

**INITIAL STATEMENT OF REASONS  
FOR PROPOSED BUILDING STANDARDS  
OF THE OFFICE OF THE STATE FIRE MARSHAL  
REGARDING THE 2022 CALIFORNIA PLUMBING CODE  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5  
(SFM 06-22)**

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.

**ITEM 1**

**Chapter 1 SCOPE AND ADMINISTRATION, Division I, California Administration,  
Section 1.11.1 SFM-Office of the State Fire Marshal**

The SFM is proposing to amend the definition of Specified State-Occupied.

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.

**Problem being addressed:** 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.

**Anticipated benefits from this regulatory action:** This regulatory proposal benefits California and stakeholders by clarifying and updating the safety requirements for Specified State Occupied Occupancies.

**Factual Basis/Rationale:** 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).

**Health and Safety Code 13146 (a) (5)** The State Fire Marshal shall enforce the building standards and other regulations of the State Fire Marshal on all University of California campuses and properties administered or occupied by the University of California and on all California State University campuses and properties administered or occupied by the California State University. For each university campus or property, the State Fire Marshal may delegate that responsibility to the person of the State Fire Marshal's choice who shall be known as the Designated Campus Fire Marshal.

The University of California (UC) currently has a memorandum of understanding (MOU) with the State Fire Marshal. The authority of the State Fire Marshal has been delegated to the Designated Campus Fire Marshal's through the MOU. SFM is amending this section to align with similar amendments made during the 2021 Triennial Code Adoption Cycle to the 2022 California Building, Residential, Fire, and Existing Building Codes (Parts 2, 2.5, 9, and 10 of Title 24) for consistency across Title 24 with no intended change in regulatory effect.

**CAC Recommendation:**

Approve

**Agency Response:**

Accept

**ITEM 2**

**Chapter 12 FUEL GAS PIPING, Section 1201.0**

The SFM proposed amendment is not a new requirement. NFPA 31 referenced in Section 1201.1 contains requirements that pertain only to oil burning equipment used for heating systems.

The proposed SFM amendment identifies that the installation of fuel oil piping systems connected to combustion engines and gas turbines is also a concern. The SFM proposed amendment requires fuel oil piping systems connected to combustion engines and gas turbines are to be installed in accordance with NFPA 37. The SFM proposed amendment coordinates existing provisions of California Building Code Section 442.1 and NFPA 110-2019 adopted by California Building Code Section 2702.1.3 and California Fire Code Section 1203.1.3 that require the installation of internal combustion engines and gas turbines including piping systems comply with NFPA 37.

Incomplete information and references to inapplicable or incorrect information are a source of confusion for designers, owners and code officials. Completing such information and correcting such references assists with the interpretation and understanding of provisions of the code.

**CAC Recommendation:**

Approve as amended. The committee suggested that the State Fire Marshal look into adopting the latest edition of NFPA 37.

**Agency Response:**

Disagree. The SFM considered adoption of the latest edition of NFPA 37 and found that the adoption of the 2021 edition will cause conflicts with the other Parts of Title 24 where NFPA 37 is referenced.

### **ITEM 3**

#### **Chapter 17 REFERENCE STANDARDS, Section 1701.1**

##### **ITEM 3-1**

##### **NFPA 37-2018**

Adopt the 2018 edition of NFPA 37

The SFM proposed amendment is not a new requirement. The proposed SFM amendment adds a reference to NFPA 37-2018 as the applicable standard for the installation of fuel oil piping systems connected to combustion engines and gas turbines. The SFM proposed amendment coordinates with an SFM amended provision in Section 1201.1 that references NFPA 37 and with existing provisions of California Building Code Chapter 35, California Fire Code Chapter 80, California Building Code Section 442.1 and NFPA 110 adopted by California Building Code Section 2702.1.3 and California Fire Code Section 1203.1.3 that require the installation of internal combustion engines and gas turbines including piping systems comply with NFPA 37.

Incomplete information and references are a source of confusion for designers, owners, and code officials. Completing such information and correcting such references assists with the interpretation and understanding of provisions of the code.

##### **CAC Recommendation:**

Approve as amended. The committee suggested that the State Fire Marshal look into adopting the latest edition of NFPA 37.

##### **Agency Response:**

Disagree. The SFM considered adoption of the latest edition of NFPA 37 and found that the adoption of the 2021 edition will cause conflicts with the other Parts of Title 24 where NFPA 37 is referenced.

##### **ITEM 3-2**

##### **NFPA 409-2022**

Adopt the 2022 edition of NFPA 409

NFPA 409 is the standard that dictates fire protection in aircraft hangars. And with California (and MANY other states) banning PFAS, PFOS, it's been a huge challenge to find a suitable replacement.

The 2022 edition of NFPA 409 came out with a new provision that can be a huge help for Group II hangars. It allows sprinklers only with NO foam. It would be a huge help if this was adopted sooner than the next triennial to avoid having to file Alternative Means and Methods (AM&M) and "re-invent the wheel" since the new Standard now gives another option.

The 2022 edition of NFPA 409 was issued by the Standards Council on 2 October 2021 with an effective date of 22 October 2021. A particularly significant change in the 2022 edition was recognition by the Technical Committee supporting the removal of foam fire suppression systems in Group II hangars due to a multitude of issues including lack of historical data supporting the fuel spill hazard that foam suppression systems were intended to protect. Verbiage approved in NFPA 409 Section 9.1.5 (copied below) permits the use of closed-head automatic fire sprinkler systems for Group II hangars where hazardous operations are not performed:

For the protection of aircraft storage and servicing areas of Group II aircraft hangars where hazardous operations, including but not limited to fuel transfer, welding, torch cutting, torch soldering, doping, hot work (e.g., welding, cutting, brazing, grinding), spray painting, oxygen service, composite repairs, fuel system or fuel tank maintenance, aircraft cabling, wiring changes, or initial electrical system testing, are not performed, a closed-head automatic sprinkler system in accordance with [Section 9.2](#) (nfpa.org/publications/409/2022/chapters/9#ID004090000370) shall be permitted.

The committee's statement regarding this change was,

"...The requirements for foam in a Group II hangar have not kept pace with the current risk of fire in modern hangar operations and aircraft. The low risk of fuel spill fires in non-hazardous operations hangars warrants modified protection requirements..."

One of the major reasons for the change was based on this research.

University of Maryland report

Phase 1 – 2019 Review of Foam Fire Suppression System Discharges in Aircraft Hangars

[Review of Foam Fire Suppression System Discharges in Aircraft](#)

([nata.aero/assets/Site\\_18/files/NFPA%20409/UMD%20Report%202011-12.pdf](http://nata.aero/assets/Site_18/files/NFPA%20409/UMD%20Report%202011-12.pdf))

Phase 2 – 2021 UMD Report Focuses on Foam Fire Suppression System Discharges in Aircraft Hangars

[UMD Report Focuses on Foam Fire Suppression System Discharges in Aircraft Hangars](#)

([nata.aero/pressrelease/umd-report-focuses-on-foam-fire-suppression-system-discharges-in-aircraft-hangars](http://nata.aero/pressrelease/umd-report-focuses-on-foam-fire-suppression-system-discharges-in-aircraft-hangars))

**CAC Recommendation:**

Approve as amended. The committee did not make a recommendation for an amendment.

**Agency Response:**

Disagree. The SFM is proposing to adopt the latest edition of NFPA 409 which is the 2022 edition. There was no other amendment suggested, therefore the SFM has made no change to the original proposal.

**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 in proposing amendments for the California Building Standards Codes.

## **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. The nature and format of the code adopted by reference allow for both methods, the following is a general overview of the code proposed to be adopted by reference as well as state modifications: This comprehensive code establishes minimum regulations for fire prevention and fire protection systems using prescriptive and performance-related provisions. It is founded on broad-based principles that make possible the use of new materials and new system designs.

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 adoption by reference with SFM amendments. 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 small business than the proposed adoption by reference with SFM amendments. 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. The SFM affirms that this rulemaking action complies specifically with the mandates of HSC Sections 13143, 18928, 18949.2(b), 18949(c) and the mandates of the statutory authority of the SFM. Numerous public workshops were held during the per-rulemaking phase of the intervening code cycle and no comments have been made that the proposed changes would have significant statewide adverse economic impact on businesses.

Therefore, the SFM has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.2(b)(5)(A). The public is welcome to submit any information, facts, or documents either supporting SFM's initial determination or finding to the contrary.

## **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 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 of new, or cause elimination, of existing businesses 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 update and improve minimum existing building standards, 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 increase in 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.