

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE STATE FIRE MARSHAL
REGARDING THE 2022 CALIFORNIA RESIDENTIAL CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2.5
(SFM 03/22)**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a Final Statement of Reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS:

Government Code Section 11346.9(a)(1) requires an update of the information contained in the Initial Statement of Reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the Initial Statement of Reasons, the state agency shall comply with Government Code Section 11347.1.

The State fire Marshal (SFM) has not added any data (including technical, theoretical, or empirical studies, reports, or similar documents relied upon) that would necessitate an update of the information contained in the Initial Statement of Reasons.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Pursuant to Government Code Section 11346.9(a)(2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s).

The State Fire Marshal has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. The proposed regulations are minimum standards for the prevention of fire and for the protection of life and property against fire.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S).

Government Code Section 11346.9(a)(3) requires a summary of EACH objection or recommendation regarding the specific adoption, amendment, or repeal proposed, and an explanation of how the proposed action was changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action, or reasons for making no change. Irrelevant or repetitive comments may be aggregated and summarized as a group.

The text with proposed changes was made available to the public for a 45-day comment period from April 7, 2023, until May 22, 2023. Three comments were received during the comment period.

Item 3-1

Chapter 3 Building Planning, Section R337.5.1 General

The State Fire Marshal proposal is to amend roofing provisions for Fire Hazard Severity Zones.

Commenter(s) and Recommendation:

Aaron R. Phillips, Asphalt Roofing Manufacturers Association (ARMA), Action recommended - Approve as Amended.

It is recommended to remove the words “fire retardant” from the final sentence of Section R337.5.1. Although these are the words used in Health and Safety Code Section 13132.7, use within the California Residential Code is not advisable because usages of “fire retardant” throughout the California Residential Code always relate to wood products.

Agency Response:

The State Fire Marshal will consider this recommendation in the next triennial adoption. The subject will be vetted through the long standing SFM Wildland Urban Interface (WUI) workgroup in pre-rulemaking activities.

Item 3-1

Chapter 3 Building Planning, Section R337.5.1 General

The State Fire Marshal proposal is to amend roofing provisions for Fire Hazard Severity Zones.

Commenter(s) and Recommendation:

Aaron R. Phillips, Asphalt Roofing Manufacturers Association (ARMA), Action recommended - Approve as Amended.

The final phrase of the last sentence in Section R337.5.1 states, “...that is at least Class A rating fire classification.” ARMA recommends rewording this phrase to state, “... that meets a Class A fire classification.” Doing so will improve clarity and align the language in R337.5.1 with that proposed for CBC Section 705A.2.2 in SFM 02/22, Item 7-2.

Agency Response:

The State Fire Marshal will consider this recommendation in the next triennial adoption. The subject will be vetted through the long standing SFM WUI workgroup in pre-rulemaking activities.

Items 9-1 and 9-2

Chapter 3 Building Planning, Section(s) R328.5, Table R328.5

The State Fire Marshal proposal provides the clear intent of the maximum threshold of kWh of Energy Storage Systems for each location on a property.

Commenter(s) and Recommendation:

Joshua Costello, County of Los Angeles Fire Department, Action recommended is Disapproval.

The proposed allowances for Energy Storage Systems (ESS) in Group R-3/R-4 occupancies are a conflict with the intent and consistency for these same ESS units when located in occupancies other than Group R-3/R-4. There is insufficient substantiation provided for a “need” to increase the maximum allowable aggregate kWh-ratings of ESS for Group R-3/R-4 occupancies, let alone to the amount of 600 kWh.

Agency Response:

The State Fire Marshal proposal is in alignment with California’s initiative to promote clean energy. A large percentage of the state’s electricity comes from renewable and zero-carbon sources. The increased demand for electricity warrants the need for larger Energy Storage Systems for use in residential occupancies.

The proposal was heard at the International Code Council hearings for the 2024 Code cycle. The proposal failed at the national level and received comments to adopt the provisions in California first. California has historically been a leader and trend setter for the promotion of clean energy.

The State Fire Marshal is aware of the inherent risks and associated hazards that come with Energy Storage Systems. The proposal only increases the allowable amounts as they are installed outside of the dwelling space and further away from the living areas of the residential structures.

The standards UL 9540 and UL9540A have been enhanced to provide for greater safety of the Energy Storage Systems installed for use in residential occupancies. The allowable amounts of kWh for residential installation when compared to commercial Energy Storage Systems remains drastically minimal.

The proposal is a state minimum. Local authorities having jurisdiction have the ability to amend and adopt more restrictive local amendments that are reasonably necessary because of local climatic, geological, or topographical conditions.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

Government Code Section 11346.9(a)(4) requires a determination with supporting information 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 adopted regulation or would be more cost-effective to

affected private persons and equally effective in implementing the statutory policy or other provisions of law.

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

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:

Government Code Section 11346.9(a)(5) requires an explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses, including the benefits of the proposed regulation per 11346.5(a)(3).

n/a