

**INITIAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE STATE FIRE MARSHAL
REGARDING THE 2022 CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1**

(SFM 03/21)

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS

Government Code Section 11346.2(b)(1) requires a statement of specific purpose of each adoption, amendment, or repeal and the problem the agency intends to address and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.

**CHAPTER 3
ADMINISTRATIVE REGULATIONS
FOR THE OFFICE OF THE STATE FIRE MARSHAL (SFM)**

**ARTICLE 3-1
GENERAL PROVISIONS**

Item 1-1

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-1, Section 3-101 Purpose**

EXISTING LAW

Pursuant to Health and Safety Code Sections (HSC) § 13108, the State Fire Marshal shall enforce regulations and standards and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

The State Fire Marshal is required as per passed in Senate Bill 85. Public resources: omnibus trailer bill. (2019-2020) to provide clarifying language regarding Specified State Occupied Occupancies. The regulations adopted by the State Fire Marshal will meet the intent of Health and Safety Code Sections 13108 and 13146.

BACKGROUND INFORMATION

With the passage of Senate Bill 85. Public resources: omnibus trailer bill. (2019-2020), the Office of the State Fire Marshal is required to provide clarifying language regarding Specified State Occupied Occupancies.

This regulatory proposal benefits California and stakeholders by clarifying and updating the safety requirements for Specified State Occupied Occupancies.

The Office of the State Fire Marshal is required to clarify and define Specified State Occupied Occupancies as per Senate Bill 85. Public resources: omnibus trailer bill. (2019-2020).

3-101. Purpose.

Reason: The proposed new Article 3-1 is providing the scope, general requirements for identifying specified state-occupied occupancies. Because this is a new article the regulations provide the groundwork for the regulated community to understand the requirements necessary for compliance. Without this section the regulated community may not recognize what specified state-occupied occupancies entail.

CAC Recommendation:

Approve

Agency Response:

Accept

Item 1-2

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-1, Section 3-102 Scope**

Reason: The purpose of the proposed regulation is to provide information on the scope and purpose of specified state-occupied occupancies. It is necessary to define and better assist those entities affected so they are aware of the plan details.

CAC Recommendation:

Approve

Agency Response:

Accept

Item 1-3

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-1, Section 3-103 Authority for Enforcement of Regulations**

Reason: The purpose of the proposed regulation is to provide who has the authority for enforcement of regulations in Specified State Occupied Occupancies. It is necessary to define and provided to better assist those entities affected so they are aware who has authority to enforce regulations.

CAC Recommendation:

Approve

Agency Response:

Accept

Item 1-4

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-1, Section 3-104 Application of Building Standards**

Reason: The purpose of the proposed regulation is to provide information regarding applicability of building standards with specified state-occupied occupancies. It is necessary to define and provided to better assist those entities affected so they are aware applicability in building standards.

CAC Recommendation:

Approve

Agency Response:

Accept.

This section is referring to the fact that this regulation should not limit the ability to use innovative design and construction methodologies.

Item 1-5

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-1, Section 3-105 Approval of construction, reconstruction, rehabilitation,
alteration of or addition to any state-owned, specified state-occupied, and state
institutions.**

Reason: The purpose of the proposed regulation is to provide information regarding approval for the applicability of building standards with Specified State Occupied Occupancies. It is necessary to define and provided to better assist those entities affected so they are aware applicability of approval process for construction projects following building standards.

CAC Recommendation:

Approve

Agency Response:

Accept.

The last sentence was deleted that seemed to go beyond the authority and reference statutory sections cited.

**ARTICLE 3-2
DEFINITIONS**

Item 1-6

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-2, Special Inspector.**

Reason: Is proposed to add the definition of an important term used throughout the proposed regulations and include clarifying verbiage to define “Inspector”. It is necessary to include this definition to carry out the proposed regulations because the term “Inspector”, to identify a person approved by the SFM to perform construction inspections.

CAC Recommendation:

Approve

Agency Response:

Accept.

The word “Special” was added before the word “Inspector”. This definition is specific to the special inspection and testing requirements in the California Building Code Chapter 17A for SPECIAL INSPECTIONS AND TESTS. The owner shall employ one or more approved agencies to provide special inspections and tests during construction approved by the authority having jurisdiction (AHJ).

Item 1-7

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-2, Plans**

Reason: Is proposed to add the definition of an important term used throughout the proposed regulations and include clarifying verbiage to define “Plans”. It is necessary to include this definition to carry out the proposed regulations because the term “Plans”, to identify a building drawing of a project.

CAC Recommendation:

Approve

Agency Response:

Accept

Item 1-8

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-2, Specifications**

Reason: Is proposed to add the definition of an important term used throughout the proposed regulations and include clarifying verbiage to define “Specifications”. It is necessary to include this definition to carry out the proposed regulations because the term “Specifications”, to identify written documents to outline job conditions.

CAC Recommendation:

Approve

Agency Response:

Accept

Item 1-9

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-2, Specified state-occupied buildings**

Reason: Is proposed to add the definition of an important term used throughout the proposed regulations and include clarifying verbiage to define “Specified State-Occupied Buildings”. It is necessary to include this definition to carry out the proposed regulations because the term “Specified State Occupied Buildings”, to identify buildings that are considered to fall in the perimeter of specified state occupied buildings.

CAC Recommendation:

Further Study

Agency Response:

Accept.

The SFM Fire and Life Safety Division held a workgroup to further improve on the purpose and intent of the proposed definition of Specified state occupied buildings.

Item 4 and Item 5 were discussed with the Department of Finance (DOF).

Item 4 addresses ISOR buildings that are leased by the state in the entirety (4 stories or less).

Item 5 addresses all other buildings. The State Fire Marshal should retain oversight for buildings that: 1) met a state occupancy threshold (potentially 75 percent or greater) and 2) had certain size and design specifications, the most important of which is an assembly (auditorium) occupancy greater than 5,000 square feet. The primary concern with these buildings being the egress requirements needed for assemblies of this size and the potential risk to life.

Item 6 was modified to address the State Fire Marshal’s authority for spaces within a building that are leased by the state and have an occupancy use of a Group H or Group L.

Item 7 simplifies that the SFM will have the authority over state leased buildings with facilities housing state records or state artifacts or any combination of both.

Item 9 was added to align with the use of the term in the Health and Safety Code that California State institutions may include buildings and facilities that care for people with special needs. This can include but not limited to prisons, detention facilities, hospitals, and health facilities.

Item 1-10

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-2, State Institution**

CAC Recommendation:

Approve

Agency Response:

Withdrawn. The definition of State Institution is used in many ways in the Health and Safety Code. The reference was added to the proposed definition of Specified state-occupied buildings item 9. Therefore, the stand-alone definition is not needed.

Item 1-11

**Chapter 3, Administrative Regulations For The Office of the State Fire Marshal,
Article 3-2, State-owned building**

Reason: Is proposed to add the definition of an important term used throughout the proposed regulations and include clarifying verbiage to define “State Owned Building”. It is necessary to include this definition to carry out the proposed regulations because the term “State Owned Building”, to identify buildings that are owned or deeded to the state.

CAC Recommendation:

Approve

Agency Response:

Accept

To clarify, add the word or phrase: “real property”; can be defined as all structures, land, firmly attached and integrated equipment, or use of airspace or an easement across another’s property. The intent for this section is to not only include Department of General Services (DGS) properties, but to also address properties such as Caltrans, Department of Water Resources (DWR) land, State Parks, District Agricultural Fairs, etc.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS

Government Code Section 11346.2(b)(3) requires an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the regulation(s).

The SFM did not rely on any technical, theoretical, and empirical study, report, or similar documents outside of those contained in this rulemaking.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS

Government Code Section 11346.2(b)(1) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.

The SFM believes that the amendments to the code and additional building standards proposed are offered in both a prescriptive and performance base.

This code is founded on principles intended to establish provisions consistent with the scope of a building and fire code that adequately protects public health, safety and welfare; provisions that do not unnecessarily increase construction costs; provisions that do not restrict the use of new materials, products or methods of construction; and provisions that do not give preferential treatment to types or classes of materials, products or methods of construction.

CONSIDERATION OF REASONABLE ALTERNATIVES

Government Code Section 11346.2(b)(4)(A) requires a description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific action or procedures, the imposition of performance standards shall be considered as an alternate. It is not the intent of this paragraph to require the agency to artificially construct alternatives or describe unreasonable alternatives.

The SFM has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. Therefore, there are no alternatives available to the SFM regarding the proposed adoption of this code.

REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

Government Code Section 11346.2(b)(4)(B) requires a description of any reasonable alternatives that have been identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business.

The SFM has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation. Therefore, there are no alternatives available to the SFM regarding the proposed adoption of this code.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS

Government Code Section 11346.2(b)(5)(A) requires the facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

The SFM has determined that this proposed action will not have a significant adverse economic impact on business.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Government Code Sections 11346.3(b)(1) and 11346.5(a)(10)

The SFM has assessed whether or not and to what extent this proposal will affect the following:

- A.** The creation or elimination of jobs within the State of California.
These regulations will not affect the creation, or cause elimination, of jobs within the State of California.
- B.** The creation of new businesses or the elimination of existing businesses within the State of California.
These regulations will not affect the creation or the elimination of existing business within the State of California.
- C.** The expansion of businesses currently doing business within the State of California.
These regulations will not affect the expansion of business currently doing business within the State of California.
- D.** The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.
These regulations will clarify building standards for state specified occupied buildings, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE, ESTIMATED POTENTIAL BENEFITS, AND RELATED ASSUMPTIONS USED FOR BUILDING STANDARDS

Government Code Section 11346.2(b)(5)(B)(i) states if a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.

The SFM does not anticipate any significant cost of compliance with the proposed building standards.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Government Code Section 11346.2(b)(6) requires a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal to describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from these federal regulations upon a finding of one or more of the following justifications: (A) The differing state regulations are authorized by law and/or (B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

The SFM has determined that this proposed rulemaking action does not unnecessary duplicate or conflict with federal regulations contained in the Code of Federal Regulations that address the same issues as this proposed rulemaking.