

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<p>AMERICAN SOCIETY FOR TESTING AND MATERIALS d/b/a/ ASTM INTERNATIONAL;</p> <p>NATIONAL FIRE PROTECTION ASSOCIATION, INC.; and</p> <p>AMERICAN SOCIETY OF HEATING, REFRIGERATING, AND AIR CONDITIONING ENGINEERS,</p> <p style="text-align: right;">Plaintiffs/ Counter-Defendants,</p> <p>v.</p> <p>PUBLIC.RESOURCE.ORG, INC.,</p> <p style="text-align: right;">Defendant/ Counter-Plaintiff.</p>	<p style="text-align: center;">Case No. 1:13-cv-01215-TSC</p>
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DECLARATION OF KEVIN REINERTSON

I, Kevin Reinertson, declare as follows:

1. I am the Deputy Fire Marshal for Riverside County Fire, Office of the Fire Marshal. I previously served, from February, 2006 to May, 2015, as the Division Chief for the California Office of the State Fire Marshal (OSFM). The following facts are based upon my own personal knowledge, and if called upon to do so, I could and would testify competently hereto.

2. I have been personally involved in the standard setting processes of organizations, including the National Fire Protection Association (NFPA) and the International Code Council (ICC), and served as the OSFM representative on working groups and other projects in the development of building and fire safety codes and reports. I am familiar with the lengthy,

rigorous, and complicated processes that organizations like the NFPA follow to develop standards for various subject matters.

3. The OSFM supports the mission of the California Department of Forestry and Fire Protection by focusing on fire prevention. The OSFM provides support through a wide variety of fire safety responsibilities including: regulating buildings in which people live, congregate, or are confined; by controlling substances and products which may, in and of themselves, or by their misuse, cause injuries, death and destruction by fire; by providing statewide direction for fire prevention within wildland areas; by regulating hazardous liquid pipelines; by reviewing regulations and building standards; and by providing training and education in fire protection methods and responsibilities.

4. As part of this mission, the OSFM's Code Development and Analysis Division reviews all of California's regulations relating to fire and life safety for relevancy, necessity, conflict, duplication, and/or overlap. The division also prepares the OSFM's fire and life safety regulations and building standards for review and adoption by the California Building Standards Commission (CBSC).

5. In preparing regulations and standards for review and adoption by the CBSC, the Code Development and Analysis Division frequently looks to and incorporates into regulations the standards prepared by private codes and standards setting organizations.

6. The OSFM, along with other California state agencies, have incorporated by reference the following codes and standards developed by private standard setting organizations: the International Building Code, the International Fire Code, the International Residential Code, the National Electrical Code, the Uniform Mechanical Code, the Uniform Plumbing Code, and specific NFPA standards as referenced in the above codes (e.g., NFPA 13, NFPA 24 California

edition, NFPA 72, etc.). The OSFM follows a triennial code adoption cycle to keep the California Building Standards Codes current. Every three years, the OSFM develops an adoption package to incorporate by reference the most recent editions of the privately developed codes and standards along with amendments that pertain specifically to California law.

7. The California Electrical Code incorporates by reference the National Electrical Code, which is prepared by the NFPA. A freely accessible version of the California Electrical Code is available at: <http://www.nfpa.org/codes-and-standards/document-information-pages/free-access?mode=view>. That link is also provided on the California Building Standards Commission website.

8. Similarly, since 2008, the California Fire Code has incorporated by reference the International Fire Code, which is prepared by the ICC (prior to the International Fire Code, the California Fire Code was based on the adoption by reference of the Uniform Fire Code published jointly by the Western Fire Chiefs Associations and the International Association of Building Officials). A freely accessible version of the California Fire Code is available at:

http://www.ecodes.biz/ecodes_support/Free_Resources/2013California/13Fire/13Fire_main.html

9. During my work with the OSFM on the code adoption process, I was aware that NFPA and other private sector standards developers own the copyright on the standards they develop. It was not my view, and nor did I hear others at the OSFM express the view, that the OSFM's code adoptions interfered with the standards developers' copyright interest in any way.

10. I was also aware that NFPA makes the California Electrical Code available to the public both through a freely accessible version on the NFPA website and through making it available for sale in multiple formats.

11. The OSFM, and more generally the State of California, utilizes the expertise and resources of private sector standard developers such as the NFPA. The standards created by private standard setting organizations allow government agencies like the OSFM to draw on the expertise and resources of private sector standard developers to serve the public interest.

12. Incorporating standards by reference allows the OSFM and the State of California to develop comprehensive regulatory schemes covering several subject matter areas quickly and with limited costs. Moreover, standards created by standard setting organizations reflect the collective experience, knowledge, and judgment of not only government officials, but also industry representatives, practitioners, academics, and other experts. The diversity of viewpoints offered by private standard setting organizations is particularly useful with respect to quickly-evolving industries and technologies, such as those relevant to fire safety and protection.

13. If private standard setting organizations could not develop and create standards, the OSFM and similar government agencies would face significant costs if they were to replace the role of such organizations and create standards themselves. The expense of coordinating, updating, testing, educating government, industry, and the public, and the many other activities private standard setting organizations engage in to keep standards up to date and to comply with their own rigorous procedural requirements, would be very costly for the OSFM, which is currently not funded to handle such tasks.

14. Through the efforts of the codes and standards writing organizations, the OSFM was able to amend and adopt specific regulations in the California Fire Code made by ICC to implement fire safety provisions that reference a current Hydrogen Technologies Code (NFPA 2) produced by NFPA. The OSFM did not have the resources to accomplish the necessary research and testing to timely effectuate new codes and standards for such a complex subject matter such

as hydrogen fuel technologies. Without the development of these codes and standards, the OSFM would have had to expend significant resources to produce these items on its own. Moreover, it would have taken an unknown length of time to produce such codes and standards, thereby potentially hampering the introduction of new technology (hydrogen fuel cell vehicles). These requirements and standards are being utilized to build hydrogen fueling stations.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in Riverside, CA on November 17, 2015



KEVIN REINERTSON