

**15-DAY TEXT OF REGULATIONS FOR
ADOPTION OF AMENDMENTS OF
THE OFFICE OF THE STATE FIRE MARSHAL
REGARDING**

**California Code of Regulations
TITLE 19. PUBLIC SAFETY
Division 1. State Fire Marshal
Chapter 1. General Fire and Panic Safety**

Plans and Specifications.

TEXT OF REGULATIONS

15-Day amendments are illustrated by highlighted double underline for “additions” to language originally proposed and double ~~strike through~~ for “deletions” to language originally proposed.

Article 3. General Provisions

§ 3.28. Plans and Specifications.

(a) General. When plans and specifications are reviewed and approved by the State Fire Marshal such plans and specifications shall bear the stamp of approval of the State Fire Marshal and shall be available at the site of construction for review by the enforcing agency.

(b) State Owned and State Occupied. Complete plans and specifications shall be submitted to the ~~CAL FIRE Office of the~~ State Fire Marshal for review and approval in accordance with the provisions of California Code of Regulations Title 24, Part 2 Section 1.11 & California Health and Safety Code Section 13108(c) for the construction, alteration, remodel or repair to any building or portion thereof owned, occupied, leased or rented by the state.

(c) For state agencies, local agencies, or private entities, ~~CAL FIRE Office of the~~ State Fire Marshal, shall charge an amount sufficient to recover the costs incurred for ~~the~~ fire and life safety building code inspections and those related fire and life safety activities, including plan review, construction consulting, fire watch and investigations pursuant to California Health and Safety Code Section 13138(a). When determining costs, the following methodology is used to calculate a total billable hourly rate:

(1) The gross operating and personnel expenditures from the prior completed fiscal year, divided by the total billable hours, plus the state administrative rate

pursuant to Government Code, Sections 11010 and 11270 and State Administrative Manual (SAM), Section 8752 as provided in the following formula:

$$\text{Hourly rate} = \frac{\text{gross operating \& personnel expenditures from prior fiscal year}}{\text{total billable hours}} + \text{State Admin. Rate}$$

In the formula above, “gross operating and personnel expenditures from the prior fiscal year” represents the total amount of operational expenses, including any personnel expenses for the last completed fiscal year which begins July 1 through June 30; “total billable hours” is the number of hours charged for services as provided in subsection (c) in the last completed fiscal year; and “state administrative rate” is a proration of the department support costs which fund the statewide organization.

(2) The State Fire Marshal will tabulate the total billable hours collected each month for any services provided. The payee shall remit the amount in accordance with subsection (c) to the State Fire Marshal by the due date in the invoice issued by the State Fire Marshal on a monthly basis.

If failure to pay the fee under subdivision (c) by the due date in the invoice, the State Fire Marshal will issue a delinquent notice to seek and obtain the fee directly from the state agency, local agency, or private entity and charge the state agency, local agency, or private entity a penalty fee of 5% of the invoice amount, in addition to the invoice amount due.

(3) As the state administrative rate is updated by the State Department of Finance Fiscal Systems and Consulting Unit (FSCU), the State Fire Marshal will adjust the total billable hourly rate in accordance with subsection (c) and provide written notice of the new hourly rate to the state agency, local agency and private entity by May 1st.

(b~~d~~) Public Schools. Plans and specifications for the construction, alteration or addition to any building owned, leased or rented by any public-school district shall be submitted to the Office Division of the State Architect ~~State Fire Marshal~~ for review and approval.

EXCEPTIONS:

- (1) Plans and specifications submitted to the Office Division of the State Architect and which are reviewed by the State Fire Marshal.
- (2) Upon the annual submission of a written request by the chief of any city, county or city and county fire department or fire protection district to the State Fire Marshal, approvals required by this subsection shall be obtained from the appropriate chief or his authorized representative. In such instances plans and specifications may be submitted to the State Fire Marshal for relay to the

appropriate local authority or may be submitted directly to such local authority.

(ee) Movable Walls and Partitions. Plans or diagrams shall be submitted to the enforcing agency for approval before the installation of, or rearrangement of, any movable wall or partition in any occupancy. Approval shall be granted only if there is no increase in the fire hazard as defined in Section 3.14.

(df) New Construction High-Rise Buildings.

(1) Complete plans or specifications, or both, shall be prepared covering all work required to comply with new construction high-rise buildings. Such plans and specifications shall be submitted to the enforcing agency having jurisdiction.

(2) All plans and specifications shall be prepared under the responsible charge of an architect or a civil or structural engineer authorized by law to develop construction plans and specifications, or by both such architect and engineer. Plans and specifications shall be prepared by an engineer duly qualified in that branch of engineering necessary to perform such services. Administration of the work of construction shall be under the charge of the responsible architect or engineer except that where plans and specifications involve alterations or repairs, such work of construction may be administered by an engineer duly qualified to perform such services and holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code for performance of services in that branch of engineering in which said plans, specifications and estimates and work of construction are applicable.

This section shall not be construed as preventing the design of fire extinguishing systems by persons holding a C-16 license issued pursuant to Division 3, Chapter 9, Business and Professions Code. In such instances, however, the responsibility charge of this section shall prevail.

(eg) Existing High-Rise Buildings.

(1) Complete plans or specifications, or both, shall be prepared covering all work required by Sections 3414, California Code of Regulations, Title 24, Part 2 for existing high-rise buildings. Such plans or specifications shall be submitted to the enforcing agency having jurisdiction.

(2) When new construction is required to conform with the provisions of these regulations, complete plans or specifications, or both shall be prepared in accordance with the provisions of this subsection. As used in this section "new construction" is not intended to include repairs, replacements or minor alterations which do not disrupt or appreciably add to or affect the structural aspects of the building."

NOTE: Authority cited: Sections 13108, 13138, 13143, 13143.6, 13146.5, 13211, 17921, and 18897.3, Health and Safety Code; and Sections, 11010, 11270 and 14963 Government Code. Reference: Section 13100-13146.5, 13210-13216,

17921 and 18897-18897.7, Health and Safety Code; and Sections 11010, 11270 and 14963 Government Code.

UPDATED INITIAL STATEMENT OF REASONS

Section 3.28(b) and (c). Is for editorial purposes and is proposed to be amended to identify and provide clarity.

Necessity: The deletion of the additional name reference “Cal Fire” in front of State Fire Marshal keeps cites consistent with Title 19, Section 1.00, and statute that these regulations shall be known as the “Regulations of the State Fire Marshal” and cited as such. The simple reference keeps consistency with what is already cited throughout Title 19 regulations and eliminates the addition and redundancy of extra words identified throughout Title 19.

Section 3.28(c) and (c)(1). Is proposed to establish and specify the method used to determine a sufficient billable hourly rate for incurred costs.

Necessity: The addition to this section is necessary because the method to determine a sufficient billable hourly rate for costs incurred by the OSFM for fire and life safety activities (goods and services) needs further clarification. The amendments clarify how the billing rate (total hourly rate) is calculated and how fees are charged to state agencies, local agencies or private entities for fire and life safety activities and time served so reimbursement for operating, personnel and administrative costs can be recovered. The last full “fiscal” year of actual expenditures, (without projections of future situations), is used to be consistent with the state budget cycle practices (Fiscal Year July 1 through June 30) and is also consistent with Government Code Sections 11010 and 11270 and the guidelines set forth by the Department of Finance’s Fiscal Systems and Consulting Unit (FSCU) when calculating departmental indirect cost rates (administrative rates). A fiscal year calculation gives departments that are charged the hourly rate time to create a Budget Change Proposal (BCP) if an increased rate could not be absorbed within their existing budget. The billable hours comes from the Fire and Life Safety Program for actual time and activities spent covering all work required on a project and is divided by the actual expenditures providing a basic hourly rate. A proration of the state administrative costs is added to the hourly rate because one must be included in every reimbursement contract in which CAL Fire/Office of the State Fire Marshal enters into. CAL Fire/Office of the State Fire Marshal is required to recover its full costs when providing goods or services to other entities in accordance with the State Administrative Manual (SAM) Section 8752, which provides: “The state policy is for departments to recover full costs whenever goods or services are provided for others. This policy, which applies to all departments, regardless of funding sources, is to be followed in all cases except where statutes prohibit full cost recovery.” Additionally, SAM Section 8752.1 defines indirect costs as follows:

“Department indirect (overhead) costs are those support costs which fund the statewide organization.”

Section 3.28(c)(2). Is proposed to be amended to specify a timeframe for collection and notice to payees and specify the State Fire Marshal may seek and establish a penalty fee for late payments directly from payees.

Necessity: The amendment to this section is necessary so the payee knows the due date to remit fees and that the State Fire Marshal will bill on a monthly basis. In the event the payee on the bill statement fails to remit the required fee by the established due date indicated in the billing statement, the State Fire Marshal will assess a penalty fee to recover costs to seek and obtain the delinquent payment from the entity billed for goods and services. The 5% penalty fee is consistent with formulas used by other State Fire Marshal programs.

Section 3.28(c)(3). Is proposed to be amended to specify that the State Department of Finance may adjust the amount the State charges for indirect (overhead) costs through the state administrative rate.

Necessity: The amendment to this section is necessary so that when there is an adjustment in overhead support costs to state agencies through the state administrative rate by the State Department of Finance’s Fiscal Systems and Consulting Unit (FSCU), the CAL Fire/Office of the State Fire Marshal will be able to adjust their hourly rate because of changes in overhead costs incurred and will provide written notice to those entities affected by of the new hourly rate.

The CAL Fire “state administrative rate” is comprised of two components: Statewide Pro Rata rate and Cal Fire Indirect rate. The Pro Rata amount assessed to CAL Fire is established annually by FSCU when calculating departmental indirect cost rates, (administrative rates) in accordance with Government Code Sections 11010 and 11270, and (SAM) State Administrative Manual Chapter 8700, Sections 8752 page seven and eight, and Section 8752.1, while adhering to the Office of Management and Budget’s guidance standards in Title 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” regulations.

Additionally, the “Statewide Pro Rata rate” is the recovery of central service administrative costs from special and non-governmental cost funds. Each central service agency submits their past year actual workload and expenditures as well as their estimated budget year expenditures. A unit cost is calculated for each workload function. All functions are summed and a report called “Detail by Fund” report displays each of their allocation by fund. The “indirect” rate is calculated by dividing the indirect costs (without the Statewide Pro Rata Costs) by the total Direct Program Costs. A calculation of the Total Administrative Rate is determined by dividing the Indirect Costs (including Statewide Pro Rata Costs) by the Direct Program Costs (total departmental costs) to obtain a percentage administrative rate.

Section 3.28(d) and Section 3.28(d) Exceptions (1). Is proposed to be amended to correct the official name of the State agency from “Office” to “Division” of the State Architect.

Necessity: The amendments to this section are necessary because the state agency name is incorrect and provides clarity to the public for proper submittal to the state agency.

Authority and Reference Section citations. Is proposed to be amended to add statutory authority and reference section cites.

Necessity: The amendments are necessary to provide clarity of the proper statutory authority and reference sections for the regulatory amendments.