UPDATE OF INITIAL STATEMENT OF REASONS

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

The State Fire Marshal proposes to amend and repeal various sections of Title 19 CCR, Chapter 1.5, Sections 200, 203, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, and 217 to address State Fire Marshal approval and listing of “child-resistant” portable gasoline containers. The currently adopted State Fire Marshal regulations for approval and listing of “child-resistant” portable gasoline containers contain requirements that have been preempted by Federal Child-Resistant Portable Gasoline Container law and are no longer necessary as State regulations. These proposed regulations will no longer establish the criteria by which Child-Resistant Portable Gasoline Containers will be included into the State Fire Marshal’s listing program.

Pursuant to Health and Safety Code Section 13139, the State Fire Marshal shall approve and list portable gasoline containers, except Section 13139(e) states, “This section shall cease to be applicable if federal fire safety standards for portable gasoline containers that preempt this section are enacted and take effect subsequent to the effective date of this statute and the State Fire Marshal so notifies the Secretary of State.”

The State Fire Marshal utilized the recommendations of an ad hoc committee to analyze and review the proposed portable gasoline container requirements. The ad hoc committee consisted of representatives from the fuel container industry and container manufacturers.

With the passage of House Resolution 814, Children’s Gasoline Burn Prevention Act (“the Act”) of the 110th Congress Public Law 110-278, (July 17, 2008) and the signing of the Act, by President George W. Bush; Child-Resistant Portable Gasoline Containers are now regulated in the Consumer Product Safety Rule §2 under the Consumer Product Safety Act (15 U.S.C. 2056) and Health and Safety Code Section 13139 ceases to be applicable.

COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD

The text was made available to the public from June 26, 2009 through August 10, 2009. The State Fire Marshal did not receive any comments on the text as originally noticed.

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

The State Fire Marshal has determined that this proposed regulatory action is necessary in order to not duplicate any federal law or fire safety standards contained in the Consumer Product Safety Rule under the Consumer Product Safety Act (15 U.S.C. 2058).