

INITIAL STATEMENT OF REASONS (ISOR)

**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.

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.

Finally, Government Code Section 11546.7 requires state agency's or state entity's Chief Information Officer Internet Web sites to follow specified accessibility standards, so applicants can clearly identify the contents. This section is generally identified as "AB 434" requirements, referencing the original legislation: Assembly Bill 434 (Baker, Chapter 780, Statutes of 2017).

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. Problem 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. 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. Finally, the forms used by this program are now required to be incorporated by reference into the regulations and are subject to the AB 434 requirements.

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.

In addition, the proposed regulations would allow the OSFM to recover costs from dishonored and returned checks. Finally, the program's forms would be fully compliant with both the Administrative Procedure Act and AB 434 requirements.

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

forms have been in use but not incorporated into regulations or updated with AB 434 compliant measures.

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. 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. In addition, until the program's forms are updated with ADA requirements and incorporated into the regulations, the forms are not fully compliant with the Administrative Procedure Act or AB 434 requirements.

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 for a Flame-Retardant Fabric or Material.
Current Fee: \$200. Proposed Updated Fee: \$575. Increase: \$375.
- New fee, "Add Fabric" to an existing registration for a Flame-Retardant Fabric.
Proposed New Fee: \$250.
- Original or Annual Renewal of a Flame-Retardant Application Concern (General Applicator). Current Fee: \$175. Proposed Updated Fee: \$450. Increase: \$275
- Original or Annual Renewal of a Flame-Retardant Application Concern (Limited Applicator). Current Fee: \$85. Proposed Updated Fee: \$230. Increase: \$145
- Under Laboratory Fees, a "General Applicator Flame Retardant Certificate."
Current Fee: \$9. Proposed Updated Fee \$20. Increase \$11.
- Service Fee for a returned or dishonored check.
Proposed New Fee \$30.

The proposed regulations would also make associated revisions to all Applications for Registration for General and Limited Concern Licenses which are incorporated by reference into these documents.

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. 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 proposed regulation will incur some effect on the regulated community, but those impacts will be absorbed by industry and businesses engaged with industry. The OSFM can find no facts, documents, testimony, or evidence this

action will have a significant adverse economic impact on any business enterprises or individuals.

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 regulations. 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. This item 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)

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 application forms are used to record the information required for applying for a Fabric or Chemical Registration, and both types of Applicator License:

- (1) Application for Decorative Materials Registration - Fabric FR-1 (REV. 5/2021)
- (2) Application for Decorative Materials Registration - Chemical FR-2 (REV.5/2021)
- (3) Application for General Applicator FR-3 (REV. 5/2021)
- (4) Application for Limited Applicator FR-4 (REV. 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 regulatory action, 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.

The 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 the existing application forms incorporated by reference.

Subsection (a) proposes to adopt (4) four existing 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 (REV. 5/2021)
Application for Decorative Materials Registration - Chemical FR-2 (REV. 5/2021)
Application for General Applicator FR-3 (REV. 5/2021)
Application for Limited Applicator FR-4 (REV. 5/2021)

Necessity: Since the 1980s these existing applications are known and have been used by the industry affected by these regulations, however, this is the first time the form will be adopted by reference in Title 19, CCR and are necessary when applying for a flame retardant registration or general and limited concern license. It necessary to codify and incorporate by reference the existing application forms; and make minor editorial and formatting revisions. The forms revision dates changed on application forms (FR-1, FR-2, FR-3 and FR-4) from “8-2020” to “REV. 5/2021”. It was necessary to update the application formatting to meet the compliancy requirements under section 508 of the federal Rehabilitation Act and the California State Assembly Bill (AB), AB 434 (Baker, Chapter 780, Statutes of 2017), which requires state agency’s or state entity’s Chief Information Officer Internet Web sites to follow the specified accessibility standards, so applicants can clearly identify the contents. Additionally, the revised fee amounts are shown in these documents, so the new fee structure is clearly communicated to the regulated community.

Subsection (a)(1) Application for Decorative Materials Registration-Fabric Form FR-1 (REV. 5/2021). The Flame Retardant Program incorporates by reference an existing application for FR fabric registrations number and titled: “Application for Decorative Materials Registration-Fabric Form FR-1 (REV. 5/2021)”.

Necessity: The existing FR “Application for Decorative Materials Registration-Fabric” is known and has been used by the industry since the 1980s, however, this is the first time the form will be adopted by reference in Title 19, CCR. Persons affected by this action will get an opportunity to comment on all the language and provisions on the application. Further, it was necessary to update the application formatting to meet the requirement of AB 434 (Baker, Chapter 780, Statutes of 2017), which requires state agency’s or state entity’s Chief Information Officer Internet Web sites to follow the specified accessibility standards, Section 508 of the Rehabilitation Act. Additionally, minor editorial revisions were made to the existing application so applicants can clearly identify the contents as follows:

- a. Added on page 1, under the header, Agency, and Department information “STATE OF CALIFORNIA, NATURAL RESOURCES AGENCY”.
- b. Added on page 1, under the header, the form number and revision date “FR-1 REV. 5/2021”.
- c. Revised on page 1, added “APPLICATION FOR DECORATIVE MATERIALS REGISTRATION – FABRIC”.
- d. Moved the page numbers from bottom footer to top right of header. The new header information eliminates the footer information (Form name and revision date) on the original application.
- e. Revised font for the entire document to Arial 12.
- f. Revised and changed CSFM to OSFM in the entire document.
- g. Revised on page 1, replaced the word “Telephone” with “Phone Number”.
- h. Added to page 1, under Fabric Application the revised fee from \$200 to \$575.00 to reflect the new fee.
- i. Revised on page 1, under Fabric Application deleted “an approved” and added “approved” before laboratory.
- j. Added to page 1, under Add Fabric revised fee from \$50.00 to \$250.00 to reflect the new fee.
- k. Revised on page 1, under Add Fabric deleted “an approved” and added “approved” before laboratory.
- l. Added to page 1, under Add Fabric added “3 ½” x 10” before the word “fabric”.
- m. Added to page 1, under Secondary Registration revised fee from \$200 to \$575.00 to reflect the new fee.
- n. Revised footer on all pages adding “FOR ACCOUNTING USE ONLY – 0102-4129400-4129400011-35405906-59425”.
- o. Revised on page 2, under Certification deleted “California” and added “Office of the”.
- p. Revised on page 3, under Submission, deleted “CSFM Fire Engineering Division” and, replaced with “CAL FIRE-OSFM”. Revised on page 3, under Submission, deleted “CSFM Fire Engineering Division, Flame Retardant Program, 2251 Harvard Street Suite 400, Sacramento, CA. 95815, Phone: (916) 568-2943” and replaced with “For regular mail (application, fee, and sample) send to: CAL FIRE - Office of the State Fire Marshal,

Cashiers Unit – Flame Retardant Program, P.O. Box 997446, Sacramento, CA, 95899-7446 and For shipping address, FED EX, UPS, etc., send to: ATTN: Cashier’s Unit – Flame Retardant Program, CAL FIRE - Office of the State Fire Marshal, 710 Riverpoint Court, West Sacramento, CA 95605”.

- q. Revised on page 3, deleted “State Fire Marshal Seal of Registration”.
- r. Revised on page 3, added “Please send questions to: fr@fire.ca.gov”.
- s. Revised on page 3, last paragraph deleted “California” and added “Office of the”.
- t. Revised on page 3, deleted the old link, and replaced with a new link.

Subsection (a)(2) Application for Decorative Materials Registration-Chemical Form FR-2 (REV. 5/2021). Incorporated by reference an existing application for FR chemical registration for the FR Program titled: “Application for Decorative Materials Registration-Chemical Form FR-2 (Rev. 5/2021)”.

Necessity: The existing FR “Application for Chemical Registration” is known and has been used by the industry for over 30 years, however, this is the first time the form will be adopted by reference in Title 19, CCR. Persons affected by this action will get an opportunity to comment on all the language and provisions on the application. Further, it was necessary to update the application formatting to meet the requirement of California State Assembly Bill, AB 434 (Baker, Chapter 780, Statutes of 2017), which requires state agency’s or state entity’s Chief Information Officer Internet Web sites to follow the specified accessibility standards, Section 508 of the federal Rehabilitation Act. Additionally, minor editorial revisions were made to the existing application so applicants can clearly identify the contents as follows:

- a. Added on page 1, under the header, Agency, and Department information “STATE OF CALIFORNIA, NATURAL RESOURCES AGENCY”.
- b. Added on page 1, under the header, the form number and revision date “FR-2 REV. 5/2021”
- c. Revised on page 1, added “APPLICATION FOR DECORATIVE MATERIALS REGISTRATION – CHEMICAL”.
- d. Moved the page numbers from bottom footer to top right of header. The new header information eliminates the footer information (Form name, page number, and revision date) on the original application.
- e. Revised font for the entire document to Arial 12.
- f. Revised and changed CSFM to OSFM in the entire document.
- g. Revised on page 1, replaced the word “Telephone” with “Phone Number”.
- h. Added to page 1, under Chemical Application revised fee from \$200 to \$575.00to reflect the new fee.
- i. Revised on page 1, under Chemical Application deleted “an approved” and add “approved” after CSFM.
- j. Revised on page 1, under Chemical Application deleted “Material Safety Data Sheet’ and add “Safety Data Sheet”.
- k. Revised on page 1, under Secondary Registration revised fee from \$200.00 to \$575.00 to reflect the new fee.
- l. Revised footer on all pages adding “FOR ACCOUNTING USE ONLY – 0102-41294000111-35405906-59425”.
- m. Revised on page 2, under Submission, deleted “CSFM Fire Engineering Division” and replaced with “CAL FIRE-OSFM”.

- n. Revised on page 2, under Submission, deleted “CSFM Fire Engineering Division, Flame Retardant Program, 2251 Harvard Street Suite 400, Sacramento, CA. 95815, Phone: (916) 568-2943” and replaced with “For regular mail (application, fee, and sample) send to: CAL FIRE - Office of the State Fire Marshal, Cashiers Unit – Flame Retardant Program, P.O. Box 997446, Sacramento, CA, 95899-7446 and For shipping address, FED EX, UPS, etc., send to: ATTN: Cashier’s Unit – Flame Retardant Program, CAL FIRE - Office of the State Fire Marshal, 710 Riverpoint Court, West Sacramento, CA 95605”.
- o. Revised on page 2, under certification deleted “California” and added with “Office of the”.
- p. Revised on page 3, deleted “State Fire Marshal Seal of Registration”.
- q. Revised on page 3, added “Please send questions to: fr@fire.ca.gov”.
- r. Revised on page 3, deleted the old link, and replaced with a new link.
- s. Revised on page 3, on the first paragraph deleted “California” and added “Office of the”.

Subsection (a)(3) Application for General Applicator Form FR-3 (REV. 5/2021).

Incorporated by reference an existing application for FR General Applicator for the FR Program titled: “Application for General Applicator Form FR-3 (Rev. 5/2021)”.

Necessity: The existing FR “Application for General Applicator” is known and has been used by the industry for over 30 years, however, this is the first time the form will be adopted by reference in Title 19, CCR. Persons affected by this action will get an opportunity to comment on all the language and provisions on the application. Further, it was necessary to update the application formatting to meet the requirement of AB 434, which requires state agency’s or state entity’s Chief Information Officer Internet Web sites to follow the specified accessibility standards, Section 508 of the Rehabilitation Act. Additionally, minor editorial revisions were made to the existing application so applicants can clearly identify the contents as follows:

- a. Added on page 1, under the header, Agency, and Department information “STATE OF CALIFORNIA, NATURAL RESOURCES AGENCY”.
- b. Added on page 1, under the header, the form number and revision date “FR-3 REV. 5/2021”
- c. Revised on page 1, added “APPLICATION FOR GENERAL APPLICATOR”.
- d. Moved the page numbers from bottom footer to top right of header. The new header information eliminates the footer information (Form name, page number, and revision date) on the original application.
- e. Revised font for the entire document to Arial 12.
- f. Revised entire document to replace CSFM to OSFM.
- g. Revised on page 1, replaced the word “Telephone” with “Phone Number”.
- h. Added to page 1, under Section II General, revised fee from \$175.00 to \$450.00 to reflect the new fee.
- i. Revised on page 1, under Section II General, deleted “CSFM Fire Engineering & Investigations Division and replaced with CAL FIRE – OSFM.
- j. Revised on page 1, under Certification, deleted “California” and added “Office of the”.
- k. Revised footer on all pages adding “FOR ACCOUNTING USE ONLY – 0102-4129400-129400011-35405906-59425.
- l. Revised on page 2, under Submission, deleted “CSFM Fire Engineering & Investigations Division, Flame Retardant Program, 2251 Harvard Street Suite 400, Sacramento, CA. 95815, and replaced with “For regular mail (application and fee) send to: CAL FIRE - Office

of the State Fire Marshal, Cashiers Unit – Flame Retardant Program, P.O. Box 997446, Sacramento, CA, 95899-7446 and for shipping address, FED EX, UPS, etc., send to: ATTN: Cashier's Unit – Flame Retardant Program, CAL FIRE - Office of the State Fire Marshal, 710 Riverpoint Court, West Sacramento, CA 95605".

- m. Revised on page 2, deleted "State Fire Marshal Seal of Registration".
- n. Revised on page 2, added "Please send questions to: fr@fire.ca.gov".
- o. Revised on page 2, deleted the old link, and replaced with a new link.
- p. Revised on page 2, deleted "MUST COMPLETE BOTH SIDES OF THE APPLICATION INCOMPLETE APPLICATIONS WILL BE REJECTED".
- q. Revise on page 2, deleted the "FOR ACCOUNTING USE ONLY numbers".

Subsection (a)(4) Application for Limited Applicator Form FR-4 (REV. 5/2021).

Incorporated by reference an existing application for FR Limited Applicator for the FR Program titled: "Application for Limited Applicator Form FR-4 (Rev. 5/2021)".

Necessity: The existing FR "Application for Limited Applicator" is known and has been used by the industry for over 30 years, however, this is the first time the form will be adopted by reference in Title 19, CCR. Persons affected by this action will get an opportunity to comment on all the language and provisions in the application. Further, it was necessary to update the application formatting to meet the requirement of California State Assembly Bill, AB 434 (Baker, Chapter 780, Statutes of 2017), which requires state agency's or state entity's Chief Information Officer Internet Web sites to follow the specified accessibility standards, Section 508 of the federal Rehabilitation Act. Additionally, minor editorial revisions were made to the existing application so applicants can clearly identify the contents as follows:

- a. Added on page 1, under the header, Agency, and Department information "STATE OF CALIFORNIA, NATURAL RESOURCES AGENCY".
- b. Added on page 1, under the header, the form number and revision date "FR-4 REV. 5/2021"
- c. Revised on page 1, added "APPLICATION FOR LIMITED APPLICATOR".
- d. Moved the page numbers from bottom footer to top right of header. The new header information eliminates the footer information (Form name, page number, and revision date) on the original application.
- e. Revised font for the entire document to Arial 12.
- f. Revised entire document to replace CSFM to OSFM.
- g. Revised on page 1, replaced the word "Telephone" with "Phone Number".
- h. Added to page 1, under Section II Limited revised fee from \$85.00 to \$230.00 to reflect the new fee.
- i. Revised on page 1, under Section II Limited deleted "CSFM Fire Engineering & Investigations Division and replaced with CAL FIRE – OSFM.
- j. Revised page 1, under Certification, deleted "California" and added "Office of the".
- k. Revised footer on all pages adding "FOR ACCOUNTING USE ONLY – 0102-4129400-129400011-35405906-59425.
- l. Revised on page 2, under Submission, deleted "CSFM Fire Engineering & Investigations Division, Flame Retardant Program, 2251 Harvard Street Suite 400, Sacramento, CA. 95815, and replaced with "For regular mail (application and fee) send to: CAL FIRE - Office

of the State Fire Marshal, Cashiers Unit – Flame Retardant Program, P.O. Box 997446, Sacramento, CA, 95899-7446 and for shipping address, FED EX, UPS, etc., send to: ATTN: Cashier’s Unit – Flame Retardant Program, CAL FIRE - Office of the State Fire Marshal, 710 Riverpoint Court, West Sacramento, CA 95605”.

- m. Revised on page 2, deleted the old link, and replaced with a new link.
- n. Revised on page 2, deleted “State Fire Marshal Seal of Registration”.
- o. Revised on page 2, added “Please send questions to: fr@fire.ca.gov”.
- p. Revised on page 2, deleted “MUST COMPLETE BOTH SIDES OF THE APPLICATION INCOMPLETE APPLICATIONS WILL BE REJECTED”.
- q. Revise on page 2, deleted the “FOR ACCOUNTING USE ONLY numbers”.

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 where 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 of Government Code Section 11349.1(a)(3).

§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.