



**Summary of and Response to Public Comments,
Request for Clarification and Next Steps
February 11, 2009**

During a public comment period ending December 29, 2008, the National Association of State Fire Marshals (NASFM) accepted public comments on its draft Code Action Bulletin entitled, “Pallet Fire Loading Impact on Sprinkler Design.” Nine public comments were submitted by December 29, one was withdrawn at the request of its author and an additional two comments were received after the submission deadline. All have been accepted for consideration.

NASFM wishes to thank all those who shared data, insights and suggested wording. We found many areas of agreement and a general recognition that the public interest is best served when the fire safety rules are clear, fair, based on sound science and efficient for those who must comply with and enforce the requirements.

The purpose of this memorandum is to summarize what was learned, seek clarification of some items and list the steps we now intend to take. If we have mischaracterized any of the comments submitted, please know that we regard this process as an open dialogue committed to the best possible outcomes.

NASFM Summary of and Response to Public Comments

1. Certain changes were proposed to clarify and otherwise improve The Code Action Bulletin.

NASFM is considering the removal of all references to FM Approvals, because the Code Action Bulletin addresses code enforcement, and FM Approvals are related to insurance coverage. We invite comments about this approach from interested parties, including FM and UL. In addition, the FM standard applies only to “idle” pallet storage equivalency with wood, and in all known cases the pallets would be used for storing commodities in addition to being arranged in “idle” stacks. The UL standard is the only one that addresses both issues. The Bulletin will be clarified to indicate that the focal point is pallets in use to store commodities. Several comments spoke of the cost and inefficiencies of compliance with two differing sets of fire safety criteria. This subject is addressed again below.

Also in response to some comments, NASFM proposes to add language noting the specific editions of the Model Code covered in the Code Action Bulletin.

NASFM seeks clarification of the “grandfathering” provisions cited in several comments. Some public comments suggest that the owners and operators of existing buildings are free to ignore the impact on existing levels of fire protection. NASFM would appreciate the details supporting this claim.

2. As a matter of fairness and because of the varying fire performance of pallets, some comments have suggested that all pallets, regardless of material, be listed to UL 2335.

NASFM believes that this proposal has merit. As a matter of fairness, NASFM tends to support level playing fields. But NASFM also has found that “grandfathering” provisions may not be based on science, and do not always serve the public interest in fire safety. For example, in recent code cycles, the International Building Code exemption for metallic roofing shingles was removed when testing demonstrated that these materials failed the fire performance criteria for listing.

Code enforcement unquestionably would be more consistent and efficient with an extension of listing to all pallets. NFPA 13 currently requires code enforcement officials to detect even the smallest amount of plastic in what would seem to be a wooden pallet. Some wooden pallets use polymeric glues, which may contribute very little to fire loads. At the same time, code officials have no authority to restrict pallets made of soft, resinous woods known to have very poor fire performance. This inconsistency serves no one.

Several public comments have suggested additional research to determine an appropriate level of safety. This research would logically begin with fire performance data for all pallets in wide commercial use, regardless of materials used.

3. Several comments expressed confusion and frustration with two competing sets of fire safety criteria.

Some comments claim that the UL and FM criteria are interchangeable. To read them, they are not. UL tests both loaded and idle stacks of pallets, while FM does not. The NFPA 13-2007 handbook mentions UL 2335 as appropriate criteria and makes no mention of FM 4996. If the two sets of criteria are interchangeable, we would ask FM to provide examples of where it has accepted UL 2335 in lieu of its own criteria. It would be informative to have UL and FM express their views on whether the two sets of criteria are interchangeable or equivalent.

Nonetheless, the concept of a single set of criteria has merit. As it now stands, changes are being contemplated for both sets of criteria, and these changes may magnify the differences, complicating and adding cost to compliance and adding confusion to what already is an overly complex challenge. NASFM understands and is highly supportive of

the important but different missions of UL and FM, but believes that a discussion of integrated criteria would be healthy.

4. One public comment argued for exemptions for facilities with few pallets in use or storage.

This comment and others suggest the need for additional research into the relative fire performance of all pallets, regardless of material, in actual commercial use. But, again, this change is beyond NASFM's authority. Even supported with data, an exemption of this kind would require changes to the Model Codes.

5. Some areas of comment were outside of the scope of this initiative.

Several commenters asked NASFM to postpone enforcement of those sections of the fire safety codes pertaining to plastic pallets. NASFM itself does not enforce the codes, although its members typically oversee code enforcement in their respective states. NASFM also interacts with other organizations representing local code officials.

NASFM cannot and will not discourage the enforcement of any established safety code or law. The 2007 Edition of NFPA 13 is in force in many jurisdictions. In these places, the Code Action Bulletin is intended to focus code officials on the accurate and consistent application of the rules. NASFM has postponed distribution of the Bulletin because of concerns raised about the accuracy of the document. NASFM remains open to suggestions on how to ensure fair and effective use of the Bulletin once it is finalized.

Some comments correctly noted that not all jurisdictions have yet adopted the most recent editions of the Model Codes that contain some of the language covered in the Code Action Bulletin. These jurisdictions will enforce whatever editions have been adopted. However, the introduction of any stored item, stored material or storage arrangement that exceeds the designed capabilities of an existing fire suppression system is not permitted by any Model Code or by the referenced standards.

NASFM believes that the efficient and fair enforcement of the fire safety requirements is served when all jurisdictions adopt the most recent versions of the Model Codes since those Codes reflect the most current understanding of risks.

Some other comments raised competitive and other commercial concerns that are well beyond the scope of Code officials' interest and authority but that may be of interest to other government agencies. The public has always been served best when markets seek higher levels of safety. We see much evidence in these comments that the pallet industry is competing to offer much safer products. That is welcome.

Next Steps

STEP 1: NASFM will post this response to public comments on its website and reopen the public comment period until close of business Tuesday, March 10, 2009, to allow for additional information and clarification of points raised above.

STEP 2: In coming weeks, NASFM will brief its members and other major organizations of code enforcement officials on progress to date and projected dates and outcomes.

STEP 3: On Thursday, March 12, 2009, from 10 am – 3 pm, NASFM will host a meeting at Underwriters Laboratories headquarters in Building 5 (Fire Safety Engineering Building), Conference Room 1, at 333 Pfingsten Road, Northbrook, Illinois. At that time, NASFM will finalize the Code Action Bulletin and lead a discussion on dissemination of the Bulletin as well as some of the comments that suggested more effective and efficient approaches to the challenges of enforcing pallet fire safety requirements. UL will conduct side-by-side pallet fire tests to illustrate some points. All interested parties may attend. The agenda will include:

- Consensus on the content of the draft Code Action Bulletin.
- Consensus on the most effective paths forward to distribute the Bulletin; and to establish a coordinating committee to facilitate this process.
- Discussion of a framework of a research program to gather additional data on the fire performance of the full range of pallets in commercial use.
- Discussion of a path forward that simultaneously advances public safety with a minimum of commercial disruption, to include discussion of a new requirement that all pallets are listed and discussion of the pros and cons of a single set of fire performance criteria.

Those who are interested in attending the March 12 meeting must RSVP to cab@firemarshals.org by 5 pm Eastern Time on Tuesday, March 10. Please include the name, title, organization and email address of all who plan to attend from your organization.

STEP 4: Training session, progress report and further stakeholders' discussions at the NASFM Annual Conference, June 19-21, 2009, in Redmond, WA.

STEP 5: Subsequent regional sessions as defined by the coordinating committee established in Step 3 above.