

**PROPOSED REGULATIONS
OF THE
OFFICE OF THE STATE FIRE MARSHAL**

**REGARDING ADOPTION OF AMENDMENTS TO CALIFORNIA
CODE OF REGULATIONS
TITLE 19 PUBLIC SAFETY
DIVISION 1. STATE FIRE MARSHAL
CHAPTER 6.5 FLAMETHROWING DEVICES**

All text is new and to be added to the code.

Chapter 6.5. Flamethrowing Devices

Article 1. Scope

§1054. Scope.

These regulations shall apply to all flamethrowing devices as defined in Health and Safety Code Section 12750 and shall apply to the use, possession, manufacture, storage and transportation of flamethrowing devices as identified above.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12750 and 12756 Health and Safety Code.

Article 2. Definitions

§1055. Definitions

(a) "C" Definitions

(1) Certificate of Eligibility (COE). A current, valid Certificate of Eligibility issued to an applicant by the Department of Justice pursuant to paragraph (4) of subdivision (a) of Section 12071 of the Penal Code if the department's records and records available to the department in the National Instant Criminal Background Check System indicate that the applicant is not a person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) "F" Definitions

(1) Flamethrowing Device. For the purpose of clarification, Health and Safety Code Section 12750(a) is repeated. Health and Safety Code 12750(a) "Flamethrowing device" means any non-stationary and transportable device designed or intended to emit or propel a burning stream of combustible or flammable liquid a distance of at least 10 feet.

(c) "I" Definitions

(1) Inoperative. A flamethrowing device that meets both of the following:

- (A) its fuel source disconnected or removed and
- (B) its ignition source or firing mechanism removed.

(2) Inoperative secured. A device or essential part thereof which has been altered, disassembled, deactivated or enclosed by a permit holder or under his or her supervision via a suitable means acceptable to the State Fire Marshal to effectively prevent it from being readily reassembled for use. An inoperative secured device is no longer a flamethrowing device.

(d) "M" Definitions

(1) Motion picture and entertainment purposes. The use, possession, storage, transportation, importation into the state or exportation from the state, manufacture and assembly, design, or testing of flamethrowing devices in connection with television, video, theater, motion picture or entertainment productions, which may or may not be presented before live audiences including training or demonstrations.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12750 and 12756 Health and Safety Code

Article 3. Permits

§1056. Special Requirements

(a) A State Fire Marshal Pyrotechnic Operator Special Effects First Class license, as defined in Section 981.5 (b) (7) of California Code of Regulations, Title 19, Division 1, shall serve as a flamethrowing device permit for motion picture and entertainment purposes when accompanied by a current, valid COE issued by the Department of Justice pursuant to paragraph (4) of subdivision (a) of Section 12071 of the Penal Code. Licensees shall provide to the State Fire Marshal a signed copy of the "Application for Flamethrowing Device Permit" and "Flamethrowing Device Self-Certification" forms (See Section 1067). Copies of driver's license, passport photo, and fee for permit are not required.

(b) A State Fire Marshal Pyrotechnic Operator Special Effects Second Class license, as defined in Section 981.5 (b) (8) of California Code of Regulations, Title 19, shall serve as a flamethrowing device permit for motion picture and entertainment purposes when accompanied by a current, valid COE issued by the Department of Justice pursuant to paragraph (4) of subdivision (a) of Section 12071 of the Penal Code. Licensees shall provide to the State Fire Marshal a signed copy of the "Application for Flamethrowing Device Permit" and "Flamethrowing Device Self-Certification" forms (See Section 1067). Copies of driver's license, passport photo, and fee for permit are not required.

(c) A State Fire Marshal Pyrotechnic Operator Special Effects Third Class license, as defined in Section 981.5 (b) (9) of California Code of Regulations, Title 19, shall serve as a flamethrowing device permit for motion picture and entertainment purposes when accompanied by a current, valid COE issued by the Department of Justice pursuant to paragraph (4) of subdivision (a) of Section 12071 of the Penal Code. Flamethrowing devices must be used under the direct and immediate supervision of a First or Second Class Licensee. Licensees shall provide to the State Fire Marshal a signed copy of the "Application for Flamethrowing Device Permit" and "Flamethrowing Device Self-Certification" forms (See Section 1067). Copies of driver's license, passport photo, and fee for permit are not required.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12756 and 12757 Health and Safety Code

§1057. Exemptions

(a) Possession of flamethrowing devices which have been rendered inoperative secured, as defined in Section 1055, shall not require a permit pursuant to these regulations.

(b) Persons who only use a flamethrowing device in the course of a theatrical or motion picture/television production are exempt from these permit requirements, when under the direct and immediate supervision of a State Fire Marshal permitted Special Effects First or Second Class licensee.

(c) Persons who are employed by a firefighting agency of the federal government, the state, a city, a county, a city and county, district, public or municipal corporation, or political subdivision of this state, are on duty and are using the flamethrowing device in the course of fire suppression.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12751, 12756 and 12757 Health and Safety Code

§1058. General

(a) The State Fire Marshal may issue or renew a flamethrowing device permit provided the applicant meets the provisions of Health and Safety Code Section 12757. For the purpose of clarification, Health and Safety Code Section 12757 is repeated. Health and Safety Code Section 12757, The State Fire Marshal may issue or renew a permit to use and possess a flamethrowing device only if all of the following conditions are met:

(1) The applicant or permit holder is not addicted to any controlled substance.

(2) The applicant or permit holder possesses a current, valid certificate of eligibility issued by the Department of Justice pursuant to paragraph (4) of subdivision (a) of Section 12071 of the Penal Code.

(3) The applicant or permit holder meets the other standards specified in regulations adopted pursuant to Health and Safety Code Section 12756.

(b) Permit holder shall comply with all applicable fire and life safety regulations and ordinances and local zoning restrictions for the use, possession, storage, and/or transportation of flammable/combustible liquids and for flamethrowing devices or their components.

(c) Adequate qualification for the issuance of the requested permit shall be determined by the State Fire Marshal. It shall be incumbent upon the applicant to present to the State Fire Marshal evidence of such qualification which may include a physical demonstration of knowledge and ability.

(d) Permits are nontransferable and shall be retained by the permit holder at all times.

(e) Permits shall be for the fiscal year or portion thereof beginning July 1 and ending June 30 of the following year.

(f) An applicant whose permit was either denied or revoked may reapply after one year has elapsed from date of denial or revocation.

(g) Violation(s) of these regulations shall constitute grounds for denial/revocation of the Flamethrowing Devices Permit.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12756, 12757 and 12578 Health and Safety Code

§1059. Application for Permit or Renewal

(a) Applications for Flamethrowing Devices Permit or renewal shall be submitted to the State Fire Marshal on the "Application for Flamethrowing Device Permit" form (See Section 1067) provided by the State Fire Marshal and shall be

accompanied by:

- (1) A check or money order for the prescribed fee made payable to "CDF/State Fire Marshal",
 - (2) A copy of the applicant's current driver's license,
 - (3) A passport photo,
 - (4) A copy of the applicant's current (COE) issued by the Department of Justice,
 - (5) A photograph and written description, which describes uniquely, each Flamethrowing device in possession.
- (b) Applications for renewal of permit shall be submitted on or before May 1 of the year in which the current Flamethrowing Device Permit expires.
- (c) A penalty of 50% of the permit fee shall be assessed in cases where the renewal fee is not paid on or before May 1 of the year in which the current Flamethrowing Devices Permit expires.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12755, 12756 and 12757 Health and Safety Code

Article 4. Inspections.

§1060. General

- (a) The State Fire Marshal or his or her salaried deputies may make an examination of the books and records of any licensee or permit holder relative to flamethrowing devices, and may visit and inspect any building or other premises subject to the control of, or used by, the permit holder/licensee for any purpose related to flamethrowing devices of any permit holder/licensee at any time he or she may deem necessary for the purpose of enforcing the provisions of this chapter.
- (b) All flamethrowing devices, storage areas and transportation vehicles shall be subject to inspection by any peace officer or other persons designated by the State Fire Marshal.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12756 and 12757 Health and Safety Code

Article 5. Appeals.

§1061. Permit

If the State Fire Marshal denies an application for, or the renewal of, or revokes a Flamethrowing Device Permit, the applicant for a Flamethrowing Device Permit or permit holder/licensee shall be entitled to a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Section 12758 Health and Safety Code

§1062. Seized Devices

(a) Any person whose flamethrowing devices are seized under the provisions of Health and Safety Code 12760 may, within 10 days after seizure, petition the State Fire Marshal to return the flamethrowing devices seized upon the grounds that the flamethrowing devices were illegally or erroneously seized. Any petition filed pursuant to this section shall be considered by the State Fire Marshal within 15 days after filing or after a hearing granted to the petitioner, if requested. The State Fire Marshal shall advise the petitioner of his or her decision in writing. The decision of the State Fire Marshal is final unless within 60 days after seizure an action is commenced in a court of competent jurisdiction in the State of California for the recovery of the flamethrowing devices seized pursuant to this chapter, except as provided in (b) below.

(b) The decision of the State Fire Marshal is final in the case of the seizure of the flamethrowing device, unless within 20 days after the notice of the decision is mailed to the petitioner an action is commenced in a court of competent jurisdiction in the State of California for the recovery of the flamethrowing devices seized pursuant to this chapter.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Sections 12760 Health and Safety Code

Article 6. Record Keeping.

§1063. Flamethrowing Device Record Keeping Requirements

(a) Permit holder/licensee shall maintain records of inventory, acquisitions, dispositions and/or manufacture of flamethrowing devices.

(b) Permit holders/licensees who sell, donate or otherwise relinquish possession of a flamethrowing device within California shall only do so to a person who holds a current Flamethrowing Device Permit issued by the State Fire Marshal. Permit holders/licensees who sell, donate or otherwise relinquish from their possession a flamethrowing device shall record the disposition including the date of the sale,

donation, or other relinquishment, and the name, address and phone number, and the applicable permit number of the party receiving the device.

(c) Permit holders/licensees who sell, donate or otherwise relinquish from their possession a flamethrowing device shall notify the State Fire Marshal, in writing, of the transaction within 3 calendar days of the transaction. The report shall include date of the sale, donation, or other relinquishment, and the name, address, phone number, and the applicable permit number of the party receiving the device.

(d) Permit holder/licensee shall immediately report any loss or theft of a flamethrowing device to the local law enforcement agency and the State Fire Marshal, and within 10 calendar days a written report shall be submitted to the State Fire Marshal. The report to the State Fire Marshal shall include:

(1) Permit holder/licensee Flamethrowing Device Permit number,

(2) The date of the loss or theft,

(3) The location at which the loss or theft occurred,

(4) Description of the flamethrowing device and

(5) A detailed description of how the loss or theft occurred.

(e) All records required by this regulation shall be retained by the permit holder/licensee for a period of not less than 36 months. All records required by these regulations shall be made available by the permit holder/licensee to any peace officer or other persons designated by the State Fire Marshal when requested.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Section 12756 Health and Safety Code

Article 7. Storage and Transportation Requirements for Flamethrowing Devices .

§1064. Storage

(a) Flamethrowing devices shall only be stored in facilities which meet reasonable security, fire and life safety requirements in one of the following manners:

(1) In facilities that meet the California Department of Justice security requirements described in California Code of Regulations, Title 11, Section 4141.

(2) In appropriate magazines or facilities which are permitted by the authority having jurisdiction for the storage of fireworks or explosives pursuant to California Code of Regulations, Title 19, Division 1, Section 989, provided that no fire nuisance or incompatibility is created by such storage.

(3) Facilities meeting all of the following requirements:

(i) All perimeter doors to the building shall be solid core and have dead-bolt locks or the equivalent. Sliding glass doors and windows shall have steel window guards or be connected to an audible or silent alarm to detect entry,

(ii) All doors leading into the storage room shall be solid core with a dead-bolt lock or the equivalent and be locked while unattended, or the flamethrowing device shall be stored in an anchored, locked metal box in the room. In lieu of the anchored, locked metal box, the flamethrowing device may be stored in a Class II magazine conforming to California Code of Regulations, Title 19, Division 1, Chapter 10, Subchapter 5, Article 15,

(iii) When the size of the flamethrowing devices prohibits storage in a room of a business, the flamethrowing devices shall be secured to prohibit easy removal, and the ignition source/firing mechanism shall be removed and stored in a separate locked room, cabinet, or box in an area separate from the storage area of the flamethrowing devices,

(iv) All accesses to the indoor storage area shall be designed to prevent unauthorized entry,

(v) All locking or security devices required by these regulations shall be maintained in good operating condition at all times.

(b) Flammable or combustible fuels shall be stored in accordance with the California Fire Code.

(c) Operative flamethrowing devices shall not be stored in residences.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Section 12756 Health and Safety Code

§1065. Transportation

(a) The transportation of flamethrowing devices shall meet the following security, fire, and life safety requirements:

(1) When the size or quantity of flamethrowing devices permits storage inside the vehicle, the flamethrowing devices shall be transported either concealed in the

locked storage area of the vehicle or in a locked metal box or the equivalent which is permanently affixed to the vehicle.

(2) When the size or quantity of the flamethrowing devices prohibit the storage inside the vehicle or trailer, a locking device connecting the flamethrowing device to the vehicle or trailer is required.

(3) The locking mechanisms shall be able to resist common tools such as bolt cutters, hammers and cold chisels.

(4) If the flamethrowing device is mounted on its own axle or transported on a trailer, the trailer shall be rendered incapable of unauthorized movement while connected or disconnected from the tow vehicle.

(5) All locking or security devices required by these regulations shall be maintained in good operating condition at all times.

(6) Flamethrowing devices shall be constantly attended during transportation.

(7) Inoperative flamethrowing devices need not be constantly attended provided the vehicle is locked while unattended.

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Section 12756 Health and Safety Code

Article 8. Fees.

§1066. General

(a) The original and annual renewal fee for a permit shall be for the fiscal year or portion thereof beginning July 1 and ending June 30 of the following year.

(b) Every permit fee required in accordance with these regulations shall be paid by check or money order made payable to the "CDF/State Fire Marshal."

(c) Required fees shall be submitted jointly with the appropriate application. Such fees are non-refundable.

(d) Fees are as follows:

(1) Flamethrowing Device Permit Original or Annual renewal.....\$425

(2) Replacement permit (issued only if the original is lost or destroyed).....\$25

NOTE: Authority cited: Section 12759 Health and Safety Code.
Reference: Section 12759 Health and Safety Code

Article 9. Forms

§ 1067. Application Form

(a) The following forms in the format developed by the Office of the State Fire Marshal, which are hereby incorporated by reference, shall be used for application for flamethrowing device permit or flamethrowing device self-certification.

(1) Application for Flamethrowing Device Permit (FT1 dated April 1, 2010)

(2) Flamethrowing Device Self-Certification Form (FT 2 dated April 1, 2010)

NOTE: Authority cited: Section 12756 Health and Safety Code.
Reference: Section 12756 Health and Safety Code