

**NOTICE OF PROPOSED RULEMAKING
TO
OFFICE OF THE STATE FIRE MARSHAL
California Code of Regulations, Title 19, Division 1, Chapter 5.5**

Automatic Fire Extinguishing Systems Certification

The State Fire Marshal (SFM) is providing notice to adopt proposed regulations related to the inspection, testing, and installation of Automatic Fire Extinguishing Systems including a certification and registration program for the individual sprinkler fitter or installer as described below after considering all comments, objections, or recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

The SFM will accept written comments regarding this proposed regulatory action for at least 45 days beginning February 12, 2016 until 5:00 PM on March 28, 2016.

Comments may be submitted to the SFM via:

- Email: diane.arend@fire.ca.gov; or
- Facsimile: (916) 445-8459; or
- US Mail (postmarked no later than March 28, 2016):

Office of the State Fire Marshal
P.O. Box 944246
Sacramento, CA 94244-2460
Attn: Diane Arend, Code Development & Analysis

PUBLIC HEARING

The SFM has not scheduled a public hearing on this proposed action. However, the SFM will hold a public hearing to accept comments if a written request is received from any interested party or their authorized representative no later than 15 days prior to the end of the 45-day written comment period, pursuant to Government Code Section 11346.8.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the 45-day comment period, the SFM may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text – with changes indicated – shall be made available to the public for at least 15 days before the SFM adopts, amends, or repeals the regulations as revised. The SFM will accept written comments on the modified regulations for 15 days after the date on which they are made available. NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modified regulations. Requests should be sent to the contact person at the address indicated above.

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code, Section 13110 with reference to 13110 Health and Safety Code to control the work consisting of the installation, alteration or repair of all water-based fire protection systems. The proposed regulations implement, interpret, and make specific sections: 13101, 13103, 13104, 13108, 13110, 13112, 13195, 13197.6, 13198.5 and 13199 of the Health and Safety Code, 7110, 17200 and 17500 of the Business and Professions Code. In adopting the regulations, the State Fire Marshal shall consider the standards of the National Fire Protection Association.

INFORMATIVE DIGEST - POLICY STATEMENT OVERVIEW

The broad objective of the proposed action is to better define the regulatory requirements of the SFM Automatic Fire Extinguishing Systems Licensing Program and enforcement and maintenance of those requirements, based on the current editions of the water based national standard of care for the installation of all water based fire suppression systems.

The regulations proposed in this rulemaking action would specify and define the regulatory requirements of the SFM Automatic Fire Extinguishing Systems Licensing Program by making the following changes:

Create a certification and registration program for fire sprinkler installers/fitters based on national standards and address the current requirements for the installation of all water-based fire suppression systems, excluding one and two-family dwelling residential sprinkler systems. Collect fees for the administration of the program.

The State Fire Marshal is proposing to adopt CCR, Title 19, Chapter 5.5, Sections 920 through 950. The State Fire Marshal is proposing to incorporate by reference the forms identified in the text of regulations in Section 950 which are used in the application process for Automatic Fire Extinguishing Systems Certification.

Documents Incorporated by Reference

The Forms are as follows:

- Sprinkler Fitter Certification and Apprentice/Trainee Registration Application, Form AES 1005, Dec. 4, 2015
- Sprinkler Fitter Replacement Certification/Registration Identification Card Application, Form AES 1006, Dec. 4, 2015
- Sprinkler Fitter Commercial and Multi-Family Residential Continuing Education Unit Course Registration Application, Form AES 1007, Dec. 4, 2015
- Sprinkler Fitter SFM Validation of Job Related Experience Program (JREP) Application, Form AES 1008, Dec. 4, 2015
- Sprinkler Fitter Skill Area Reporting Form – Commercial and Multi-Family, Form AES 1009, Dec. 4, 2015

The SFM consulted with the SFM Automatic Fire Extinguishing Systems Advisory Committee and SFM Systems Certification Workgroup and sought their

recommendations and analysis of the proposed amendments. They both concur with the proposed rulemaking establishing a certification program.

The SFM also sought the advice of the State Board of Fire Services on the proposed amendments pursuant to Health and Safety Code Section 19818. The Board had no comments regarding the proposed amendments.

Summary of Existing Laws

Section 13110 is added to the Health and Safety Code to read:

(a) Notwithstanding any other provision of this part, the State Fire Marshal may propose, adopt, and administer the regulations that he or she deems necessary in order to ensure fire safety in buildings and structures within this state including regulations related to construction, modification, installation, testing, inspection, labeling, listing, certification, registration, licensing, reporting, operation, and maintenance. Regulations that are building standards shall be submitted to the State Building Standards Commission for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13.

(b) The Office of the State Fire Marshal may establish and collect reasonable fees necessary to implement this section, consistent with Section 3 of Article XIII A of the California Constitution.

This section authorizes the State Fire Marshal to propose for adoption a program for certifying and registering those who install water-based fire protection systems are trained and qualified to do so. Training and education for those who install fire protection systems is essential to ensuring fire and life safety to those who occupy buildings. This program will ensure that those who do install water-based fire protection systems are trained and qualified to do so.

This section also authorizes the State Fire Marshal to collect a fee to carry out the function of this program.

Summary of Existing Regulations

Title 19, Section 901 adopts the 2011 Edition of NFPA 25 with state amendments for the inspection, testing and maintenance of all water based fire suppression systems.

There are no existing regulations that require training, education, experience or testing for those who actually *install* water-based fire protection systems in California. Title 16, California Code of Regulations, Division 8, Article 3 requires licensure for a fire protection contractor who lays out, fabricates and installs all types of fire protection systems; including all the equipment associated with these systems, excluding electrical alarm systems.

The State Fire Marshal proposes to adopt new CCR, Title 19, Chapter 5.5 entitled Automatic Fire Extinguishing Systems Certification, Sections 920, 921, 922, 923, 924, 924.1, 924.2, 924.3, 924.4, 924.5, 924.6, 924.7, 924.8, 924.9, 924.10, 924.11, 924.12, 925, 925.1, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 947.1, 947.2, 948, 948.1, 949, and 950.

The Business and Professions Code 7059 et seq. requires licensing for specialty contractors, such as a C-16 Fire Protection Contractor.

Summary of Effect

The effect of this proposed rulemaking is the establishment of a program that will ensure the qualifications and training of those individuals who install water-based fire protection systems. The proposed rulemaking establishes minimum education, training, job experience, and testing for those who install water-based fire protection systems. The proposed rulemaking specifies violations and specifies proposed penalties for such violations. The proposed rulemaking proposes a fee to fund the program.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

After conducting a review of any and all other regulations that would relate to or affect the area of certifying and registering those who actually install water-based fire protection systems, the SFM concluded this proposed rulemaking is the only rulemaking that concerns the establishment of minimum requirements for those who actually install water-based fire protection systems. The SFM has determined this proposed regulation is not inconsistent or incompatible with existing regulations.

Objective and Anticipated Benefits

The broad objective of the proposed rulemaking is to ensure that those who install water-based fire protection systems are adequately trained and have the education and experience necessary to install such water-based fire protection systems.

The anticipated benefit to establishing a minimum standard for qualification to install water-based fire protection systems would be the reduction to the risk of loss of life, injury, and the destruction of property due to a failure of a water-based fire protection system in its time of need.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the Office of the State Fire Marshal, or to any specific regulation or class of regulations. There are no other matters to identify.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following initial determinations:

1. Mandate on local agencies and school districts: **None**
2. Cost or savings to any other State agency: **None**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Sections 17500-17630: **None**
4. Other non-discretionary cost or savings imposed upon local agencies: **None**

5. Cost or savings in federal funding to the State: **None**
6. Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States: **None**
7. Significant effect on housing costs: **None**

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS:

8. The cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action are provided as follows: Title 19, Section 920 et seq. will result in an insignificant cost to a private person working as an installer of water-based fire sprinkler systems, and to less than 50% of licensed C-16 fire protection contractors. Because most fire protection contractors already operate in accordance with the proposed regulation, this proposed regulation will have no impact to the percentage of those in the business of contracting for the installation of water-based fire protection systems. Those individuals who are certified or registered will be required to pay an annual fee of \$150.00 to the SFM and to take 24-units of SFM approved continuing education every three years. Those who do not currently have employees who participate in training and education programs may realize minimal cost impacts associated with training requirements, however those potential costs are significantly outweighed by the immeasurable economic benefit to the health, safety, and welfare of occupants and owners of buildings in California. The proposed regulation will reduce the likelihood of a fire sprinkler system failure due to it being installed improperly by an untrained and unqualified sprinkler fitter, making it inoperable in its time of need. The cost impact resulting from an inoperable fire sprinkler system includes the loss of life, firefighter injury and/or death, injuries, public and private property loss, and the displacement of businesses, students, children, families, seniors, and the physically and mentally disabled, to name a few.

DECLARATION OF EVIDENCE

The OSFM has not relied on any other facts, evidence, documents, or testimony to make its initial determination of no statewide adverse economic impact.

SMALL BUSINESS EFFECTS

The State Fire Marshal has made the initial determination that these proposed regulations will have no “substantial” effect to small businesses and the State Fire Marshal has not identified any alternatives that would lessen any adverse impact, if any, on small business.

The majority of fire protection contractors already conduct business in accordance with the proposed regulation. Many of these contractors already conducting business as such are small businesses. All remaining C-16 fire protection contractors, some of which are small businesses, may realize some insignificant costs if they do not currently employ installers who participate in state and federally approved apprenticeship training and education programs. These insignificant costs may arise as a result being required to employ those who are certified and/or enrolled in approved apprenticeship programs, and the faxing of a report to the SFM giving notice that they have hired an employee classified as a trainee. These potential costs are not significant considering the proposed regulation itself is designed to lessen potential impacts to business, if any.

The fire protection contractor (C-16 licensee), is not required by these regulations to pay any of the expenses associated with apprenticeship training or the SFM fees associated with certification and registration, those fees are up to the individual applying for certification or registration. While the employer contractor may pay the fees if they choose, they are not required.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The SFM concludes that the proposed regulatory action, within the State of California, would have no significant adverse economic impact and adoption of these regulations *will not*:

- a) Create or eliminate jobs within California;
- b) Create new businesses or eliminate existing businesses within California; or
- c) Affect the expansion of businesses currently doing business within California.

The State Fire Marshal has assessed that this regulatory proposal *will*:

- d) Benefit the Health and Welfare of Residents, Worker Safety, and the State's Environment.

The proposed regulations are beneficial to lessening the adverse effect that an uncontrolled fire has on lives, property, survivors, and businesses and ultimately promotes the health, safety, and general welfare of the public.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the SFM must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period

BUSINESS REPORT

This regulatory proposal does not mandate any new reporting or recordkeeping requirements, but it will reiterate what is already required such as the Annual Inspection, Testing, and Maintenance reports.

CONTACT PERSON(S)

Inquiries concerning the proposed regulatory action, or requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations or other information upon which the rulemaking is based may be directed to:

- Office of the State Fire Marshal:

Diane Arend, Senior Deputy SFM (RA), Regulations Coordinator
(916) 324-9592 for general inquiries
diane.arend@fire.ca.gov

James Parsegian, Supervising DSFM, Automatic Extinguishing Systems Program
(916) 445-8415 for substantive or technical questions
James.parsegian@fire.ca.gov

Jeff Schwartz, Senior Deputy SFM, Automatic Extinguishing Systems Program
(916) 341-4364 for back-up substantive or technical questions
jeffrey.schwartz@fire.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at 1131 'S' Street, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the SFM's rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons for the proposed action, all documents incorporated by reference and an economic impact assessment contained in the initial statement of reasons. Copies may be obtained through the contact(s) at the address or telephone numbers listed above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons (FSOR) may be obtained by making a written request to the contact person at the above address or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons (ISOR), the text of proposed regulations in underline and strikeout and all documents incorporated by reference may be accessed through the SFM web site at:

http://osfm.fire.ca.gov/codedevelopment/codedevelopment_title19development.php