficit. Since that time, program costs have risen significantly due to inflation, rising personnel costs, amounts required to maintain the reserve recommended by the Department of Finance, and adoption of online application and payment systems.

NECESSITY

The proposed regulations are necessary to provide sustainable and complete funding to implement the Program’s statutory enforcement mandates in Health and Safety Code Sections 13120, 13121, 13122, 13123, 13124, 13125, 13126, and 13127. Sustainable and complete funding will allow the OSFM to remain compliant with the State Fire Marshal Licensing and Certification Fund requirements in Health and Safety Code Section 13137.

The proposed fee increases, and additions are consistent with the requirements of Health and Safety Code Section 13137 and Health and Safety Code Section 13127(d) in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs. Over time, revenues from fees and costs for the program may vary due to increased or decreased applications from regulated entities.

If the revenues for this Program do not meet the statutory fund requirements for the State Fire Marshal Licensing and Certification Fund in Health and Safety Code Section 13137, it may necessitate delays or reductions in services. Incorporating program applications will provide consistency to the applications process and provide the most up to date information to applicants. In addition to impacts to the directly affected entities, this program provides a key public safety benefit for patrons of assembly occupancies and during the use of all tents and enhancing worker safety for individuals working onsite in assembly occupancies. This program establishes the minimum standards for the protection of life and property against fire and panic through the use of flame-retardant chemical, fabrics and materials in places of public assembly, and for the use of all tents, as
specified in Health and Safety Code Section 13115 and 13119.

ECONOMIC IMPACT ANALYSIS AND ASSESSMENT

The proposed regulations will impose cost impacts that a directly affected business would incur in reasonable compliance with the proposed action.

The OSFM estimates that there are approximately 400-450 individual businesses operating under this program which would be directly affected by the proposed regulations. The cost impact to each business would be determined by the number of licenses each business holds, as many licensed businesses hold multiple registrations for different products. There are approximately 2,000 current licenses issued each year.

The proposed fee increases would increase the cost of existing services. The proposed regulations also offer an opportunity for cost savings for some businesses by adding a new $250 fee for additional fabric product registrations under an existing license, which is less than the cost of a full license. Finally, the proposed regulations would also add a new $30 fee for returned or dishonored checks, which would assign the cost of a returned or dishonored check to the individual rather than the program.

A five-year trend was used to project the average number of license and registrations, resulting in the revenue and expenditures. A fee structure was built based on the overall need to maintain the program operations. Fees were set at the lowest possible amounts, and still provide for full support of the program costs.

The current amounts and exact changes are as follows:

- Original or Annual Renewal of a Flame-Retardant Application Concern (General Applicator). Current Fee: $175. Proposed Updated Fee: $450. Increase: $275
- Service Fee for a returned or dishonored check. Proposed New Fee $30.

The program’s current annual revenue under the current fee structure is approximately $194,681. If the regulations are amended as proposed, the projected annual revenue is approximately $545,308. The projected increase of $350,627 in annual revenue is anticipated to be sufficient prevent a deficient in the program. The Department of Finance has recommended that the program provide for a reserve in the case of an unexpected reduction in revenue. This reserve has been included in calculating the operational costs of the program.

As part of the regulation’s development process, draft fee amounts were presented to the OSFM Flame Retardant Advisory Committee and the State Board of Fire Services for
consideration. Substantive changes to forms content are limited to the fee increase. These stakeholders agreed by consensus that while these amendments to the regulations would increase costs to directly affected industries, the proposed amendments would not fundamentally change their business operations or represent an undue cost burden against the profitability their businesses.

Evidence Supporting Finding of No Significant Adverse Economic Impact on Any Business.
The OSFM has initially determined that the proposed regulations will not have a significant adverse economic impact on business. The OSFM’s Advisory Committee discussed and considered these changes. The Committee members indicated these changes would not have a significant adverse economic impact on business enterprise or individuals. The proposed regulation will incur some effect on the regulated community, but those impacts will be absorbed by industry and businesses engaged with industry. Based on those facts and evidence, the OSFM has determined these changes would not have a significant adverse economic impact.

The Creation or Elimination of Jobs within the State of California
The proposed regulations are not expected to have a significant impact on the creation or elimination of jobs within the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses
It is anticipated that the proposed regulations will not significantly impact the creation or elimination of businesses in California.

The Expansion of Businesses Currently Doing Business within the State of California
It is unlikely that the proposed regulation will encourage or discourage regulated businesses from expanding their business in California. This includes applicators, manufacturers, and laboratories within the flame retardant industry.

Benefits of the Regulations to the Public Safety and Worker Safety
The OSFM has determined that this regulatory proposal will benefit public safety, and worker safety. This program specifically enhances worker safety by reducing the risk of catastrophic fire in workplace settings such as food service, entertainment and other forms of public assembly, outdoor activity with tents, and education. This regulation enhances the use of preventative measures to reduce the risk of a fire ignition or spread in many public spaces, protecting workers and public visitors from the impacts of fire and panic.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY OR REPORT
In developing these proposed regulations, the OSFM researched the program’s operational costs, historical fee structure, and statutory fund requirements. The OSFM also consulted with and received input from the OSFM Flame Retardant Advisory Committee and the State Board of Fire Services. These were conversations only, and there were no documents relied upon in connection with these consultations.

The OSFM Flame Retardant Advisory Committee operates under a charter with the OSFM. The committee is comprised of representatives of local fire departments, the regulated
industry community, laboratory representatives, and Program staff. Many committee members would be legally required to comply with the new regulations and are therefore directly impacted by amendments to the current fees. Committee members are appointed by the State Fire Marshal. This item appeared on the May 18, 2021, meeting agenda. Program staff provided a verbal presentation during the Board meeting, which is memorialized in the meeting minutes.

As required by Health and Safety Code Section 13126, the OSFM also sought the advice of the State Board of Fire Services on the proposed amendments. The State Board is a statutorily required advisory board to the State Fire Marshal. The State Board is comprised of representatives from fire service labor, fire chiefs, fire districts, volunteer firefighters, local government, the Office of Emergency Services, and the insurance industry. Members are appointed by the Governor or selected by relevant professional organizations or agencies. Fee information appeared on the March 4, 2021, agenda. Program staff provided a verbal presentation during the Board meeting, which is memorialized in the meeting minutes.

**Documents Relied Upon:**
In addition to the sources noted above, the OSFM relied on the following technical, theoretical, and/or empirical studies, reports, and laws in developing the proposed regulations:

- Department of Finance Fund: 0102 - California Manual of State Funds (Revised June 2011)
- State Board of Fire Services Meeting Agenda, March 4, 2021

**Documents Incorporated by Reference:**
The OSFM has determined that it would be cumbersome, unduly expensive, or otherwise impractical to publish the following documents in the California Code of Regulations because it would be too voluminous, and the documents have a special format. The following forms are incorporated by reference in the text of the proposed regulations. The Program applications are used to record the information required for applying for a Fabric or Chemical Registration, and both types of Applicator License:

3. Application for General Applicator FR-3 (5/2021)

The documents are made available from the agency or are reasonably available to the affected public from a commonly known or specified source on the Office of the State Fire Marshal website at: https://osfm.fire.ca.gov/.

**CONSIDERATION OF REASONABLE ALTERNATIVES AND THE AGENCY’s REASONS FOR REJECTING THOSE ALTERNATIVES**
The OSFM has reviewed the proposed fee increases, including both the positive and negative impacts it will place upon the industry. However, none of the alternatives would be more
effective in carrying out the purpose of the legislation and proposed regulations or be less burdensome to the affected parties than the proposed regulations. No alternative to program applications was identified or considered.

The fee increase alternative considered would not generate sufficient revenue to operate the program. The result of the reasonable alternative would be inconsistent with the requirements of Health and Safety Code Section 13137, the State Fire Marshal Licensing and Certification Fund.

The alternative of no regulatory action would also not be in the best interest of the public because a funding deficit would impact the operational stability of the program, which would cause a negative impact to directly affect businesses and impair the public safety benefits of the program.

The OSFM invites and will consider all public comments on alternatives to any of the proposed regulations.

**Alternative 1: Two-Stage Increase in Fees**
The OSFM considered implementing the fee increase in two stages, starting with an increase of half of the fee amount and then implementing the full fee increase the following fiscal year. However, this alternative would not create sufficient revenue to meet the operating expenses of the Flame Retardant Chemicals and Fabrics Program operating expenses.

**Alternative 2: No Action**
The OSFM considered the alternative of taking no action to raise fees. However, this alternative would generate no additional revenue.

**SMALL BUSINESS DETERMINATION**

The OSFM has determined that the proposed regulations have no “substantial” effect to small business and the OSFM has not identified any alternatives that would lessen any adverse impact on small business and still allow the OSFM to remain in compliance with statutory requirements for the State Fire Marshal Licensing and Certification Fund.

Businesses may self-identify as part of their public participation in the regulatory process. However, the public safety requirements of this program do not require disclosure of business details which would identify a “small business,” as it is defined by Government Code 11342.610.

**Alternative: Small Business**
The OSFM also considered the two-stage fee increase as an option which may lessen the cost burden to small businesses, as defined. However, various stakeholders provided feedback as part of the regulation’s preliminary activities, confirming that the increased cost would be absorbable within their business model. Therefore, a two-stage fee increase would not substantially reduce the cost burden to business and also would not generate sufficient revenue to allow the program to be consistent with Health and Safety Code Section 13137, the State Fire Marshal Licensing and Certification Fund. It was ultimately determined that no reasonable alternative would be equally effective and less burdensome than the proposed regulations.
Does the Proposed Regulatory Action Mandate the Use of Specific Technologies or Equipment, or Prescribe Specific Actions or Procedures?
No.

Duplication or Conflict with Federal Law?
The OSFM has determined this proposed regulatory action neither conflicts with nor duplicates any federal regulations contained in the Code of Federal Regulations.

Duplication of statutory language from Health and Safety Code Section 13127(c)(1) through 13128 in regulations is necessary in order to meet the clarity statement of Government Code Section 11349.1(a)(3). Duplication is necessary because it enables persons which are affected or subject to the regulations to access the requirements in a location with which they are familiar without having to go to the Statute. Duplication of statute is repeated for clarity in Section 1179.2(d) of the regulations.

SPECIFIC SECTIONS OF TEXT WHICH HAVE BEEN MODIFIED

Section 1179 Fees.

Subsection (a) Original or Annual Renewal Registration of any Single Flame Retardant Fabric or Material. Proposes to amend the fee structure for a Flame Retardant Fabric Original Registration and Renewal from $200 to $575.

Necessity: The proposed regulation would be consistent with the requirements of Health and Safety Code 13137 and Health and Safety Code 13127(d) in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs. The proposed revenue totals are based on the fees for each service provided by the program, late fees and personnel assigned to the program. A five-year trend was used to project the average number of each type of service, resulting in the revenue and expenditures. The fee structure is based on the overall financial needs for program operations. The fees are set at the lowest possible amount that would still allow full support of the program costs. The national average for the annual rate of increase for COLA has been 2% per year over the last 12 years. Additionally, employee salaries/benefits, facility costs (rent, security, internet, etc.), vehicle maintenance costs, travel expenses for industry conferences, training, investigations, and inspections, have all increased over the last 40 years without an increase in fees to support the program.

Subsection (b) Add Fabric to existing registration. Proposes to add a new fee for businesses who have met the existing criteria for registration to hold an existing license. The “Add Fabric” fee of $250 will allow existing business to add an additional fabric to their application without having to pay the full fee for a new application.

Necessity: The proposed regulation would be consistent with the requirements of Health and Safety Code 13137 and Health and Safety Code 13127(d) in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs. The proposed revenue totals are based on the fees for each service provided by the program, late fees and personnel assigned to the program. A five-year trend was used to project the average number of each type of service, resulting in the revenue and expenditures. The fee structure is based on the overall financial needs for program operations. The fees are set at the lowest possible amount that would still allow full support of the program costs. The national average for the annual rate of increase for COLA has
been 2% per year over the last 12 years. Additionally, employee salaries/benefits, facility costs (rent, security, internet, etc.), vehicle maintenance costs, travel expenses for industry conferences, training, investigations, and inspections, have all increased over the last 40 years without an increase in fees to support the program.

**Subsection (c)** Original or Annual Renewal Registration of a Flame-Retardant Chemical. Proposes to re-letter the section from subsection (b) to (c) and amend the fee structure for a Flame Retardant Chemical Original Registration and Annual Renewal from $200 to $575. **Necessity:** The proposed regulation would be consistent with the requirements of Health and Safety Code 13137 and Health and Safety Code 13127(d) in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs. The proposed revenue totals are based on the fees for each service provided by the program, late fees and personnel assigned to the program. A five-year trend was used to project the average number of each type of service, resulting in the revenue and expenditures. The fee structure is based on the overall financial needs for program operations. The fees are set at the lowest possible amount that would still allow full support of the program costs. The national average for the annual rate of increase for COLA has been 2% per year over the last 12 years. Additionally, employee salaries/benefits, facility costs (rent, security, internet, etc.), vehicle maintenance costs, travel expenses for industry conferences, training, investigations, and inspections, have all increased over the last 40 years without an increase in fees to support the program.

**Subsection (d)** Original or Annual Renewal of a Flame-Retardant Application Concern (General). Proposes to re-letter the section from subsection (c) to (d) and amend the fee structure for an Original or Renewal of a Flame Retardant Application Concern (General Applicator) from $175 to $450. **Necessity:** The proposed regulation would be consistent with the requirements of Health and Safety Code 13137 and Health and Safety Code 13127(d) in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs. Added the word “Applicator” after “General” to describe who the fee applies to more accurately. The proposed revenue totals are based on the fees for each service provided by the program, late fees and personnel assigned to the program. A five-year trend was used to project the average number of each type of service, resulting in the revenue and expenditures. The fee structure is based on the overall financial needs for program operations. The fees are set at the lowest possible amount that would still allow full support of the program costs. The national average for the annual rate of increase for COLA has been 2% per year over the last 12 years. Additionally, employee salaries/benefits, facility costs (rent, security, internet, etc.), vehicle maintenance costs, travel expenses for industry conferences, training, investigations, and inspections, have all increased over the last 40 years without an increase in fees to support the program.

**Subsection (e)** Original or Annual Renewal of a Flame-Retardant Application Concern (Limited Applicator). Proposes to re-letter the section from subsection (d) to (e) and amend the fee structure for an Original or Renewal of a Flame Retardant Application Concern (Limited Applicator) from $85 to $230. **Necessity:** The proposed regulation would be consistent with the requirements of Health and Safety Code 13137 and Health and Safety Code 13127(d) in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs.
Added the word “Applicator” after “Limited” to describe who the fee applies to more accurately. The proposed revenue totals are based on the fees for each service provided by the program, late fees and personnel assigned to the program. A five-year trend was used to project the average number of each type of service, resulting in the revenue and expenditures. The fee structure is based on the overall financial needs for program operations. The fees are set at the lowest possible amount that would still allow full support of the program costs. The national average for the annual rate of increase for COLA has been 2% per year over the last 12 years. Additionally, employee salaries/benefits, facility costs (rent, security, internet, etc.), vehicle maintenance costs, travel expenses for industry conferences, training, investigations, and inspections, have all increased over the last 40 years without an increase in fees to support the program.

**Subsection (f) Laboratory Fees.** Proposes to re-letter the section from subsection (e) to (f) and amend the title of “General Applicator” by adding the words “Flame Retardant Certificates,” after General Applicator so the full title will read “General Applicator Flame Retardant Certificate.” This amendment also increases the fee amount for General Applicator Flame Retardant Certificates from $9.00 to $20.00.

**Necessity:** Clarifying the “General Applicator Flame Retardant Certificate” title is necessary to improve the clarity in implementing Health and Safety Code Sections 13120-13127. The proposed regulation would also be consistent with the requirements of Health and Safety Code 13137 and Health and Safety Code 13127(d) in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs.

**Subsection (g) Service fee.** Proposes to adopt a reasonable charge for implementing a returned or dishonored check and amends the Authority cited.

**Necessity:** The addition of subsection (g) is required to recover the State Fire Marshal's processing and collection costs incurred for returned checks offered for payment for established fees in accordance with Government Code Section 6157. Informs applicants of a $30 service fee if their check is returned and adds clarity to the Authority cited in the NOTE. This fee covers banking charges assessed to the department as well as the administrative costs associated with recovery efforts.

**Subsection NOTE:** Proposes to add the Authority and Reference cited.

**Necessity:** Adds to Authority: Section 6157(b) Government Code. Adds to Reference: Section 13129 Health and Safety Code and 6157(b) Government Code. The additions to this section are necessary to add clarity to the Authority and References cited in the NOTE.

**Section 1179.1 Forms.**

**Subsection (a).** Proposes to add new Section 1179.1 and identify application forms incorporated by reference.

Subsection (a) proposes to adopt (4) four application forms when applying for flame retardant registrations and licenses and incorporates the following forms by reference in the text of regulations:

- Application for Decorative Materials Registration - Fabric FR-1 (5/2021)
- Application for Decorative Materials Registration - Chemical FR-2 (5/2021)
- Application for General Applicator FR-3 (5/2021)
- Application for Limited Applicator FR-4 (5/2021)
<table>
<thead>
<tr>
<th>FR 1</th>
<th>FR 1 START</th>
</tr>
</thead>
</table>
| FR1, Page 1, form header. | This form includes CAL FIRE Letterhead, including identifying information for the Agency, Department, Program name, application identification as FR-1, and date created.  

**Purpose**  
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with program information and licensing information.  

**Problem**  
In order to meet clarity standards, information must be presented in a credible and reliable format. Unclear or out of date program or licensing information can result in delayed contact between program applicants and the OSFM.  

This section of the FR-1 form provides applicants with key information and establishes the notation of this form as the Application for Decorative Materials Registration- Fabric, FR-1.  

**Rationale**  
All applicants are required to contact the OSFM and submit the correct program application in order to apply for licensure. This information gives applicants the ability to confirm that they are applying for the correct program and provides a foundation for more general resources related to fire prevention. |
| FR1, Page 1, top section. | Page 1 also requires includes the applicant's name, address, contact information. This provision provides basic information for the OSFM to keep records for the program and accurately identify licensees.  

**Purpose**  
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes contact with applicants and licensees.  

**Problem**  
In order to meet clarity standards, information must be collected in a consistent and user-friendly format. Unclear or out of date contact information can result in delayed contact between program applicants and the OSFM.  

This section of the FR-1 form provides applicants with a clear format to provide the OSFM with basic identity and contact information. |
<table>
<thead>
<tr>
<th>Rationale</th>
<th>FR 1, Page 1, middle section description.</th>
<th>After the identifying information, applicants are provided with four choices for the purpose of the application. Options include Fabric Application, Add Fabric, Revision, or Secondary Registration. The option chosen will also determine the license details and fees. This description applies to subsequent sections details for each license type and service.</th>
</tr>
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<tbody>
<tr>
<td>All applicants are required to provide the OSFM with basic identity and contact information in order to apply for licensure. This information allows the OSFM to maintain consistent documentation and to efficiently contact applicants or licensees when necessary. This self-reported contact and identity information is documented in the file, in case of future questions in the event of failure in performance to protect life and property.</td>
<td>HSC 13120 and 13121.</td>
<td>Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.</td>
</tr>
<tr>
<td>Purpose</td>
<td>FR 1, Page 1, first option in middle section.</td>
<td>Problem The various types of businesses and products in this program provide the same basic public safety function in areas of public assembly, and tents. However, each type of business and product has different technical needs. This program application illustrates the four basic license or service options available to the FR-1 license type applications. As some services are dependent on an existing license, the Registration Number for the main license is also required to apply for those choices.</td>
</tr>
<tr>
<td>Pursuant to Health and Safety Code Section 13120 and 13121</td>
<td>HSC 13120-13127, 13137 CCR 1340, 1274, 1270, 1264</td>
<td>Rationale Completing this section furnishes the OSFM with the applicant’s choices of license and service. This section also provides the OSFM with the Registration Number for dependent services. This technical information is required for the OSFM to evaluate the application or request for services.</td>
</tr>
<tr>
<td>The application includes options for licensees, requirements for the application, and specifies the fee per option. The Fabric Application is the first option. The fee is consistent with the actual costs per licensee to administer the program. These sample sizes are generally standard for testing purposes and is the industry standard for this type of compliance testing. These tests are used to determine if the fabric meets the flame retardant standards</td>
<td></td>
<td>Purpose</td>
</tr>
</tbody>
</table>


Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, requiring that fabrics or materials be submitted to a laboratory approved by the OSFM for testing in accordance to established standards.

In order to establish minimum standard requirements laboratories must be inspected and approved by OSFM to ensure that the testing procedures are consistent throughout all labs. According to CCR 1340, testing laboratories wishing to have their names listed on the OSFM approved list of laboratories must apply and be approved by OSFM for testing in accordance with the standards established. Inspections include the evaluation of specific test equipment and laboratory personnel. Laboratories perform the tests that determine fire resistance. Tests conducted by laboratories must be accurate and dependable since the results determine the fire resistance approval of a product. As composition and uses of flame retardant fabric vary, there are a variety of fire resistance test procedures that are applicable to each fabric, chemical, planned usage, and application type.

As documentation that the appropriate testing was performed by an approved laboratory, a laboratory report must be furnished showing that the fabric meets minimum standards of fire resistance. Samples of fabric provided with the application are stored at the OSFM as an archive of data, along with the lab report correlating to the sample. Pursuant to CCR 1274 test reports from independent commercial testing laboratories may be required to substantiate fire resistance claims made for such products. The OSFM may then perform, in addition to the fire resistance test, such tests as deemed necessary to decide whether or not the product warrants registration.

The fee associated with fabric registration is consistent with the actual costs per licensee to administer the program. Pursuant to CCR 1270 any concern marketing a flame-retardant fabric or material desiring to have such material registered by the OSFM shall accompany the application with a registration fee.

The completed application furnishes the OSFM with company information, product information, and certification from the owner that the information provided to the OSFM is true and accurate, in order to register the fabric or material.

Problem
Improperly tested products can have disastrous effects on the safety of individuals using them or within building occupancies where they are installed should a fire occur.
Fabrics that are altered in any way from the original that was approved by OSFM and associated laboratory could pose a fire and safety risk to the public.

The lab report performed by an independent commercial testing laboratory remains a part of the applicants file, in case of future questions in the event of failure in performance to protect life and property. The method of treatment is used as a reference for investigative purposes.

According to HSC 13127, the OSFM has the authority to collect a registration fee accompanied with the application in the amount necessary to cover the costs incurred by the OSFM in order to carry out program requirements. The program must carry out HSC sections 13120 and 13126 which results in costs incurred by the OSFM.

In order for a fabric to be utilized for interior or exterior purposes in the State of California, it needs to be registered with the OSFM for public safety via an application.

Rationale
Laboratories seeking approval as a testing facility must be third party and unbiased. The OSFM does not currently have an internal testing facility. There is an OSFM facility discussed in CCR 1264 (a), however, this facility is no longer operational. All applicants now go through an outside laboratory, per HSC 13121. This statute requires that flame-retardant fabrics or materials be submitted to a laboratory approved by the OSFM for testing in accordance with the standards established.

This accreditation process ensures that all products submitted to the Office of the State Fire Marshal for evaluation have been tested by qualified people and conducted using accurately calibrated and constructed equipment.

The samples that are archived at OSFM may be used as a reference resource in the event of failure in actual use of the fabric or material. The sample fabric will be used to compare to the failed fabric to confirm compliance with standards, records, and documentation.

In order for the OSFM to continue to operate the FR Program, collection of fees is necessary. Statute requires that the program recuperates actual costs incurred from carrying out Health and Safety code sections 13120-13126. Pursuant to Health and Safety Code 13137 the program is not authorized to collect fees exceeding the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.
The OSFM can ensure compliance with fire protection standards regarding utilization of interior and exterior fabric by requiring and application and registration process.

| FR 1, Page 1, second option in middle section. HSC 13120-13127, 13137 CCR 1335, 1340, 1274, 1270, 1264 | The application includes options for licensees and specifies the fee per option. The fee is consistent with the actual costs per licensee to administer the program. Add Fabric is the second option. In order to Add Fabric, applicants must have an existing Fabric license. The “Add Fabric” options is used for fabrics that are similar enough in composition that the existing lab reports from the licensees currently licensed fabric would apply.

**Purpose**

Pursuant to Health and Safety Code 13120 and CCR 1335, a registration number is assigned by the OSFM to designate the fabric or material registered.

Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, requiring that fabrics or materials be submitted to a laboratory approved by the OSFM for testing in accordance to established standards.

In order to establish minimum standard requirements laboratories must be inspected and approved by OSFM to ensure that the testing procedures are consistent throughout all labs. According to CCR 1340, testing laboratories wishing to have their names listed on the OSFM approved list of laboratories must apply and be approved by OSFM for testing in accordance with the standards established. Inspections include the evaluation of specific test equipment and laboratory personnel. Laboratories perform the tests that determine fire resistance. Tests conducted by laboratories must be accurate and dependable since the results determine the fire resistance approval of a product. As composition and uses of flame retardant fabric vary, there are a variety of fire resistance test procedures that are applicable to each fabric, chemical, planned usage, and application type.

As documentation that the appropriate testing was performed by an approved laboratory, a laboratory report must be furnished showing that the fabric meets minimum standards of fire resistance. Samples of fabric provided with the application are stored at the OSFM as an archive of data, along with the lab report correlating to the sample. Pursuant to CCR 1274 test reports from independent commercial testing laboratories may be required to substantiate fire resistance claims made for such products. The OSFM may then perform, in addition to the fire resistance test, such tests as deemed necessary to decide whether or not the product warrants registration.
The fee associated with fabric registration is consistent with the actual costs per licensee to administer the program. Pursuant to CCR 1270 any concern marketing a flame-retardant fabric or material desiring to have such material registered by the OSFM shall accompany the application with a registration fee.

The completed application furnishes the OSFM with company information, product information, and certification from the owner that the information provided to the OSFM is true and accurate, in order to register the fabric or material.

Problem
The OSFM not only utilizes the registration number for identification, but also proof that the fabric or material has been approved for use by the OSFM. Local Authority Having Jurisdiction (AHJ) also utilize the registration number as a means of verifying that the fabric or material has been approved for use.

Improperly tested products can have disastrous effects on the safety of individuals using them or within building occupancies where they are installed should a fire occur.

The lab report performed by an independent commercial testing laboratory remains a part of the applicants file, in case of future questions in the event of failure in performance to protect life and property. The method of treatment is used as a reference for investigative purposes.

According to HSC 13127, the OSFM has the authority to collect a registration fee accompanied with the application in the amount necessary to cover the costs incurred by the OSFM in order to carry out program requirements. The program must carry out HSC sections 13120 and 13126 which results in costs incurred by the OSFM.

Fabrics that are altered in any way from the original that was approved by OSFM and associated laboratory could pose a fire and safety risk to the public. Altering an approved fabric with minor changes as determined by the OSFM, requires additional registration under the corresponding registration number. In order for a company to add a fabric that is to be utilized for interior or exterior purposes in the State of California, it needs to be registered with the OSFM under the corresponding registration number via an “Add Fabric” application.

Rationale
Pursuant to CCR 1335, there shall be a registration number assigned by the OSFM to designate the fabric or material. This registration number is unique to the fabric or material it is designated to. In order to Add Fabric, applicants must have an existing Fabric license. Any changes to the fabric or material registered under the original fabric application is subject
to laboratory testing and requires OSFM approval for listing under the original registration number.

Laboratories seeking approval as a testing facility must be third party and unbiased. The OSFM does not currently have an internal testing facility. There is an OSFM facility discussed in CCR 1264 (a), however, this facility is no longer operational. All applicants now go through an outside laboratory, per HSC 13121. This statute requires that flame-retardant fabrics or materials be submitted to a laboratory approved by the OSFM for testing in accordance with the standards established.

This accreditation process ensures that all products submitted to the Office of the State Fire Marshal for evaluation have been tested by qualified people and conducted using accurately calibrated and constructed equipment.

The samples that are archived at OSFM may be used as a reference resource in the event of failure in actual use of the fabric or material. The sample fabric will be used to compare to the failed fabric to confirm compliance with standards, records, and documentation.

In order for the OSFM to continue to operate the FR Program, collection of fees is necessary. Statute requires that the program recuperates actual costs incurred from carrying out Health and Safety code sections 13120-13126. Pursuant to Health and Safety Code 13137 the program is not authorized to collect fees exceeding the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.

The OSFM can ensure compliance with fire protection standards regarding utilization of interior and exterior fabric by requiring and application and registration process.

The application includes options for licensees and specifies the fee per option. The Revision option is the third option. The Revision option is used to update non-technical information on a previously approved application that has been issued a registration number. There is no fee for this service. This applies to previously approved Fabric Applications, Add Fabric option, or Secondary Registration applications. This would generally be used if a company changed hands or moved to a different location. Applicants are required to include a description of requested revisions, and the completed application. In the case of a change in ownership, the new owner must provide the OSFM with notarized document on company letterhead signed by the new and existing owners. This ensures that the OSFM has current and correct information for company ownership and contact information.
Pursuant to Health and Safety Code 13120 and CCR 1335, a registration number is assigned by the OSFM to designate the fabric or material registered. The Revision option is used to update non-technical information or request minor revisions on a previously approved application that has been issued a registration number.

This would generally be used if a company changed ownership or moved to a different location.

The OSFM not only utilizes the registration number for identification, but also proof that the fabric or material has been approved for use by the OSFM. Local Authority Having Jurisdiction (AHJ) also utilize the registration number as a means of verifying that the fabric or material has been approved for use.

Applicants are required to include a description of requested revisions, and the completed application. In the case of a change in ownership or location, in accordance with CCR 1177.1, the new owner must provide the OSFM with notarized document on company letterhead signed by the new and existing owners. This ensures that the OSFM has current and correct information for company ownership and contact information.

Pursuant to CCR 1335, there shall be a registration number assigned by the OSFM to designate the fabric or material. This registration number is unique to the fabric or material it is designated to. In order to make revisions, applicants must have an existing Fabric license.

The application includes options for licensees and specifies the fee per option. The Secondary Registration Application is the fourth option. The fee is consistent with the actual costs per licensee to administer the program. This option is used when a primary licensee furnishes the registered material to the secondary company for sale, distribution, or use under the alternate name indicated on the application. This is an advantage to the second company because they do not have to obtain lab reports. In addition, the manufacturer of the registered material provides a certified letter to the OSFM stating their agreement to furnish the registered material to the secondary company. The secondary company shall also provide a notarized letter to the OSFM certifying that the material sold, distributed, or used under the alternate name is identical to the original in all respects. This ensures that the fabric from the secondary company will still meet flame retardant standards. These letters ensure that the OSFM has current and correct information regarding the agreement between the original and secondary companies. After the license options, applications are required to provide product information.
Purpose
The fee associated with fabric registration is consistent with the actual costs per licensee to administer the program. Pursuant to CCR 1270 any concern marketing a flame-retardant fabric or material desiring to have such material registered by the OSFM shall accompany the application with a registration fee.

The completed application furnishes the OSFM with company information, product information, and certification from the owner that the information provided to the OSFM is true and accurate, in order to register the fabric or material.

Pursuant to CCR 1275, a concern desiring to register a flame-resistant fabric or material that is not a product of its own manufacturer may apply for approval and listing under the concern's own trade or brand name as long as the manufacturer of the fabric or material approves and consents in a certified letter. The applicant concern shall also certify, in a notarized letter accompanying its application form, that the fabric or material sold, distributed, or used under the new name shall always be identical in all respects to the test sample and/or report submitted by him and determined to be acceptable by the OSFM for approval and registration.

Problem
According to HSC 13127, the OSFM has the statutory authority to collect a registration fee accompanied with the application in the amount necessary to cover the costs incurred by the OSFM in order to carry out program requirements. The program must carry out HSC sections 13120 and 13126 which results in costs incurred by the OSFM.

If the applicant concern alters the fabric in any way from the original, the lab reports furnished no longer represents the registered fabric. The applicant concern can no longer prove that the fabric abides by flame resistance standards set forth by the OSFM in Health and Safety Code Section 13120.

Rationale
In order for the OSFM to continue to operate the FR Program, collection of fees is necessary. Statute requires that the program recuperates actual costs incurred from carrying out Health and Safety Code sections 13120-13126. Pursuant to Health and Safety Code 13137 the program is not authorized to collect fees exceeding the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.
<table>
<thead>
<tr>
<th>Rule</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FR 1, Page 1, lower section. CCR 1272</strong></td>
<td>In order for OSFM to enforce standards and ensure that manufacturer approves of the resale of their materials, certified documentation is required. This is also a means to ensure that the application concern does not alter the material in any way.</td>
</tr>
</tbody>
</table>
| **FR 1, Page 1, second question in lower section of page. HSC 13120 CCR 1273** | After the license options, applications are required to provide product information. The product information helps the OSFM confirm that the sample submitted matches the application, confirm that appropriate fire resistance tests were performed, confirm that the product is used appropriately, and that the life of the flame-resistant properties has been determined properly. This self-reported information is documented in the file, in case of future questions in the event of failure in performance to protect life and property, the product description is used as a reference for investigative purposes.  

**Purpose**  
After the license options, applications are required to provide product information in accordance with CCR 1272.  

**Problem**  
The product information helps the OSFM confirm that the sample submitted matches the application, confirm that appropriate fire resistance tests were performed, confirm that the product is used appropriately, and that the life of the flame-resistant properties has been determined properly.  

**Rationale**  
This self-reported information is documented in the file, in case of future questions in the event of failure in performance to protect life and property, the product description is used as a reference for investigative purposes. |
| **FR 1, Page 1, second question in lower section of page. HSC 13120 CCR 1273** | Designating a material for Exterior, Interior, or use in both locations, determines the appropriate fire resistance tests for the fabric.  

**Purpose**  
Identifying the use of the material allows the OSFM to determine if the appropriate fire resistance tests were performed with the applicable adopted standard. Pursuant to CCR 1273, due to the wide variety of fabrics or materials, the basic requirement for any treated fabric or material shall be the ability to withstand the appropriate fire resistance tests.  

**Problem**  
The fabric or materials assigned designated locations as selected in the application shall have the ability to withstand conditions it is exposed to and retain appropriate fire resistance.  

**Rationale**  
This designation is important in order to determine the appropriate test
standard was used. Pursuant to Health and Safety Code 13120, the OSFM has the authority to establish minimum standards for application of fabrics or materials dependent upon their location and use.

<table>
<thead>
<tr>
<th>FR 1, Page 1, third question in lower section of page.</th>
<th>This is a written description of the product that has been submitted to the OSFM approved testing laboratory. Purpose This is a written description of the product that has been submitted to the OSFM approved testing laboratory. In accordance with CCR 1272, the OSFM uses the fiber contents or composition of the material provided in order to determine if it meets flame retardant standards in order to be registered as a flame-retardant fabric or material. Problem This description helps the OSFM visually confirm that the product submitted as a sample is consistent with the application, and the sample was subjected to the appropriate fire resistance tests, based on the fiber content and product composition. Rationale As composition and uses of flame retardant fabric vary, there are a variety of fire resistance test procedures that are applicable to different fabrics. Manufacturers who wish to market a flame-retardant fabric or material for use may have their product listed under its trade name as a registered flame-retardant fabric or material provided that the fabric or material is treated by a registered flame-retardant application concern with a registered chemical, the fabric or material is inherently noncombustible, or the fabric or material is manufactured of such materials that the flame retardant qualities may be expected to remain effective for the useful life of the fabric.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CCR 1272</td>
<td>Purpose Answering yes to this question indicates that a fabric meets the requirements for a nonflammable material. The term inherently flame resistant means a fabric or material which is compliant with fire resistance standards as part of the manufacturing process. Inherently flame resistant does not include materials which must be chemically treated or processed after manufacture to make them flame-resistant. Purpose Answering yes to this question indicates that a fabric meets the requirements for a nonflammable material. Pursuant to CCR 1201 a nonflammable material as used means a fabric or material which is inherently flame-resistant to that extent that it will meet the requirements of the fire resistance test prescribed according to OSFM standards but shall not include materials which must be chemically treated or processed after manufacture to make them flame-resistant.</td>
</tr>
<tr>
<td>Problem</td>
<td>This allows the OSFM to identify the proper use and location of the fabric based on its manufacture and flame-resistant qualities.</td>
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<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Rationale</td>
<td>The term inherently flame resistant means a fabric or material is compliant with fire resistance standards as part of the manufacturing process. Inherently flame resistant does not include materials which must be chemically treated or processed after manufacture to make them flame-resistant. This means that the fabric or material is manufactured of such materials that the flame retardant qualities may be expected to remain effective for the useful life of the fabric or the fabric or material is inherently flame-resistant.</td>
</tr>
</tbody>
</table>

<p>| FR 1, Page 1, fifth question in lower section of page. CCR 1272, 1201 | Answering no to this question indicates that a fabric meets the requirements for a nonflammable material as specified in Section 1201, Title 19. Answering yes indicates that in order for the fabric or material to have flame-resistant properties it must be topically treated with a flame-retardant chemical. |
| Purpose | Answering yes to this question indicates that a fabric or material was topically treated with a registered flame retardant chemical. Pursuant to CCR 1272, manufacturers who wish to market a flame-retardant fabric or material for use may have their product listed under its trade name as a registered flame-retardant fabric or material provided that the fabric or material is treated by a registered flame-retardant application concern with a registered chemical. Answering no to this question indicates that a fabric meets the requirements for a nonflammable material as specified in Section 1201, Title 19. |
| Problem | If the fabric or material is topically treated with a flame retardant chemical, the OSFM must confirm that this chemical is a registered chemical, as well as confirm that the application process was performed in an appropriate manner by a competent applicant. Inherently flame resistant does not include materials which must be chemically treated or processed after manufacture to make them flame-resistant. |
| Rationale | By collecting information regarding the topical treatment of a fabric or material with a chemical application, the OSFM can confirm that all standards regarding the chemical utilized, the chemical applicant, and the flame-resistance are met. |</p>
<table>
<thead>
<tr>
<th>FR 1, bottom of each page. HSC 13137</th>
<th>The term inherently flame resistant means a fabric or material which is compliant with fire resistance standards as part of the manufacturing process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each page of the application includes an accounting number for the OSFM’s use. The number is the same for each application within the Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.</td>
<td></td>
</tr>
<tr>
<td><strong>Purpose</strong></td>
<td></td>
</tr>
<tr>
<td>Each page of the application includes an accounting number for the OSFM’s use. The number is the same for each application within the Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.</td>
<td></td>
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<tr>
<td><strong>Problem</strong></td>
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<tr>
<td>Proper deposit of funds is required, as the charging of fees to a particular group regulated under a program are not permitted to cover costs of regulation under a different group for the same program</td>
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<tr>
<td><strong>Rationale</strong></td>
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</tr>
<tr>
<td>The number identifies the fees included in this application are assigned to the Flame Retardant Program. Pursuant to Health and Safety Code Section 13137 fees exceeding the actual cost of administration of the programs administered by the OSFM, nor the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program are not authorized.</td>
<td></td>
</tr>
<tr>
<td>FR 1, Page 2, form continues starting at the top of page.</td>
<td>Topical treatment means that the flame resistance qualities are added after the manufacturing process. Under the Fabric License, applicants may use a chemical that is registered with the OSFM under FR-2, a Chemical application. In this case, the Fabric Licensee must provide the OSFM Registration number in order to reference the OSFM registered chemical.</td>
</tr>
<tr>
<td><strong>Purpose</strong></td>
<td></td>
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<tr>
<td>This section asks for the applicant to state what chemical was used to topically treat the fabric. If the chemical is an OSFM approved chemical, its registration number is provided for documentation and reference to determine if it was utilized on the appropriate material.</td>
<td></td>
</tr>
<tr>
<td><strong>Problem</strong></td>
<td></td>
</tr>
<tr>
<td>Topical treatment means that the flame resistance qualities are added after the manufacturing process.</td>
<td></td>
</tr>
<tr>
<td>FR 1, Page 2, sixth question from top of page.</td>
<td>The form requires applicants to specify the method of treatment that the applicant will be licensed to use.</td>
</tr>
<tr>
<td>CCR 1214</td>
<td>Purpose</td>
</tr>
<tr>
<td></td>
<td>The form requires applicants to specify the method of treatment that the applicant used to produce the final material.</td>
</tr>
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<td></td>
<td>Problem</td>
</tr>
<tr>
<td></td>
<td>This information is documented in the file, in case of future questions in the event of failure in performance to protect life and property, the method of treatment is used as a reference and possible investigative purposes.</td>
</tr>
<tr>
<td></td>
<td>Rationale</td>
</tr>
<tr>
<td></td>
<td>Examples of treatment types are spray treatments, submersion treatments, or special processes set forth in CCR 1214. Some types of treatment would require multiple coats or curing. Applicants must specify the details so that the OSFM can determine if the treatment is compliant with standard practice.</td>
</tr>
</tbody>
</table>

| FR 1, Page 2, seventh question from top of page. | For this section specifically. When a fabric is washed or dry cleaned, the flame retardant qualities can be reduced. This question asks for an estimate of how many washings or drying cleaning cycles can be performed on a fabric before the flame retardant qualities are reduced below the level of compliance with the program’s standards. |
| CCR 1273.1 | Purpose |
| | This question asks for an estimate of how many washings or dry-cleaning cycles can be performed on a fabric before the flame retardant qualities are reduced below the level of compliance with the OSFM standards. |
| | Problem |
| | When a fabric is washed or dry cleaned, the flame retardant qualities can be reduced. |
| | Rationale |
| | Interior fabrics are subject to washings and dry cleanings that may impact the sustainability of flame-resistant qualities. They must be able to
maintain their flame retardant qualities under normal use as set forth in CCR 1273.1 which requires flame-resistance testing.

This also determines the lifetime of the material before loss of flame retardant properties after a specified number of washings and dry cleanings.

<table>
<thead>
<tr>
<th>Question</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FR 1, Page 2, eighth question from top of page. CCR 1273.2</td>
<td>Over time, weather conditions impact the flame retardant qualities of a fabric. This question asks for an estimate of the expected lifetime of the fabric before the flame retardant qualities are reduced below the level of compliance with the program’s standards.</td>
</tr>
<tr>
<td><strong>Purpose</strong></td>
<td>This question asks for an estimate of the expected lifetime of the fabric before the flame retardant qualities are reduced below the level of compliance with the OSFM standards.</td>
</tr>
<tr>
<td><strong>Problem</strong></td>
<td>Over time, weather conditions impact the flame retardant qualities of a fabric.</td>
</tr>
<tr>
<td><strong>Rationale</strong></td>
<td>Exterior fabrics are subject to accelerated weathering that may impact the sustainability of flame-resistant qualities. They must be able to maintain their flame-retardant qualities both in their original state and after accelerated weathering as set forth in CCR 1273.2.</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Question</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FR 1, Page 2, ninth question from top of page. CCR 1214</td>
<td>This question is rarely used. The reason the question is included in the application is to allow applicants to report limitations of the fabric which would reduce or negate the fabrics flame resistant qualities. These would include previously unknown limitations of the fabric.</td>
</tr>
<tr>
<td><strong>Purpose</strong></td>
<td>The reason the question is included in the application is to allow applicants to report limitations of the fabric which would reduce or negate flame-resistant qualities.</td>
</tr>
<tr>
<td><strong>Problem</strong></td>
<td>There may be other limitations of the fabric not previously discussed in the application.</td>
</tr>
<tr>
<td><strong>Rationale</strong></td>
<td>This question is rarely used and allows for the applicant to report limitations that are not previously known limitations of the fabric but discovered in actual use. Another example includes if the applicant used special process in accordance with CCR 1214, it may create other limitations not previously discussed in the application.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Question</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FR 1, Page 2, tenth question from top of</td>
<td>The “Add Fabric” options is used for fabrics that are similar enough in composition that the existing lab reports from the “Fabric Application” option would apply. Acceptable differences from the original application</td>
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</table>
would include variables such as a color change, or weight increase or
decrease within limited parameters.

Purpose
The “Add Fabric” option is used for fabrics that are similar enough in
composition that the existing lab reports from the “Fabric Application”
option would apply. This section allows the applicant to report differences
from the existing textile or material.

Problem
If the fabric has differences that are too great, the “add fabric” option
would not be permitted as the lab report with the original application
would no longer apply to that material.

Rationale
Acceptable differences from the original application would include
variables such as a color change, or weight increase or decrease within
limited parameters. If the fabrics or materials vary too greatly, the
applicant would need to reapply as a new fabric registration, in
accordance with the fabric registration requirements set forth.

This section of the program application requires applicants to confirm
their product is generally compliant with Proposition 65 requirements, if
applicable.

Purpose
Proposition 65 requires businesses to provide warnings to Californians
about significant exposures to chemicals that cause cancer, birth defects
or other reproductive harm. Exposure may also occur in a variety of settings,
including general assembly occupancies per Health and Safety Sections
13115 and 13119

Problem
By law, a warning must be given for listed chemicals unless the exposure
is low enough to pose no significant risk of cancer or is significantly
below levels observed to cause birth defects or other reproductive harm.

As it is known to the OSFM that this class of chemicals includes
materials which are known to the state to cause cancer or reproductive
toxicity, requiring compliance for this program is within the scope of the
Department’s public safety mission. In addition, there is no exemption to
Proposition 65 requirements for flame retardant materials. Therefore,
applicants are required to confirm their products are consistent with
Health and Safety Code 25249.6 and to label their products with
appropriate warnings.

Rationale
Pursuant to Health and Safety Code 13110, the OSFM may propose,
adopt, and administer regulations in order to ensure fire safety in buildings and structures as related to certification, registration, licensing, and labeling.

There are chemicals banned within the State of California, as well as chemicals on the PROP 65 list that require compliance in accordance with Health and Safety Code 25249.6. Health and Safety Code 13110 provides the OSFM with the authority to set labeling requirements.

<table>
<thead>
<tr>
<th>FR 1, Page 2, lower section of page.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicants are required to attest that they have reviewed and understood the information presented by this application, and that the information that the applicant has provided is true and accurate. In addition, the signatory must be authorized to sign on behalf of the applicant.</td>
</tr>
</tbody>
</table>

**Purpose**

Applicants are required to attest that they have reviewed and understood the information presented by this application, and that the information that the applicant has provided is true and accurate.

**Problem**

The signatory must be authorized to sign on behalf of the applicant.

**Rationale**

Applicant signature verifies that the applicant understands their responsibility for submitting information that is true and correct to the best of their ability.

<table>
<thead>
<tr>
<th>FR 1, Page 3, top section of page to middle section of the page.</th>
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<tbody>
<tr>
<td>This section of the program application informs applicants of submission instructions and provides the various contact addresses for application submittal.</td>
</tr>
</tbody>
</table>

**Purpose**

Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.

**Problem**

The applicant must be instructed on how to submit the application who are desiring to have a fabric registered with the OSFM. The application may be rejected if not all necessary information is furnished or if the application is not sent to the correct address.

**Rationale**

This section gives clear concise options on how to submit the application, timelines, and explicitly states if the application is not complete it will be rejected.
This statement includes the OSFM and associated individuals. This is necessary because some sections of the Flame Retardant Program are administered or overseen by third party specialist contractors, such as the administration of the examination. In addition, applicants may interact with other OSFM employees in addition to the employees of the Flame Retardant Program.

Purpose
The purpose of this language is to clarify the definition of Office of the State Fire Marshal or OSFM as used in this application.

Problem
The problem is that it may not be clear that OSFM refers not only to the Office of the State Fire Marshal, but also to its directors, officers, employees, agents, contractors, and subcontractors, and to the contractor’s subcontractors, directors, officers, employees, and agents.

Rationale
The rationale for why this language is reasonably necessary to address the problem is that OSFM might be exposed to legal liability if it referred to an individual such as a subcontractor as OSFM, where ordinarily a subcontractor could not properly be called OSFM because it would be incorrect or misleading, and this language clarifies the use of OSFM to prevent that potential liability.

The extent of the OSFM’s duties regarding flame retardant licensing is to develop standards to regulate the manufacture and sale of flame retardant chemicals, fabrics, and materials (§ 13120), provide a list of flame retardant chemicals and materials approved by the State Fire Marshall (§ 13122), and removing flame retardant chemicals, fabrics, and materials from that list when appropriate (§ 13123). Additionally, exclusion of warranties is permitted if it is reasonable and conspicuous. Cal. Com. Code § 2316 (1-2).

Purpose
The purpose of this language is to disclaim any warranties beyond the fact that the products have met the minimum standards for flame retardant qualities.

Problem
The problem is that OSFM approval of a flame retardant chemical or fabric might be construed as an endorsement of the product or a promise that active monitoring or quality inspection will occur or a responsibility by OSFM regarding trademark or patent infringement or other aspects of unfair competition.

Rationale
The rationale for why this language is reasonably necessary to address
the problem is that it provides clarity regarding OSFM’s duties towards approved flame retardant products, and an exclusion of warranties clause is permitted if it is reasonable and conspicuous. Cal. Com. Code § 2316 (1-2).

Note: Authority and Reference. Health and Safety Code 13120, 13122, 13123, and Comm Code 2316

<table>
<thead>
<tr>
<th>FR 1 Fabric Registration, Page 3, starts in same paragraph of previous section. Second sentence in paragraph.</th>
<th>Affirmative actions of OSFM are based primarily on the data submitted by the applicant and the validity and integrity thereof as impliedly represented by applicant in submitting the same. Purpose The purpose of this language is to clarify that the application was approved based on data obtained from laboratory testing. Problem The problem is that without this section of the form, by approving flame retardant chemicals and fabrics applications where the data provided by the applicant turns out to be false, OSFM could be exposed to significant legal liability if users of the flame retardant chemicals and fabrics believe that OSFM was negligent in approving the application without independently verifying the information provided in the application. Rationale The rationale for why this language is reasonably necessary to address the problem is that it provides clarity for applicants and users of flame retardant chemicals or fabrics that the application is approved based on the data submitted by the applicant, which ensures that OSFM will not be held liable for relying on the data obtained by the testing laboratory.</th>
</tr>
</thead>
</table>
| FR 1, Page 3, starts in same paragraph of previous section. Third sentence in paragraph. | Applicant agrees that it shall have no cause of action or claim against OSFM from time to time arising out of any registration and/or OSFM report, whether or not such report is subject to conditions, or out of any denial of this application. Purpose The purpose of this language is to limit the liability of OSFM for denying an application or for the use of the published material by the public. Problem The problem is that OSFM must publish or otherwise provide for the public some of the information provided by the licensees and OSFM cannot control what the public does with this information. OSFM could be held liable for the actions taken by the public with the information published by OSFM. OSFM could also be sued for denying an application, if for example the applicant believes OSFM exhibited
favoritism towards other applicants.

Rationale
The rationale for why this language is reasonably necessary to address the problem is that limitation of liability clauses such as this are valid in California as long as they are not unconscionable. *Food Safety Net Services v. Eco Safe Systems USA, Inc*, 209 Cal.App.4th 1118, 1126 (2012). This limitation of liability clause is not unconscionable because it narrowly indemnifies OSFM for actions that occur outside of its control. Limitation of liability clauses are valid in California as long as they are not unconscionable. *Food Safety Net Services v. Eco Safe Systems USA, Inc*, 209 Cal.App.4th 1118, 1126 (2012). This clause is not unconscionable because it is not an improper use of unequal bargaining power or contrary to public policy. *Id.*

FR 1, Page 3, starts in same paragraph of previous section. Fourth sentence in paragraph, ending on page 4.

Applicant agrees to hold OSFM from time to time harmless, and to defend and indemnify them, with respect to any claim, liability, demand, action or judgment arising from the use or operation by any person of the product or service to which the application relates, actual or asserted whether related to the matters set forth in the first sentence of this paragraph or otherwise, whether for personal injury, wrongful death, property damage, or any type of injury or damage whatsoever, whether or not of the same kind of nature as any of the foregoing OSFM's rights pursuant to the foregoing sentence, and applicant's obligations there under, shall apply whether or not it is claimed that OSFM was concurrently negligent with others, solely negligent, actively or passively negligent, and whether or not the legal theory of the claimant(s) is on one of the foregoing grounds or some other California law shall apply to the interpretation hereof.

Purpose
The purpose of this limitation of liability clause is to prevent OSFM from facing legal challenges for wrongful death, personal injury, or other types of damages.

Problem
The problem is that OSFM could face legal challenges for wrongful death, personal injury, or other types of damages because by approving flame retardant chemicals and materials, applicants or users of the flame retardant chemicals and materials may believe that OSFM is providing a type of surety for their safety or performance. If a lawsuit were brought against an applicant, it could be alleged that OSFM was negligent in approving the application. Due to the potential health and safety implications of negligently approving a flame retardant chemical or fabric, it is important that negligence liability is limited.

Rationale
The rationale for why this language is reasonably necessary to address
the problem is that it will prevent frequent litigation involving the approval of flame retardant chemical or fabric applications, which could deplete OSFM funds and prevent OSFM from carrying out its duties. The Department is permitted to disclaim negligence liability using broad language such as this. *Delta Air Lines, Inc. v. Douglas Aircraft Co.*, 238 Cal. App. 2d 95, 101 (1956).

If any part of portion of this paragraph, or any application thereof to particular facts, should be determined invalid, the provisions hereof shall be severable so as to achieve for OSFM the maximum legal application. If this application is for a renewal or revision of an existing approval for a registration or OSFM Report, the provisions of this paragraph shall apply from the date of the first approval or OSFM Report regardless of: intervening modifications thereof or modifications pursuant to this application; any prior change in the number assigned to the application or OSFM Report and any prior change in ownership rights in or rights to the OSFM Report whether one or more, since filing of the application resulting in said first approval.

**Purpose**

The purpose of this language is to salvage the remaining portions of the application should some portions of the application be found invalid, giving the application its maximum legal force.

**Problem**

The problem is that portions of this application may be found invalid, which could result in a court deeming the entire application to be invalid. Due to the high-risk nature of flame retardant chemicals and fabrics, the application for approval could face a significant amount of legal activity.

**Rationale**

The rationale for why this language is reasonably necessary to address the problem is that ensures that if a court finds some parts of the application to be invalid, it cannot require the whole application to be rewritten, which provides enhanced efficiency.

If a portion of the form is found invalid, the severability clause allows the Department to save the remaining form language, which promotes efficiency. Charles W. Tyler & E. Donald Elliot, *Administrative Severability Clauses*, 124 Yale L.J. 2286, 2286 (2015). If a court determines the invalid portion of the form to be mechanically severable, and the remaining language makes sense without it, severability is generally permitted. *Santa Barbara Sch. Dist. v. Superior Court*, 530 P.2d 605 (Cal. 1975).

Permitted uses pertains to advertising and other public materials, compliance with conditions of approval, and confirmation of rights and agreements.
### Purpose
The purpose of this language is to bind applicants to any conditions attached to an approval or renewal of an application, including limitations on advertisements using the OSFM approval of a product.

### Problem
The problem is that without this restriction, applicants’ references to OSFM approval could potentially be misleading to users as a surety of their safety or an endorsement by OSFM of the product. This could increase OSFM’s vulnerability to suit legal challenges if a user of a flame retardant chemical or fabric pursues legal action against the applicant and or challenges the OSFM approval of the product.

### Rationale
The rationale for why this language is reasonably necessary to address the problem is that it informs applicants that they will be required to comply with any conditions attached to the approval or renewal of their application. This will ensure that applicants will not make misleading references to the OSFM approval of their product, which will protect the public from being misled about the flame retardant product and its relationship to OSFM.

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### FR 2, Page 1, form header.

This form requires CAL FIRE Letterhead, including identifying information for the Agency, Department, Program name, application identification as FR-2, and date created.

#### Purpose
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with program information and licensing information.

#### Problem
In order to meet clarity standards, information must be presented in a credible and reliable format. Unclear or out of date program or licensing information can result in delayed contact between program applicants and the OSFM.

This section of the FR-2 form provides applicants with key information and establishes the notation of this form as the Application for Decorative Materials Registration- Chemical, FR-2.

#### Rationale
All applicants are required to contact the OSFM and submit the correct program application in order to apply for licensure. This information gives applicants the ability to confirm that they are applying for the correct program and provides a foundation for more general resources related to fire prevention.
Page 1 also includes the applicant's name, address, contact information. This provision provides basic information for the OSFM to keep records for the program and accurately identify licensees.

Purpose
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes contact with applicants and licensees.

Problem
In order to meet clarity standards, information must be collected in a consistent and user-friendly format. Unclear or out of date contact information can result in delayed contact between program applicants and the OSFM.

This section of the FR-2 form provides applicants with a clear format to provide the OSFM with basic identity and contact information.

Rationale
All applicants are required to provide the OSFM with basic identity and contact information in order to apply for licensure. This information allows the OSFM to maintain consistent documentation and to efficiently contact applicants or licensees when necessary.

This self-reported contact and identity information is documented in the file, in case of future questions in the event of failure in performance to protect life and property.

After the identifying information, applicants are provided with three choices for the purpose of the application. Options include Chemical Application, Revisions, or Secondary Registration. The option chosen will also determine the license details and fees.

Purpose
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.

Problem
The various types of businesses and products in this program provide the same basic public safety function in areas of public assembly, and tents. However, each type of business and product has different technical needs. This program application illustrates the three basic license or service options available to the FR-2 license type applications. As some
services are dependent on an existing license, the Registration Number for the main license is also required to apply for those choices.

Rationale
Completing this section furnishes the OSFM with the applicant’s choices of license and service. This section also provides the OSFM with the Registration Number for dependent services. This technical information is required for the OSFM to evaluate the application or request for services.

For a Chemical Application, applicants are required to provide payment of the $575 fee, a test report from an OSFM approved laboratory, a Safety Data Sheet, a Product Data Sheet, and a completed application. The fee is consistent with the actual costs per licensee to administer the program. The laboratory tests determine if the chemical meets the flame retardant standards. The Safety Data Sheet is a federally regulated document which must be compliant with Occupational Safety and Health Administration (OSHA) requirements. The Safety Data sheet includes user guidelines, safety instructions, and health hazards. The Product Data Sheet is written by the company, it includes features and uses of the chemical.

Purpose
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of chemicals. This includes, requiring that chemicals and their associated fabrics or materials be submitted to a laboratory approved by the OSFM for testing in accordance to established standards.

In order to establish minimum standard requirements laboratories must be inspected and approved by OSFM to ensure that the testing procedures are consistent throughout all labs. According to CCR 1340, testing laboratories wishing to have their names listed on the OSFM approved list of laboratories must apply and be approved by OSFM for testing in accordance with the standards established. Inspections include the evaluation of specific test equipment and laboratory personnel. Laboratories perform the tests that determine fire resistance. Tests conducted by laboratories must be accurate and dependable since the results determine the fire resistance approval of a product. As composition and uses of flame retardant chemicals and fabrics vary, there are a variety of fire resistance test procedures that are applicable to each fabric, chemical, planned usage, and application type.

As documentation that the appropriate testing was performed by an approved laboratory, a laboratory report must be furnished showing that the chemical and associated fabric meet minimum standards of fire resistance. Samples of chemical and material provided with the application are stored at the OSFM as an archive of data, along with the

| FR 2, Page 1, first option in middle section. HSC 13120-13127 CCR 1340, 1274, 1270, 1264, | For a Chemical Application, applicants are required to provide payment of the $575 fee, a test report from an OSFM approved laboratory, a Safety Data Sheet, a Product Data Sheet, and a completed application. The fee is consistent with the actual costs per licensee to administer the program. The laboratory tests determine if the chemical meets the flame retardant standards. The Safety Data Sheet is a federally regulated document which must be compliant with Occupational Safety and Health Administration (OSHA) requirements. The Safety Data sheet includes user guidelines, safety instructions, and health hazards. The Product Data Sheet is written by the company, it includes features and uses of the chemical. Purpose Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of chemicals. This includes, requiring that chemicals and their associated fabrics or materials be submitted to a laboratory approved by the OSFM for testing in accordance to established standards. In order to establish minimum standard requirements laboratories must be inspected and approved by OSFM to ensure that the testing procedures are consistent throughout all labs. According to CCR 1340, testing laboratories wishing to have their names listed on the OSFM approved list of laboratories must apply and be approved by OSFM for testing in accordance with the standards established. Inspections include the evaluation of specific test equipment and laboratory personnel. Laboratories perform the tests that determine fire resistance. Tests conducted by laboratories must be accurate and dependable since the results determine the fire resistance approval of a product. As composition and uses of flame retardant chemicals and fabrics vary, there are a variety of fire resistance test procedures that are applicable to each fabric, chemical, planned usage, and application type. As documentation that the appropriate testing was performed by an approved laboratory, a laboratory report must be furnished showing that the chemical and associated fabric meet minimum standards of fire resistance. Samples of chemical and material provided with the application are stored at the OSFM as an archive of data, along with the |
lab report correlating to the sample. Pursuant to CCR 1274 test reports from independent commercial testing laboratories may be required to substantiate fire resistance claims made for such products. The OSFM may then perform, in addition to the fire resistance test, such tests as deemed necessary to decide whether or not the product warrants registration.

The fee associated with chemical registration is consistent with the actual costs per licensee to administer the program. Pursuant to CCR 1270 any concern marketing a flame-retardant fabric, material, or chemical desiring to have such registered by the OSFM shall accompany the application with a registration fee.

The completed application furnishes the OSFM with company information, product information, and certification from the owner that the information provided to the OSFM is true and accurate, in order to register the chemical.

Problem
Improperly tested products can have disastrous effects on the safety of individuals using them or within building occupancies where they are installed should a fire occur.

Chemicals that are altered or applied in any way varying from the original that was approved by OSFM and associated laboratory could pose a fire and safety risk to the public.

The lab report performed by an independent commercial testing laboratory remains a part of the applicants file, in case of future questions in the event of failure in performance to protect life and property. The method of treatment is used as a reference for investigative purposes.

According to HSC 13127, the OSFM has the authority to collect a registration fee accompanied with the application in the amount necessary to cover the costs incurred by the OSFM in order to carry out program requirements. The program must carry out HSC sections 13120 and 13126 which results in costs incurred by the OSFM.

In order for a chemical to be utilized for flame resistance purposes in the State of California, it needs to be registered with the OSFM for public safety via an application.

Rationale
Laboratories seeking approval as a testing facility must be third party and unbiased. The OSFM does not currently have an internal testing facility. There is an OSFM facility discussed in CCR 1264 (a), however, this facility is no longer operational. All applicants now go through an outside laboratory, per HSC 13121. This statute requires that flame-retardant
chemicals be submitted to a laboratory approved by the OSFM via a specimen sample for testing in accordance with the standards established.

This accreditation process ensures that all products submitted to the Office of the State Fire Marshal for evaluation have been tested by qualified people and conducted using accurately calibrated and constructed equipment.

The laboratory tests determine if the chemical meets the flame retardant standards. The Safety Data Sheet is a federally regulated document which must be compliant with Occupational Safety and Health Administration (OSHA) requirements. The Safety Data sheet includes user guidelines, safety instructions, and health hazards. The Product Data Sheet is written by the company, it includes features and uses of the chemical.

The specimen samples that are archived at OSFM may be used as a reference resource in the event of failure in actual use of the chemical. The specimen sample will be used to compare and confirm compliance with standards, records, and documentation.

In order for the OSFM to continue to operate the FR Program, collection of fees is necessary. Statute requires that the program recuperates actual costs incurred from carrying out Health and Safety code sections 13120-13126. Pursuant to Health and Safety Code 13137 the program is not authorized to collect fees exceeding the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.

The Revision option is used to update non-technical information on a previously approved application that has been issued a registration number. There is no fee for this service. This applies to previously approved Chemical Applications or Secondary Registration applications. This would generally be used if a company changed hands or moved to a different location. Applicants are required to include a description of requested revisions, and the completed application. In the case of a change in ownership, the new owner must provide the OSFM with notarized document on company letterhead signed by the new and existing owners. This ensures that the OSFM has current and correct information for company ownership and contact information.

Purpose
Pursuant to Health and Safety Code 13120 and CCR 1335, a registration number is assigned by the OSFM to designate the fabric or material registered. The Revision option is used to update non-technical information or request minor revisions on a previously approved
application that has been issued a registration number.

**Problem**
This would generally be used if a company changed ownership or moved to a different location.

The OSFM not only utilizes the registration number for identification, but also proof that the fabric or material has been approved for use by the OSFM. Local Authority Having Jurisdiction (AHJ) also utilize the registration number as a means of verifying that the fabric or material has been approved for use.

**Rationale**
Applicants are required to include a description of requested revisions, and the completed application. In the case of a change in ownership or location, in accordance with CCR 1177.1, the new owner must provide the OSFM with notarized document on company letterhead signed by the new and existing owners. This ensures that the OSFM has current and correct information for company ownership and contact information.

Pursuant to CCR 1335, there shall be a registration number assigned by the OSFM to designate the fabric or material. This registration number is unique to the fabric or material it is designated to. In order to make revisions, applicants must have an existing Fabric license.

**FR 2, Page 1, third option in middle section.**

This option is used when a primary licensee furnishes the registered material to the secondary company for sale, distribution, or use under the alternate name indicated on the application. This is an advantage to the second company because they do not have to obtain lab tests. For the Secondary Registration option, applicants are required to provide payment of the $575 fee and a completed application. In addition, the manufacturer of the registered material provides a certified letter to the OSFM stating their agreement to furnish the registered material to the secondary company. The secondary company shall also provide a notarized letter to the OSFM certifying that the material sold, distributed, or used under the alternate name is identical to the original in all respects. This ensures that the fabric from the secondary company will still meet flame retardant standards. These letters ensure that the OSFM has current and correct information regarding the agreement between the original and secondary companies.

**Purpose**
The fee associated with fabric registration is consistent with the actual costs per licensee to administer the program. Pursuant to CCR 1270 any concern marketing a flame-retardant fabric or material desiring to have such material registered by the OSFM shall accompany the application with a registration fee.

The completed application furnishes the OSFM with company
information, product information, and certification from the owner that the information provided to the OSFM is true and accurate, in order to register the fabric or material.

Pursuant to CCR 1221, a company desiring to have an already registered chemical listed under the company's own trade or brand name may do so as long as the manufacturer of the registered chemical approves and consents in a certified letter. The applicant concern shall also certify, in a notarized letter accompanying its application form, that the chemical or compound sold, distributed, or used under the new name shall always be identical in all respects to the original registered chemical.

Problem
According to HSC 13127, the OSFM has the statutory authority to collect a registration fee accompanied with the application in the amount necessary to cover the costs incurred by the OSFM in order to carry out program requirements. The program must carry out HSC sections 13120 and 13126 which results in costs incurred by the OSFM.

If the applicant concern alters the chemical in any way from the original, the lab reports furnished no longer represents the registered chemical. The applicant concern can no longer prove that the chemical abides by flame resistance standards set forth by the OSFM in Health and Safety Code Section 13120.

Rationale
In order for the OSFM to continue to operate the FR Program, collection of fees is necessary. Statute requires that the program recuperates actual costs incurred from carrying out Health and Safety Code sections 13120-13126. Pursuant to Health and Safety Code 13137 the program is not authorized to collect fees exceeding the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.

In order for OSFM to enforce standards and ensure that manufacturer approves of the resale of their materials, certified documentation is required. This is also a means to ensure that the application concern does not alter the material in any way.

Chemical Formulation: The trade name of the chemical or compound, the name and address of the manufacturer, and the approximate date of manufacturer. This information is documented in the file, in case of future questions in the event of failure in performance to protect life and property, the chemical formulation is used as a reference for investigative purposes.
<table>
<thead>
<tr>
<th>Purpose</th>
<th>The purpose of this section is for the applicant to provide the OSFM with the trade name of the chemical or compound, the name and address of the manufacturer, and the approximate date of manufacturer.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Problem</td>
<td>This information is documented in the file, in case of future questions in the event of failure in performance to protect life and property, the chemical formulation is used as a reference for investigative purposes.</td>
</tr>
<tr>
<td>Rationale</td>
<td>The OSFM can ensure compliance in accordance with CCR1350 and HSC 13123 by using the chemical composition listed in the original application as a reference to the chemical utilized for actual use and determine if any alterations have been made.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FR 2, Page 1, second question in lower section. CCR 1350</th>
<th>This question is rarely used. The reason the question is included in the application is to allow applicants to report limitations of the chemical which would reduce or negate the flame-resistant qualities. These would include limitations that are not included on the material’s Safety Data Sheet or previously unknown limitations of the chemical.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>This section allows applicants to report otherwise unknown limitations of the chemicals not previously stated in the application.</td>
</tr>
<tr>
<td>Problem</td>
<td>These would include limitations that are not included on the material’s Safety Data Sheet or previously unknown limitations of the chemical.</td>
</tr>
<tr>
<td>Rationale</td>
<td>This question is rarely used. The reason the question is included in the application is to allow applicants to report limitations of the chemical which would reduce or negate the flame-resistant qualities. Pursuant to CCR 1350 utilization of chemicals for the treatment of materials for which they have not been approved or are incompatible may be removed from the OSFM approved chemical list.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FR 2, Page 1, third question in lower section. CCR 1197, 1198</th>
<th>Designating a chemical for Exterior, Interior, or use in both locations, in turn, determines the appropriate fire resistance tests for the fabric.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>Designating a chemical for Exterior, Interior, or use in both locations, in turn, determines the appropriate fire resistance standards for the chemical.</td>
</tr>
<tr>
<td>Problem</td>
<td>This information is documented in the file, in case of future questions in the event of failure in performance to protect life and property as a reference for investigative purposes.</td>
</tr>
</tbody>
</table>
| FR 2, Page 1, fourth question in lower section. HSC 13120 CCR 1222, 1326 | When a treated fabric is washed, the flame retardant qualities can be reduced. This question asks for an estimate of how many washings can be performed on a fabric before the flame retardant qualities are reduced below the level of compliance with the program's standards.

Purpose:
This section asks for an estimate of how many washings can be performed before the flame retardant qualities are reduced below the level of compliance with OSFM standards in accordance with Health and Safety Code 13120.

Problem:
The number of washings before loss of flame retardant properties is documented in the file, in case of future questions in the event of failure in performance to protect life and property, the product description is used as a reference for investigative purposes.

Rationale:
When a treated fabric is washed, the flame retardant qualities can be reduced. In accordance with CCR 1222, the chemical type determines the lasting qualities based on how many washings are performed. Washing can render retreatment necessary in accordance with CCR 1326.

FR 2, Page 1, fifth question in lower section. HSC 13120 CCR 1222, 1326 | When a treated fabric is dry cleaned, the flame retardant qualities can be reduced. This question asks for an estimate of how many dry-cleaning cycles can be performed on a fabric before the flame retardant qualities are reduced below the level of compliance with the program’s standards.

Purpose:
This section asks for an estimate of how many dry-cleaning cycles can be performed before the flame retardant qualities are reduced below the level of compliance with OSFM standards in accordance with Health and Safety Code 13120.

Problem:
The number of dry cleanings before loss of flame retardant properties is documented in the file, in case of future questions in the event of failure in performance to protect life and property, the product description is
used as a reference for investigative purposes.

Rationale:
Over time, dry cleanings impact the flame retardant qualities of a treated material. This question asks for an estimate of the expected lifetime of the treated fabric before the flame retardant qualities are reduced below the level of compliance with OSFM standards. In accordance with CCR 1222, the chemical determines its lasting effects on the material after dry cleaning processes. Dry cleaning can render retreatment necessary in accordance with CCR 1326.

Applicants can request up to 4 different base materials. A completed test report must be included for each base material. Test results must show that the applied chemical on the base material meets requirements for interior or exterior fabrics, for chemicals are consistent with the fabric standards, and this section specifies that chemicals must meet the same standards fabric standards for exterior fabrics, and for interior fabrics.

Purpose
Applicants can request up to 4 different base materials for chemical application. A completed test report must be included for each base material.

Problem
Test results must show that the applied chemical on the base material meets requirements for interior or exterior fabrics, in accordance with CCR 1216.

Rationale
CCR 1216 for chemicals are consistent with the fabric standards, and this section specifies that chemicals must meet the same fabric standards in CCR 1230-1239 for exterior fabrics, and 1250-1263 for interior fabrics.

These refer to requirements listed on the Safety Data Sheet also known as SDS. This can include user guidelines, safety instructions, or health hazards.

Purpose
This section allows for the applicant to include any precautions or limitations not already provided on the application or SDS.

Problem
By including this section in the form, it allows the applicant to make the OSFM aware of limitations of the chemical which would reduce or negate the fabrics flame resistant qualities.

Rationale
This question is rarely used and refers to requirements listed on the Safety Data Sheet also known as SDS. This can include user guidelines,
| FR 2, Page 1, form continues starting at the top of page 2. HSC 25249.6, 13110 | Purpose
Applicant acknowledges that they are not utilizing chemicals banned in the state of California or on the Prop 65 list.

Problem
As it is known to the OSFM that this class of chemicals includes materials which are known to the state to cause cancer or reproductive toxicity. In addition, there is no exemption to Proposition 65 requirements for flame retardant materials. Therefore, applicants are required to confirm their products are consistent with Health and Safety Code 25249.6 and to label their products with appropriate warnings.

Rationale
There are chemicals banned within the State of California, as well as chemicals on the PROP 65 list that require compliance in accordance with Health and Safety Code 25249.6. Health and Safety Code 13110 provides the OSFM with the authority to set labeling requirements.

FR 2, bottom of each page. HSC 13137 | Each page of the application includes an accounting number for the OSFM’s use. The number is the same for each application within the Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.

Purpose
Each page of the application includes an accounting number for the OSFM’s use. The number is the same for each application within the Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.

Problem
Proper deposit of funds is required, as the charging of fees to a particular group regulated under a program are not permitted to cover costs of regulation under a different group for the same program.

Rationale
The number identifies the fees included in this application are assigned to the Flame Retardant Program. Pursuant to Health and Safety Code Section 13137 fees exceeding the actual cost of administration of the programs administered by the OSFM, nor the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program are not authorized.

FR 2, Page 2, middle section. | Applicants are required to attest that they have reviewed and understood the information presented by this application, and that the information that the applicant has provided is true and accurate. In addition, the signatory must be authorized to sign on behalf of the applicant.

Purpose
| FR 2, Page 2, lower section. | Applicants are required to attest that they have reviewed and understood the information presented by this application, and that the information that the applicant has provided is true and accurate.  

**Problem**  
The signatory must be authorized to sign on behalf of the applicant.  

**Rationale**  
Applicant signature verifies that the applicant understands their responsibility for submitting information that is true and correct to the best of their ability. |

| FR 2, Page 3, starts top of page. | This section of the program application informs applicants of submission instructions and provides the various contact addresses for application submittal. This includes include mailing addresses for regular mail, package mail, email, and the program’s website. This provides applicants with a variety of options to contact the OSFM.  

**Purpose**  
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.  

**Problem**  
The applicant must be instructed on how to submit the application who are desiring to have a obtain a license or other services from the OSFM. The application may be rejected if not all necessary information is furnished or if the application is not sent to the correct address.  

**Rationale**  
This section gives clear concise options on how to submit the application, timelines, and explicitly states if the application is not complete it will be rejected. |

| FR 2, Page 3, starts top of page. | This statement includes the OSFM and associated individuals. This is necessary because some sections of the Flame Retardant Program are administered or overseen by third party specialist contractors, such as the administration of the examination. In addition, applicants may interact with other OSFM employees in addition to the employees of the Flame Retardant Program.  

**Purpose**  
The purpose of this language is to clarify the definition of Office of the State Fire Marshal or OSFM as used in this application.  

**Problem** |
| FR 2, Page 3, starts on upper section of page | The problem is that it may not be clear that OSFM refers not only to the Office of the State Fire Marshal, but also to its directors, officers, employees, agents, contractors, and subcontractors, and to the contractor’s subcontractors, directors, officers, employees, and agents.

Rationale
The rationale for why this language is reasonably necessary to address the problem is that OSFM might be exposed to legal liability if it referred to an individual such as a subcontractor as OSFM, where ordinarily a subcontractor could not properly be called OSFM because it would be incorrect or misleading, and this language clarifies the use of OSFM to prevent that potential liability. |
|---|---|
| FR 2, Page 3, starts in same paragraph of | The extent of the OSFM’s duties regarding flame retardant licensing is to develop standards to regulate the manufacture and sale of flame retardant chemicals, fabrics, and materials (§ 13120), provide a list of flame retardant chemicals and materials approved by the State Fire Marshall (§ 13122), and removing flame retardant chemicals, fabrics, and materials from that list when appropriate (§ 13123). Additionally, exclusion of warranties is permitted if it is reasonable and conspicuous. Cal. Com. Code § 2316 (1-2).

Purpose
The purpose of this language is to disclaim any warranties beyond the fact that the products have met the minimum standards for flame retardant qualities.

Problem
The problem is that OSFM approval of a flame retardant chemical or fabric might be construed as an endorsement of the product or a promise that active monitoring or quality inspection will occur or a responsibility by OSFM regarding trademark or patent infringement or other aspects of unfair competition.

Rationale
The rationale for why this language is reasonably necessary to address the problem is that it provides clarity regarding OSFM’s duties towards approved flame retardant products, and an exclusion of warranties clause is permitted if it is reasonable and conspicuous. Cal. Com. Code § 2316 (1-2).

Note: Authority and Reference. Health and Safety Code 13120, 13122, 13123, and Comm Code 2316 |
| FR 2, Page 3, starts in same paragraph of | Affirmative actions of OSFM are based primarily on the data submitted by the applicant and the validity and integrity thereof as impliedly represented by applicant in submitting the same. |
| Purpose | The purpose of this language is to clarify that the application was approved based on data obtained from laboratory testing. |
| Problem | The problem is that without this section of the form, by approving flame retardant chemicals and fabrics applications where the data provided by the applicant turns out to be false, OSFM could be exposed to significant legal liability if users of the flame retardant chemicals and fabrics believe that OSFM was negligent in approving the application without independently verifying the information provided in the application. |
| Rationale | The rationale for why this language is reasonably necessary to address the problem is that it provides clarity for applicants and users of flame retardant chemicals or fabrics that the application is approved based on the data submitted by the applicant, which ensures that OSFM will not be held liable for relying on the data obtained by the testing laboratory. |

| Applicant agrees that it shall have no cause of action or claim against OSFM from time to time arising out of any registration and/or OSFM report, whether or not such report is subject to conditions, or out of any denial of this application. |
| Purpose | The purpose of this language is to limit the liability of OSFM for denying an application or for the use of the published material by the public. |
| Problem | The problem is that OSFM must publish or otherwise provide for the public some of the information provided by the licensees and OSFM cannot control what the public does with this information. OSFM could be held liable for the actions taken by the public with the information published by OSFM. OSFM could also be face legal challenges for denying an application, if for example the applicant believes OSFM exhibited favoritism towards other applicants. |
| Rationale | The rationale for why this language is reasonably necessary to address the problem is that limitation of liability clauses such as this are valid in California as long as they are not unconscionable.   *Food Safety Net Services v. Eco Safe Systems USA, Inc*, 209 Cal.App.4th 1118, 1126 (2012). This limitation of liability clause is not unconscionable because it narrowly indemnifies OSFM for actions that occur outside of its control. Limitation of liability clauses are valid in California as long as they are not unconscionable. *Food Safety Net Services v. Eco Safe Systems USA, Inc*, 209 Cal.App.4th 1118, 1126 (2012). This clause is not
unconscionable because it is not an improper use of unequal bargaining power or contrary to public policy. *Id.*

| FR 2, Page 3, starts in same paragraph of previous section. Fourth sentence in paragraph, ending on page 4. | Applicant agrees to hold OSFM from time to time harmless, and to defend and indemnify them, with respect to any claim, liability, demand, action or judgment arising from the use or operation by any person of the product or service to which the application relates, actual or asserted whether related to the matters set forth in the first sentence of this paragraph or otherwise, whether for personal injury, wrongful death, property damage, or any type of injury or damage whatsoever, whether or not of the same kind of nature as any of the foregoing OSFM's rights pursuant to the foregoing sentence, and applicant's obligations there under, shall apply whether or not it is claimed that OSFM was concurrently negligent with others, solely negligent, actively or passively negligent, and whether or not the legal theory of the claimant(s) is on one of the foregoing grounds or some other California law shall apply to the interpretation hereof.

**Purpose**
The purpose of this limitation of liability clause is to prevent OSFM from being sued for wrongful death, personal injury, or other types of damages.

**Problem**
The problem is that OSFM could be face legal challenges for wrongful death, personal injury, or other types of damages because by approving flame retardant chemicals and materials, applicants or users of the flame retardant chemicals and materials may believe that OSFM is providing a type of surety for their safety or performance. If a lawsuit were brought against an applicant, it could be alleged that OSFM was negligent in approving the application. Due to the potential health and safety implications of negligently approving a flame retardant chemical or fabric, it is important that negligence liability is limited.

**Rationale**
The rationale for why this language is reasonably necessary to address the problem is that it will prevent frequent litigation involving the approval of flame retardant chemical or fabric applications, which could deplete OSFM funds and prevent OSFM from carrying out its duties. The Department is permitted to disclaim negligence liability using broad language such as this. *Delta Air Lines, Inc. v. Douglas Aircraft Co.*, 238 Cal. App. 2d 95, 101 (1956).

| FR 2, Page 3, starts in same paragraph of previous section. Fifth and other final | If any part of portion of this paragraph, or any application thereof to particular facts, should be determined invalid, the provisions hereof shall be severable so as to achieve for OSFM the maximum legal application. If this application is for a renewal or revision of an existing approval for a registration or OSFM Report, the provisions of this paragraph shall apply from the date of the first approval or OSFM Report regardless of:
<table>
<thead>
<tr>
<th>FR 2, Page 3, bottom of page until end of document on page 4.</th>
<th>Permitted uses pertains to advertising and other public materials, compliance with conditions of approval, and confirmation of rights and agreements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>The purpose of this language is to bind applicants to any conditions attached to an approval or renewal of an application, including limitations on advertisements using the OSFM approval of a product.</td>
</tr>
<tr>
<td>Problem</td>
<td>The problem is that without this restriction applicants’ references to OSFM approval could potentially be misleading to users as a surety of their safety or an endorsement by OSFM of the product. This could increase OSFM's vulnerability to legal challenges if a user of a flame retardant chemical or fabric pursues legal action against the applicant or challenges the OSFM approval of the product.</td>
</tr>
<tr>
<td>FR 3</td>
<td>FR 3 START</td>
</tr>
<tr>
<td>------</td>
<td>------------</td>
</tr>
<tr>
<td>FR 3, Page 1, form header.</td>
<td>This form requires CAL FIRE Letterhead, including identifying information for the Agency, Department, Program name, application identification as FR-3, and date created.</td>
</tr>
</tbody>
</table>

### Purpose

Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the application and registration of chemical applicators. This includes, providing applicants with program information and licensing information.

### Problem

In order to meet clarity standards, information must be presented in a credible and reliable format. Unclear or out of date program or licensing information can result in delayed contact between program applicants and the OSFM.

This section of the FR-3 form provides applicants with key information and establishes the notation of this form as the Application for General Applicator, FR-3.

### Rationale

All applicants are required to contact the OSFM and submit the correct program application in order to apply for licensure. This information gives applicants the ability to confirm that they are applying for the correct program and provides a foundation for more general resources related to fire prevention.

| FR 3, Page 1, top section. | Page 1 also includes the applicant's name, address, contact information. This provision provides basic information for the OSFM to keep records for the program and accurately identify licensees. |

### Purpose

Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes contact with applicants and licensees.
| Problem | In order to meet clarity standards, information must be collected in a consistent and user-friendly format. Unclear or out of date contact information can result in delayed contact between program applicants and the OSFM.  

This section of the FR-3 form provides applicants with a clear format to provide the OSFM with basic identity and contact information. |
| --- | --- |
| Rationale | All applicants are required to provide the OSFM with basic identity and contact information in order to apply for licensure. This information allows the OSFM to maintain consistent documentation and to efficiently contact applicants or licensees when necessary.  

This self-reported contact and identity information is documented in the file, in case of future questions in the event of failure in performance to protect life and property. |
| FR 3, Page 1, middle section description. | After the identifying information, applicants are provided with two choices for the purpose of the application.  

**Purpose**  
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.  

**Problem**  
The various types of businesses and products in this program provide the same basic public safety function in areas of public assembly, and tents. However, each type of business and product has different technical needs. This program application illustrates the two basic license or service options available to the FR-3 license type applications. As some services are dependent on an existing license, the Registration Number for the main license is also required to apply for those choices.  

**Rationale**  
Completing this section furnishes the OSFM with the applicant’s choices of license and service. This section also provides the OSFM with the Registration Number for dependent services. This technical information is required for the OSFM to evaluate the application or request for services. |
| FR 3, Page 1, first option in the middle section. | Using this program application, applicants can obtain a General Applicator license.  

**Purpose** |
| HSC 13120-13127, 13137 CCR 1280, 1270, 1281 | Pursuant to Health and Safety Code Section 13120 and CCR 1280 a completed application is required to perform for a fee the act of applying a flame-retardant chemical to any fabric or material. The completed application furnishes the OSFM with company information, applicators information, photographs, and certification from the owner that the information provided to the OSFM is true and accurate.  

The fee associated with fabric registration is consistent with the actual costs per licensee to administer the program. Pursuant to CCR 1270 any concern marketing a flame-retardant fabric or material desiring to have such material registered by the OSFM shall accompany the application with a registration fee.  

The OSFM asks for photograph documentation of equipment and facilities used for performing work in accordance with CCR 1281.  

Problem  
Any person or firm wishing to engage in the business of or perform for a fee the act of applying a flame-retardant chemical must apply with the OSFM for registration to do so. The OSFM must verify that the person or firm has adequate equipment and training to perform such acts for public safety. Inadequate equipment could result in failure of the correct application process resulting in reduced flame resistance.  

According to HSC 13127, the OSFM has the authority to collect a registration fee accompanied with the application in the amount necessary to cover the costs incurred by the OSFM in order to carry out program requirements. The program must carry out HSC sections 13120 and 13126 which results in costs incurred by the OSFM.  

Rationale  
In order for the OSFM to continue to operate the FR Program, collection of fees is necessary. Statute requires that the program recuperates actual costs incurred from carrying out Health and Safety code sections 13120-13126. Pursuant to Health and Safety Code 13137 the program is not authorized to collect fees exceeding the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program.  

By requiring application and registration the OSFM is able to verify that applicators are operating with the appropriate equipment and proper facilities for their scope.  

| FR 3, Page 1, second option in the middle section. | The Revision option is used to update non-technical information on a previously approved application. There is no fee for this service. This applies to previously approved General Applicator licensees. |
### Purpose
Pursuant to Health and Safety Code 13120 and CCR 1335, a registration number is assigned by the OSFM to designate the application concern registered. The Revision option is used to update non-technical information or request minor revisions on a previously approved application that has been issued a registration number.

### Problem
This would generally be used if a company changed ownership or moved to a different location.

The OSFM not only utilizes the registration number for identification, but also proof that the applicant concern has been approved for rendered services by the OSFM. Local Authority Having Jurisdiction (AHJ) also utilize the registration number as a means of verifying that the applicant concern has been approved by the OSFM.

### Rationale
Applicants are required to include a description of requested revisions, and the completed application. In the case of a change in ownership or location, in accordance with CCR 1177.1, the new owner must provide the OSFM with notarized document on company letterhead signed by the new and existing owners. This ensures that the OSFM has current and correct information for company ownership and contact information.

Pursuant to CCR 1335, there shall be a registration number assigned by the OSFM to designate the applicant concern. This registration number is unique to the applicant concern it is designated to. In order to make revisions, applicants must have an existing registration number.

### Applicants
Applicants are required to attest that they have reviewed and understood the information presented by this application, and that the information that the applicant has provided is true and accurate. In addition, the signatory must be authorized to sign on behalf of the applicant.

### Purpose
Applicants are required to attest that they have reviewed and understood the information presented by this application, and that the information that the applicant has provided is true and accurate.

### Problem
The signatory must be authorized to sign on behalf of the applicant.

### Rationale
Applicant signature verifies that the applicant understands their responsibility for submitting information that is true and correct to the best of their ability.

### This section of the program application informs applicants of submission instructions and provides the various contact addresses for application
**Purpose**
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.

**Problem**
The applicant must be instructed on how to submit the application who are desiring to obtain a license or other services from the OSFM. The application may be rejected if not all necessary information is furnished or if the application is not sent to the correct address.

**Rationale**
This section gives clear concise options on how to submit the application, timelines, and explicitly states if the application is not complete it will be rejected.

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**FR 3, bottom of each page. HSC 13137**

Each page of the application includes an accounting number for the OSFM’s use. The number is the same for each application within the Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.

**Purpose**
Each page of the application includes an accounting number for the OSFM’s use. The number is the same for each application within the Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.

**Problem**
Proper deposit of funds is required, as the charging of fees to a particular group regulated under a program are not permitted to cover costs of regulation under a different group for the same program.

**Rationale**
The number identifies the fees included in this application are assigned to the Flame Retardant Program. Pursuant to Health and Safety Code Section 13137 fees exceeding the actual cost of administration of the programs administered by the OSFM, nor the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program are not authorized.

---

**FR 3, Page 2, middle**

This section of the program application informs applicants of submission instructions and provides the various contact addresses for application...
| Section | Submittal. This includes include mailing addresses for regular mail, package mail, email, and the program’s website. This provides applicants with a variety of options to contact the OSFM.  

**Purpose**
Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.  

**Problem**
The applicant must be instructed on how to submit the application who are desiring to have a obtain a license or other services from the OSFM. The application may be rejected if not all necessary information is furnished or if the application is not sent to the correct address.  

**Rationale**
This section gives clear concise options on how to submit the application, timelines, and explicitly states if the application is not complete it will be rejected.|
| FR 3, Page 2, lower section. CCR 1281 | Each individual on this list must meet basic eligibility requirements and pass the examination. The business concern may add or remove individuals from this list if additions also meet requirements and pass the examination.  

**Purpose**
This section is a way for the business concern to notify the OSFM of individuals that meet basic eligibility requirements.  

**Problem**
The OSFM needs to determine if the individuals listed are qualified.  

**Rationale**
Each individual on this list must meet basic eligibility requirements and pass the examination. The business concern may add or remove individuals from this list if additions also meet requirements in accordance with CCR 1281. Signature from the applicator acknowledges they desire to be registered as an applicator under the applicant concern.|
| FR 3, Page 2, first question lower section. CCR 1214 | A description of the application method: Applicants use this section to describe the type of application method that they use. Standard methods include spray, brush, and immersion. In addition, CCR 1214 allows for a specialized plant process. When using the plant process, the registration is specific to that process. Both standard processes and the plant process must be performed per manufacturer’s instructions, and using practices and precautions outlined in CCR 1300. |
| Purpose | Applicants utilize this section to describe the type of application method used in accordance with the equipment submitted for review. This helps the OSFM determine the applicator's scope of practice.  
Standard methods include spray, brush, and immersion. This may also include the requirement of multiple coatings or curing dependent upon the method. In addition, CCR 1214 allows for specialized processes.  
Problem | Applicants must specify the details of application methods so the OSFM can determine if the applicator is compliant with standard practice using the reported equipment and training.  
Rationale | This description helps the OSFM visually confirm that the application method reported is consistent with the photographs of equipment and facilities which are provided with the application. |
| --- | --- |
| FR 3, Page 3, second question top section, lower section continued. CCR 1281 | Applicants provide the number of years of direct work experience and may include details about their work experience. This information is documented in the file, in case of future questions regarding work experience.  
Purpose | Applicants provide the number of years of direct work experience and may include details regarding their work experience pursuant to CCR 1281 which determines qualifications necessary for registration.  
Problem | This information is documented in the file, in case of future questions regarding work experience.  
In the event of failure or improper application the OSFM can identify if the applicator had experience in the application method used.  
Rationale | The OSFM uses this section as means to determine if the applicant is qualified to perform such acts. |
| FR 3, Page 3, third question top section. CCR 1281 | Photograph requirements: Photographs of the equipment and facilities provide evidence of possession of necessary equipment and machinery to conduct application procedures. These photographs are included in the file, in case of future questions regarding the equipment or facilities.  
Purpose | Photographs of the equipment and facilities provide evidence of possession of necessary equipment and machinery to conduct application procedures. |
These photographs are included in the file, in case of future questions regarding the equipment or facilities.

The OSFM uses this as means to determine if the applicant is qualified in accordance with CCR 1281.

Reproduced exactly from the regulation. Violating could incur penalties.

The purpose of this section is to bring to the attention of the applicant the employer responsibility regulation, CCR 1353.

Employers are responsible for the acts of its employees or agents applying to flame-retardant treatment of any fabric or material, and the concern’s registration certificate is subject to revocation due to violation of standards established by the OSFM.

Reinstating the regulation informs the applicant of their responsibility and the consequences of acts of violation from employees or agents.

The OSFM has the authority according to CCR 1353 to revoke registration for employees/agents. The employer is responsible for the acts of its employees.

This form requires CAL FIRE Letterhead, including identifying information for the Agency, Department, Program name, application identification as FR-3, and date created.

Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with program information and licensing information.

In order to meet clarity standards, information must be presented in a credible and reliable format. Unclear or out of date program or licensing information can result in delayed contact between program applicants and the OSFM.

This section of the FR-4 form provides applicants with key information and establishes the notation of this form as the Application for Limited Applicator, FR-4.
<table>
<thead>
<tr>
<th>Rationale</th>
<th>All applicants are required to contact the OSFM and submit the correct program application in order to apply for licensure. This information gives applicants the ability to confirm that they are applying for the correct program and provides a foundation for more general resources related to fire prevention.</th>
</tr>
</thead>
<tbody>
<tr>
<td>FR 4, Page 1, top section.</td>
<td>Page 1 also includes the applicant's name, address, contact information. This provision provides basic information for the OSFM to keep records for the program and accurately identify licensees.</td>
</tr>
<tr>
<td>Purpose</td>
<td>Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes contact with applicants and licensees.</td>
</tr>
<tr>
<td>Problem</td>
<td>In order to meet clarity standards, information must be collected in a consistent and user-friendly format. Unclear or out of date contact information can result in delayed contact between program applicants and the OSFM.</td>
</tr>
<tr>
<td></td>
<td>This section of the FR-4 form provides applicants with a clear format to provide the OSFM with basic identity and contact information.</td>
</tr>
<tr>
<td>Rationale</td>
<td>All applicants are required to provide the OSFM with basic identity and contact information in order to apply for licensure. This information allows the OSFM to maintain consistent documentation and to efficiently contact applicants or licensees when necessary.</td>
</tr>
<tr>
<td></td>
<td>This self-reported contact and identity information is documented in the file, in case of future questions in the event of failure in performance to protect life and property.</td>
</tr>
<tr>
<td>FR 4, Page 1, middle section description.</td>
<td>After the identifying information, applicants are provided with two choices for the purpose of the application. Options include Limited or Revision. The option chosen will also determine the license details and fees.</td>
</tr>
<tr>
<td>Purpose</td>
<td>Pursuant to Health and Safety Code Section 13120 and 13121 the OSFM has statutory authority to establish minimum standard requirements to regulate the manufacture, sale, and application of fabrics or materials. This includes, providing applicants with the current licensing and options offered by the program.</td>
</tr>
<tr>
<td>Problem</td>
<td></td>
</tr>
</tbody>
</table>
The various types of businesses and products in this program provide the same basic public safety function in areas of public assembly, and tents. However, each type of business and product has different technical needs. This program application illustrates the two basic license or service options available to the FR-4 license type applications. As some services are dependent on an existing license, the Registration Number for the main license is also required to apply for those choices.

Rationale
Completing this section furnishes the OSFM with the applicant’s choices of license and service. This section also provides the OSFM with the Registration Number for dependent services. This technical information is required for the OSFM to evaluate the application or request for services.

Using this program application, applicants can obtain a Limited Applicator license.

Purpose
Pursuant to Health and Safety Code Section 13120 and CCR 1280 a completed application is required to perform for a fee the act of applying a flame-retardant chemical to any fabric or material. The completed application furnishes the OSFM with company information, applicators information, photographs, and certification from the owner that the information provided to the OSFM is true and accurate.

The fee associated with fabric registration is consistent with the actual costs per licensee to administer the program. Pursuant to CCR 1270 any concern marketing a flame-retardant fabric or material desiring to have such material registered by the OSFM shall accompany the application with a registration fee.

The OSFM asks for photograph documentation of equipment and facilities used for performing work in accordance with CCR 1281.

Problem
Any person or firm wishing to engage in the business of or perform for a fee the act of applying a flame-retardant chemical must apply with the OSFM for registration to do so. The OSFM must verify that the person or firm has adequate equipment and training to perform such acts for public safety. Inadequate equipment could result in failure of the correct application process resulting in reduced flame resistance.

According to HSC 13127, the OSFM has the authority to collect a registration fee accompanied with the application in the amount necessary to cover the costs incurred by the OSFM in order to carry out program requirements. The program must carry out HSC sections 13120 and 13126 which results in costs incurred by the OSFM.
<table>
<thead>
<tr>
<th>Rationale</th>
<th>In order for the OSFM to continue to operate the FR Program, collection of fees is necessary. Statute requires that the program recuperates actual costs incurred from carrying out Health and Safety code sections 13120-13126. Pursuant to Health and Safety Code 13137 the program is not authorized to collect fees exceeding the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program. By requiring application and registration the OSFM is able to verify that applicators are operating with the appropriate equipment and proper facilities for their scope.</th>
</tr>
</thead>
<tbody>
<tr>
<td>FR 4, Page 1, second option middle section. HSC 13120 CCR 1335, 1177.1</td>
<td>The Revision option is used to update non-technical information or request minor revisions on a previously approved application that has been issued a registration number. Purpose Pursuant to Health and Safety Code 13120 and CCR 1335, a registration number is assigned by the OSFM to designate the application concern registered. Problem This would generally be used if a company changed ownership or moved to a different location. The OSFM not only utilizes the registration number for identification, but also proof that the applicant concern has been approved for rendered services by the OSFM. Local Authority Having Jurisdiction (AHJ) also utilize the registration number as a means of verifying that the applicant concern has been approved by the OSFM. Rationale Applicants are required to include a description of requested revisions, and the completed application. In the case of a change in ownership or location, in accordance with CCR 1177.1, the new owner must provide the OSFM with notarized document on company letterhead signed by the new and existing owners. This ensures that the OSFM has current and correct information for company ownership and contact information. Pursuant to CCR 1335, there shall be a registration number assigned by the OSFM to designate the applicant concern. This registration number is unique to the applicant concern it is designated to. In order to make revisions, applicants must have an existing registration number.</td>
</tr>
<tr>
<td>FR 4, Page 1, lower section</td>
<td>Applicants are required to attest that they have reviewed and understood the information presented by this application, and that the information</td>
</tr>
<tr>
<td>FR 4, Page 1, lower section continued at the top of Page 2. CCR 1281</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td></td>
</tr>
</tbody>
</table>
| Submission instructions clarify for applicants that the application must be complete or the application may be rejected. Each element of the application is necessary to be compliant with regulatory and statutory requirements, therefore, an incomplete application would not allow the OSFM to determine of the applicant fully meets the basic requirements for licensure. Applications are evaluated in order in which they are received, as applications are received year-round and there is no specified order or priority. 4 to 6 weeks is the standard amount of time of the program to receive the application, process payment, review the contents, and confirm if the applicant meets requirements.  

**Purpose**  
To inform the applicant of submission instructions.  

**Problem**  
The applicant must be instructed on how to submit the application who are desiring to be registered with the OSFM as a flame-retardant applicator. The application may be rejected if not all necessary information is furnished.  

**Passage of a written exam in addition to practical demonstration of applicator ability may be required to confirm competency.**  

**Rationale**  
This section gives clear concise options on how to submit the application and explicitly states if the application is not complete it will be rejected.  

Pursuant to CCR 1281 passage of a written examination prepared by the OSFM is required to determine qualification and registration. This may include a practical demonstration of the applicant’s ability to properly perform acts for which the application has been made.  

**Each page of the application includes an accounting number for the OSFM’s use. The number is the same for each application within the**
<table>
<thead>
<tr>
<th>HSC 13137</th>
<th>Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>Each page of the application includes an accounting number for the OSFM's use. The number is the same for each application within the Flame Retardant Program. The number identifies the fees included in this application are assigned to the Flame Retardant Program.</td>
</tr>
<tr>
<td>Problem</td>
<td>Proper deposit of funds is required, as the charging of fees to a particular group regulated under a program are not permitted to cover costs of regulation under a different group for the same program.</td>
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<tr>
<td>Rationale</td>
<td>The number identifies the fees included in this application are assigned to the Flame Retardant Program. Pursuant to Health and Safety Code Section 13137 fees exceeding the actual cost of administration of the programs administered by the OSFM, nor the charging of fees to a particular group being regulated under a program, for the costs of regulation under another program or for the costs of a different group under the same program are not authorized.</td>
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</table>

<table>
<thead>
<tr>
<th>FR 4, Page 2, lower section. CCR 1281</th>
<th>Each individual on this list must meet basic eligibility requirements and pass the examination. The business concern may add or remove individuals from this list if additions also meet requirements and pass the examination.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>This section is a way for the business concern to notify the OSFM of individuals that meet basic eligibility requirements.</td>
</tr>
<tr>
<td>Problem</td>
<td>The OSFM needs to determine if the individuals listed are qualified.</td>
</tr>
<tr>
<td>Rationale</td>
<td>Each individual on this list must meet basic eligibility requirements and pass the examination. The business concern may add or remove individuals from this list if additions also meet requirements in accordance with CCR 1281. Signature from the applicator acknowledges they desire to be registered as an applicator under the applicant concern.</td>
</tr>
</tbody>
</table>

| FR 4, Page 2, first question lower section. CCR 1214 | Examples of treatment types are spray treatments, submersion treatments, and some types of treatment would require multiple coats or curing. Applicants must specify the details of application methods so that the OSFM can determine if the applicator is compliant with standard practice using the reported equipment and training. This description helps the OSFM visually confirm that the application method reported here is consistent with the photographs of equipment and facilities which are provided with the application. |
| FR 4, Page 2, second question lower section continued on top of Page 3. CCR 1281 | Applicants provide the number of years of direct work experience and may include details about their work experience. This information is documented in the file, in case of future questions regarding work experience.  
Purpose Applicants provide the number of years of direct work experience and may include details regarding their work experience pursuant to CCR 1281 which determines qualifications necessary for registration.  
Problem This information is documented in the file, in case of future questions regarding work experience.  
Rationale In the event of failure or improper application the OSFM can identify if the applicator had experience in the application method used. | Purpose Applicants utilize this section to describe the type of application method used in accordance with the equipment submitted for review. Standard methods include spray, brush, and immersion. This may also include the requirement of multiple coatings or curing dependent upon the method. In addition, CCR 1214 allows for specialized processes.  
Problem Applicants must specify the details of application methods so the OSFM can determine if the applicator is compliant with standard practice using the reported equipment and training.  
Rationale This description helps the OSFM visually confirm that the application method reported is consistent with the photographs of equipment and facilities which are provided with the application. | Purpose Photographs of the equipment and facilities provide evidence of possession of necessary equipment and machinery to conduct application procedures, such as, chemically treating trees. These photographs are included in the file, in case of future questions regarding the equipment or facilities. The OSFM determined that the limited license should be available for its limited function pertaining to seasonal stakeholders.  
Rationale The OSFM uses this section as means to determine if the applicant is qualified to perform such acts. |
| CCR 1281 | FR 4, Page 3, third question middle section. CCR 1281 | Photographs of the equipment and facilities provide evidence of possession of necessary equipment and machinery to conduct application procedures, such as, chemically treating trees. These photographs are included in the file, in case of future questions regarding the equipment or facilities. The OSFM determined that the limited license should be available for its limited function pertaining to seasonal stakeholders.  
Purpose Photographs of the equipment and facilities provide evidence of possession of necessary equipment and machinery to conduct application procedures, such as, chemically treating trees. These photographs are included in the file, in case of future questions regarding the equipment or facilities. The OSFM determined that the limited license should be available for its limited function pertaining to seasonal stakeholders.  
Rationale The OSFM uses this section as means to determine if the applicant is qualified to perform such acts. |
application procedures, such as, chemically treating trees.

**Problem**
These photographs are included in the file, in case of future questions regarding the equipment or facilities.

**Rationale**
The OSFM uses this as means to determine if the applicant is qualified in accordance with CCR 1281. The OSFM also determined that the limited license should be available for its limited function pertaining to seasonal stakeholders.

<table>
<thead>
<tr>
<th>FR 4, Page 3, lower section. CCR 1353</th>
<th>Reproduced exactly from the regulation. Violating could incur penalties.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Purpose</strong></td>
<td>The purpose of this section is to bring to the attention of the applicant the employer responsibility regulation, CCR 1353.</td>
</tr>
<tr>
<td><strong>Problem</strong></td>
<td>Employers are responsible for the acts of its employees or agents applying to flame-retardant treatment of any fabric or material, and the concern’s registration certificate is subject to revocation due to violation of standards established by the OSFM.</td>
</tr>
<tr>
<td><strong>Rationale</strong></td>
<td>Reinstating the regulation informs the applicant of their responsibility and the consequences of acts of violation from employees or agents.</td>
</tr>
<tr>
<td></td>
<td>The OSFM has the authority according to CCR 1353 to revoke registration for employees/agents. The employer is responsible for the acts of its employees.</td>
</tr>
</tbody>
</table>

**Section 1179.2 Application Submittal.**

**Subsection (a)** Adds new section and proposes to add information on how to apply for and submit for a concern license or registration and the types of payments available.  
**Necessity:** Addition to this section is necessary to provide applicants with the location to obtain forms from the Office of the State Fire Marshal and provide the payment options.

**Subsection (b)(1)** Proposes to add a new address where to submit the application, fee with or without sample via regular mail.  
**Necessity:** Addition to this section is necessary to ensure that applications go to the right location via regular mail.

**Subsection (b)(2)** Proposes to add a new subsection for the shipping address.  
**Necessity:** Addition to this section is necessary to provide the shipping address for the applicants to ship packages to the right location.

**Subsection (c)** Proposes to add a new subsection regarding how to file an electronic
application.

Necessity: Addition to this subsection is necessary to provide the applicants an option to file the application online.

Subsection 1179.3 Registration Renewal Period and Registration Fee.

Adds new section 1179.3 and proposes to duplicate Health and Safety Code Section 13127 (c)(1) through 13128. Duplication is necessary to enable persons affected or subject to the regulations to access the statutory annual timelines and penalty phase for the registration renewal periods in a location with which they are familiar without having to look up the Statute. Duplication of statute is repeated for clarity as referenced in Section 1179.3 of the regulations.

Necessity: Duplication of statutory language from Health and Safety Code Section 13127(c)(1) through 13128 in regulations is necessary in order to meet the clarity statement of Government Code Section 11349.1(a)(3).

§13127 HSC, subsection (c)(1)(d). Proposes to repeat from statute Health and Safety Code Section 13127 (c)(1) through 13128 in regulations to provide the annual renewal period, and penalty when renewal fees for chemical and fabric registration and “general applicators” are not paid on or before May 1 as specified in the Health and Safety Code Section 13127.

Necessity: Duplication is necessary to enable persons affected or subject to the regulations to access the statutory annual timelines and penalty phase for the registration renewal periods in a location with which they are familiar without having to look up the Statute. Duplication of statute is repeated for clarity.

§13127 HSC, subsection (c)(2)(e). Proposes to repeat from statute Health and Safety Code Section 13127 (c)(1) through 13128 in regulations to provide the annual renewal period and the penalty when the renewal fee for the “limited applicator” is not paid on or before October 31 as specified in the Health and Safety Code Section 13127.

Necessity: Duplication is necessary to enable persons affected or subject to the regulations to access the statutory annual timelines and penalty phase for the registration renewal periods in a location with which they are familiar without having to look up the Statute. Duplication of statute is repeated for clarity.

§13127 HSC, subsection (d)(f). Proposes to repeat Health and Safety Code Section 13127(d) in regulations so applications are accompanied by the registration fee established by the State fire Marshal. Duplication is necessary so applicants know to include the registration fee with the application. Duplication of statutory language from Health and Safety Code Section 13127(c)(1) through 13128 is necessary in order to meet the clarity statement of Government Code Section 11349.1(a)(3).

§13128, HSC, Period for registration fees.

Addition of Health and Safety Code Section 13128 is repeated in regulations to reference the annual and renewal registration periods for general and limited applicators to provide clarity.

Necessity: Duplication of statutory language from Health and Safety Code Section 13127(c)(1) through 13128 in regulations is necessary in order to meet the clarity statement
§13128, HSC, subsection (a).
Proposes to repeat Health and Safety Code Section 13128(a) in regulations referencing the annual and renewal registration fee period for “chemical and fabric concerns and general applicators” for the fiscal year period from July 1 to June 30 to provide clarity.

Necessity: Addition of Health and Safety Code Section 13128 (a) is repeated in regulations. Duplication of statutory language from Health and Safety Code Section 13127(c)(1) through 13128 is necessary in order to meet the clarity statement of Government Code Section 11349.1(a)(3).

§13128, HSC, subsection (b)(g) Proposes to repeat Health and Safety Code Section 13128(b) in regulations referencing the annual and renewal registration fee periods for “limited applicators” for the fiscal year period from November 1 to October 31 to provide clarity.

Necessity: Addition of Health and Safety Code Section 13128 (b) is repeated in regulations. Duplication of statutory language from Health and Safety Code Section 13128(c)(1) through 13128 is necessary in order to meet the clarity statement of Government Code Section 11349.1(a)(3).

Authority and Reference NOTE: Adds to this subsection the authority and reference sections to the NOTE.

Necessity: Addition identifies the Authority and Reference cited from the repeated statute for clarity.