

## **Title 19, Division 1, Chapter 1.5**

### **FINAL STATEMENT OF REASONS**

#### UPDATE OF INITIAL STATEMENT OF REASONS

The Office of the State Fire Marshal (SFM) has provided an update to the Initial Statement of Reasons and recommends approval of the proposed regulatory action.

The State Fire Marshal is proposing to adopt Sections 2400 to 2500.12, which establish the requirements for administering and managing the "California Fire Service Training and Education Program (CFSTEP)." The proposed regulations as originally noticed to the public includes; the enforcement of these regulations, incorporated references, course development requirements, accredited and approved classes, certification exams, registered instructors, accredited facilities, accountability for facilities and instructors, appeal processes and state fire training fees (California Fire and Arson Training (CFAT) Fund). The proposed regulations incorporates by reference the administrative procedures for the CFSTEP consisting of the following documents: "State Fire Training Procedures Manual (January 2008)", "Course Information and Required Materials Manual (January 2008)", and the "Curriculum Development Guidelines (January 2008)". These documents are formal publications reasonably available at the Office of the State Fire Marshal (OSFM) or may be accessed on the OSFM's web-site at <http://osfm.fire.ca.gov>.

In response to comments received from the public as well as comments from State Fire Training staff, the State Fire Marshal has updated the text of the proposed regulations. The changes are mostly editorial, where extraneous language was removed or re-worded, definitions improved and outline numbering updated. The most significant change is the inclusion of the course registration fees which were established in the adopted reference "State Fire Training Procedures Manual (January 2008)" and have been added to the initial text of the regulations.

#### Specific Purpose and Rationale for Proposed Regulatory Changes

California Fire Service Training and Education Program, has evolved over several decades into a set of formalized rules documented in the State Fire Training Procedures Manual. The California fire service was instrumental in the development and has operated under these rules as the program now exists. The State Fire Marshal is proposing to adopt these rules as mandated in the Administrative Procedures Act. Adopting these rules will provide the State Fire Marshal with the enforcement capabilities to maintain program integrity and credibility.

The legislative intent for establishing the California Fire Service Training and Education Program and the California Fire and Arson Training fund (CFAT), was to provide a self supporting training infrastructure for California's fire service community. In September 2006, The State Fire Marshal published the "State Fire Training Fee Report." The report summarizes that:

- There is an increased expectation for professional development in fire service.
- A large number of expected retirements in the fire service, will increase demand for a wide number and range of classes increasing and further strain the CFSTES system.
- The operational cost of business for State Fire Training has significantly increased since the last fee adjustment in 1995.
- The current level of funding does not meet current staffing levels.
- An internal audit ordered by the CAL FIRE Director identified the following:
  - Special fund revenues (user fees) do not meet program costs.
  - Lack of a Quality Assurance and Accountability program in the field is undermining credibility of system.
  - The curriculum development function is “key personnel dependant” and SFT lacks a plan to meet this program need in the event the individual retires or leaves.
  - 18,000 (+) students attending a CFSTES class in 2005 only generated the purchase of 7,045 student manuals resulting in loss of \$200,000 (+) to the training system.

State Fire Training accredits an average of 1,800 classes delivered to 36,200 fire service students (approximately half the fire service population annually) in 36 regional and local training academies and fire departments.

The problem with funding is compounded with the increasing number of fire service personnel demanding more training and related services from State Fire Training (SFT) at a time when professional staff in the field has decreased. Therefore, quality control (field audits) of accredited classes is not conducted causing an increase in complaints and violations of SFT procedures. SFT is mandated by statute to provide volunteer fire departments with training, but does not have field personnel to meet this mandate thus raising safety concerns. Training standards/curricula is outdated resulting in high customer dissatisfaction, and degradation of the quality of training.

There are approximately 60,000 fire service personnel in 900 fire departments across the state requiring training courses and certification from SFT. SFT is required to develop certification training standards and curriculum but has been unable to maintain currency in these documents resulting in curriculum that is outdated and falling below the national standards.

In the early 1980's there were seven personnel years (PY'S) assigned as instructors statewide, today there are two (2). This reduction or redirection of PY's occurred

because of the lack of sufficient revenue in SFT to support the positions. Demand for service is increasing and our ability to respond is significantly reduced with the current level of staffing.

In 2004 an audit and business process review was performed by the Program Accountability Unit of California Department of Forestry and Fire Protection (CDF). One recommendation for improvement is to incorporate curriculum development fees into the course tuition fee, and to ensure that the cost of doing business is reflected in the course tuition.

Additionally, the audit recommends that existing disjointed databases be integrated into one system, thus utilizing modern technology to increase the quality of service and reduce the overall costs.

In FY 06/07 SFT collected approximately 1.3 million dollars in revenue with expenditures of approximately \$1.2 million leaving the fund balance at \$1,058,000. For 07/08 approximate revenue is \$1.7 million with expenses at \$1.7 million the reserve fund balance will be reduced to \$978,000. SFT has been able to keep the expenditures (both salaries and operating) within the boundaries of the revenue in part because there have been temporary augmentations to the SFT staff with staff from other SFM funds, grants and because of staff vacancies. When these conditions cease to exist, SFT will have to absorb these costs.

Anticipated expenditures for FY 08/09 is expected to be \$2.4 million. Costs such as salaries and benefits, as well as operational expenses for printing, shipping, travel, and other general expenses have increased dramatically, but fees have not been increased in over 10 years. As expenses go up and grants run out, SFT is facing a shortfall in the level of service that can be provided due to lack of resources. The restructuring and increase in fees will provide SFT with an additional \$700,000 to cover increasing expenditures.

The recommended alternatives were reviewed by State Fire Marshal and the Statewide Training and Education Advisory Committee (STEAC) and the restructuring of CSFTES fees and increase FSTEP and Certification fees would allow SFT to:

- a. Fund one (1) existing PY (on loan) providing FSTEP and CFSTES support
- b. Provide three (3) additional PY's assigned to geographical areas to provide quality assurance and maintain curriculum.
- c. Reclassify a vacant Management Services Technician (MST) position to Deputy State Fire Marshal III to be assigned to a geographical area to provide quality assurance and maintain curriculum.
- d. Upgrade, integrate, and maintain the SFT data management system.
- e. Establish a curriculum development fund that will enable SFT to contract with field experts to assist in the development of new curriculum and to update the current curriculum offered.

## Technical, Theoretical and/or Empirical Studies or Reports Relied Upon

The only document relied upon in this rulemaking was the “State Fire Training Fee Report (September 2006)” previously identified in the Initial Statement of Reasons and in the 45-day Notice. In connection with proposing the regulation amendments, the State Fire Marshal also consulted with the Statewide Training and Education Advisory Committee, and Training Officer Associations, but these were conversations only and there were no documents relied upon in connection with these consultations.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF FEBRUARY 8, 2008 THROUGH MARCH 24, 2008.**

### **COMMENT NO. 1: Mr. Randy Roxson, Attorney at Law, comment provided via letter dated February 12, 2008.**

Requested that the evidence or reasoning of the fee increase be provided for proposed Section 2500.12 in order to comment on the fee schedule.

#### Response to Comment No. 1:

Support Comment: The State Fire Marshal (SFM) believes that the “State Fire Training Fee Report (September 2006)” referred to in the ISOR was adequate in identifying the need for a fee increase. The SFM supports this comment and has included additional budget information in the “Specific Purpose and Rationale for Proposed Regulatory Changes” section of the Final Statement of Reasons.

### **COMMENT NO. 2: Mr. Randy Roxson, Attorney at Law, comment provided via letter dated February 12, 2008.**

Requested that Section 2400.06 include a statement that a denied petition for an alternative application be provided with a written statement showing the cause or reason for the denial.

#### Response to Comment No. 2:

Support Comment: The SFM agrees with this comment and has added recommended language in Section 2400.06(b) and 2400.07(a). (see page 3)

**STAFF COMMENTS:** In addition to the above, State Fire Training (SFT) Program staff identified language that was inconsistent, vague or needed clarification and made changes in the following sections.

### **Section 2500.00 Incorporated References**

The terms “FSTEP” and “CFSTES” were added to this section to make more specific the level of courses that instructors can be registered in. The term “accredited” is not specific enough (page 3).

A list of forms were included in the text of regulation and are also located in Appendix A of the incorporated State Fire Training (SFT) Procedures Manual (page 4).

### **Section 2500.01 Course Development**

The words “both” and “FSTEP” were added to this Section to make more specific that the development of all SFM courses follow the procedures in the “Course Development Guidelines (January 2008).”

### **Section 2500.03 Accredited Course Certifying Examinations**

This Section refers to the exams administered within the CFSTES program which are “certifying” examinations. The term certifying was added to the title to make it more specific. The changes in terminology within this section, provides consistency between the proposed regulation and the SFT Procedures Manual. The term restitution was added and a specific fee was struck-out, in that the cost to rewrite a certifying exam may vary (page 5).

### **Section 2500.04 Registered Instructors**

SFT Procedures Manual provides an exception to instructors who teach Firefighter I and Firefighter II and does not require these instructors to become registered in the SFT system. Extraneous language was eliminated in this Section to provide clarity. Assistant instructor is a term that is no longer used in the SFT system. Instead this section specifies qualifications for Adjunct Instructors and Skills Evaluators (page 6).

### **Section 2500.05 Accredited Facilities**

Extraneous language was eliminated from this section to add clarity. Specific information was added to the definition of Accredited Regional Training Program who must form a partnership with local fire departments in accordance with the SFT Procedures Manual (Page 6 & 7).

### **Section 2500.07 Accountability and 2500.08 Suspension or Revocation**

The term complaint was construed as an offensive term and was replaced with “negative comment” throughout this section providing consistency (page 7 & 8).

### **Section 2500.09 Appeals**

Adding “registered” makes this section more specific to instructors who have opted in to the training system. In Section 2500.09 (c) (2) the State Fire Marshals decision is not final and binding and was struck out. Section 2.04 of Title 19 gives the State Board of Fire Services the authority to review appeals with statutory authority in the Health and Safety Code Section 13142.6, as the final step in any State Fire Marshal appeals process (page 9).

### **Section 2500.11 Instructor Orientation and Classroom Ethics**

All registered instructors are required to attend “Regional Instructor Orientation” and “Ethical Leadership in the Classroom” training. It was not the intent of the SFM to require accredited facility staff to attend these courses.

### **Section 2500.12 State Fire Training Fees**

Changes to this section provide clarity on fee approval proposed by the SFM.

The registration fees for Regional Instructor Orientation, CFSTES, FSTEP and EMT was captured in the adoption of the "SFT Procedures Manual" and added to the text of regulations to bring clarity to all the fees charged by SFT. The numbering of this section was affected and corrected (page 10).

### **State Fire Training Procedures Manual (January 2008)**

Changes have occurred to the "SFT Procedures Manual" to align it with the proposed regulations or because of subsequent changes to the procedures themselves since the rulemaking package was submitted. These changes include:

- (1) Removal of the flow chart that documented how changes are made to the Procedures Manual. The regulatory process that the Procedures Manual now falls under, guides the change process to this manual (page i).
- (2) Course work exceptions were added to the Procedures manual. Instructors who have attended CFSTES Driver\Operator course do not have to also attend the lower level FSTEP class (page 55 (A)(a)).
- (3) An exception was added for instructors of "Emergency Care of the Sick and Injured." Rank and experience provides the qualifications to teach this class (page 57).
- (4) An exception was added to Course Work, (A)(1) for attending and passing a Confined Space Rescue Technician class to meet the requirement for Confined Space Awareness training (page 61).
- (5) Additional requirements to LARRO Course Work (A)(2)(a) was added for LARRO instructors (page 61).
- (6) A California Specialized Training Institute course work exception was added to Hazardous Materials Instructor requirements (page 63).
- (7) Added National Wildfire Coordinating Group, CAL FIRE, AND FIRESCOPE courses to the qualifying courses required to be registered as an Incident Command Instructor (page 64).
- (8) Removed National Incident Management Course Equivalencies, in that this was an inadvertent addition to the SFT Procedures Manual (page 227).
- (9) Rescue Systems Site Appeals section was updated to include the term Chief of State Fire Training to make it consistent with the regulations (page 199).
- (10) Local Examination Processing Section the exemption for retake examinations, for no additional fees when administered by accredited academy examinations was added back into the Procedures Manual (page 46).
- (11) Scheduling a Class, under item A (2) (a), adds the requirement for Emergency Medical Technician (EMT) instructors to send a copy of their current

medical license or certification card when scheduling all EMT classes. This is the only reliable method to ensure that EMT instructors meet the currency requirements to teach the class (page 190).

### **Course Information and Required Materials Manual (January 2008)**

Changes have occurred to the "Course Information and Required Materials Manual". The "Confined Space Rescue Operations" class was replaced (page 31) with "Confined Space Rescue Technician" aligning the SFM training program to national and state standards.

### **COMMENTS RECEIVED DURING THE PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC**

The modified text was made available to the public from June 5, 2008 through June 20, 2008. The State Fire Marshal did not receive any comments on the modified text.

### **ALTERNATIVES DETERMINATION**

The SFM has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

### **LOCAL MANDATE DETERMINATION**

The proposed regulation does not impose any mandate on local agencies or school districts.

### **COORDINATION WITH FEDERAL LAW**

Federal law is not applicable in this case.

## **ADDENDUM TO FINAL STATEMENT OF REASONS**

The dates to the forms in Appendix A of the SFT Procedures Manual were updated to May 2008 to make them consistent with the publishing date of the adopted text in the expressed terms. The forms themselves did not change other than the publication date.