

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 add a limited license (Type L) for the annual testing and maintenance of wet sprinkler systems, standpipe systems and private fire service mains. This license will allow public and private entities who have the required training and tools, to perform the annual testing and maintenance. Prior to the April 2007 adoption of NFPA 25, many of these tests and maintenance items were not required on an annual basis, and those that were required were allowed to be performed by in-house personnel without benefit of a license.

The specific purpose of these proposed regulations is to:

1. Establish an A license (Type L) including weekly fire pump testing.
2. Establish the following fees:
 - \$135 fee for the primary location with local inspection.
 - \$335 fee for the primary location with state inspection and \$100 fee for additional locations.
 - \$80 fee for a weekly fire pump testing certificate.
 - \$200 inspection/re-inspection fee.

These fees are necessary to cover the cost of administering the State Fire Marshal's Automatic Extinguishing System Program which includes inspections, re-inspections and investigations.

The proposed regulations incorporates by reference the forms used to record the results of all inspections, tests and maintenance of water-based fire protection systems for the type "L" License consisting of the following forms: Limited License Tool Checklist (AES 11), and Limited License Local Fire Authority Endorsement (AES 12), both dated August 19, 2009, as well as the applicable application forms consisting of the Automatic Fire Extinguishing Systems License, the Weekly Fire Pump Test Certificate, and the Renewal of the Weekly Fire Pump Test Certificate (all dated August 27, 2009). These documents are formal publications reasonably available at the Office of the State Fire Marshal or may be accessed on the SFM website at <http://osfm.fire.ca.gov>.

COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD

The text was made available to the public for 45 days from October 24, 2008 through December 8, 2008. The Office of the State Fire Marshal received one official public comment and a number of phone calls during the comment period

concerning weekly fire pump tests. Ms. Danielle Stefani, Hazardous Materials Coordinator, Livermore-Pleasanton Fire Department suggested that weekly fire pump testing not be excluded from the Type L license. State Fire Marshal Engineering staff agreed with the comment and amended the Type L license to include weekly fire pump testing provided the individual performing the testing is certified to do so by the Office of the State Fire Marshal. Sections 905 and 905.2 were amended to include weekly fire pump testing, certification parameters, and an \$80 fee to cover the cost of testing and certification.

The modified text was made available to the public for 15 days from June 12, 2009 through June 27, 2009. The Office of the State Fire Marshal received one comment during this time period. Mr. Don Averill, LeFiell Manufacturing Company, requested clarification regarding the scope of a system inspection verses a system test. The Office of the State Fire Marshal answered Mr. Averill's question and does not deem any further amendments are required to the proposed Type L License regulations.

Additionally, upon further review, the Office of the State Fire Marshal determined minor modifications to the text was deemed necessary for the purpose of clarification, as well as, listing the applicable application forms which are incorporated by reference. The proposed regulatory action was withdrawn from OAL review on September 4, 2009 and the rulemaking record retained in the event the Office of the State Fire Marshal resubmitted prior to the expiration of the one-year notice period. The modified text and forms were made available to the public for a second 15 days from September 11, 2009 through September 26, 2009. No comments were received.

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.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY INITIAL NOTICE PERIOD FROM October 24, 2008 through December 8, 2008.

COMMENT NO. 1: Ms. Danielle Stefani of the Livermore-Pleasanton Fire Department, comment provided via email. Requested that weekly fire pump testing and maintenance be included in the L license.

Response to Comment No. 1:

Support Comment: The SFM agrees with this comment and has amended the regulations to include weekly fire pump testing in the scope of the L license.

Section 905 is being amended to add the word "certification" to the title.

Necessity: This addition is necessary to identify that certification requirements are addressed in the section.

Section 905 (a) is being amended to allow individuals who possess a California State Fire Marshal pump certificate to conduct weekly fire pump tests.

Necessity: This amendment is necessary to identify that individuals who are employed by a Licensed A (Type L) concern must also possess a California State Fire Marshal weekly fire pump certificate in order to conduct weekly fire pump tests.

Section 905 (b) is being amended to include weekly fire pump testing in the definition of the Type L license.

Necessity: This amendment is necessary in order to include weekly fire pump testing under the Type L license.

Section 905 (m) is being added to address the weekly fire pump certification requirements.

Necessity: The weekly fire pump test certification requirements are being added to because current code does not address the certification. Applicants will be required to apply for the certification on forms provided by the State Fire Marshal to ensure consistency and all necessary information, in the correct format, and fees are provided. Passing of a written test is required to ensure that the individuals being certified have a basic knowledge of weekly fire pump testing. Because of the technical knowledge necessary to correctly operate a fire pump, the automatic systems technical work group felt that without testing, the SFM could not ensure that individuals conducting the weekly fire pump tests could do so without damaging the fire pump or the system. Applicants who fail to pass the

testing will be required to wait at least 15 days before being eligible to retake the test. This time period is necessary to ensure the individuals have adequate time to study. Applicants who fail to take the exam within 30 days of the date of eligibility will be required to reapply and pay the appropriate fee. This is necessary to ensure the applicant takes the exam within a timely manner so as not to burden staff with tracking and refund issues. A section addressing an individual's ability and procedures to challenge individual test questions is being added to ensure that the applicant is aware of the procedures to follow in such cases. This section is necessary to afford the applicant the ability to challenge a question but also the procedure to do so. The application for renewal and certification expiration timeframes are made to coincide with the timeframes required of the Type L license since the fire pump testing certification is invalid without the Type L license.

The requirement for the individual testing the fire pump to carry the certification while testing the fire pump is necessary to prove to the local fire department that they are in fact certified to conduct the testing.

Section 905.2(c) is being added to address the original or annual renewal fee for weekly fire pump test certification.

Necessity: The proposed \$80 fee is necessary to cover the cost of developing, administering and maintaining the weekly fire pump test in addition to issuing of the certification. The fee was derived by utilizing the current Management Services Technicians' salary of \$45 per hour and an average processing time of one hour per application. The remainder of the fee is necessary to recover other administrative costs such as, the development and maintenance of the test, maintaining the database, posting of information on the SFM web, supplies, answering questions, etc.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY MODIFIED TEXT PERIOD WHICH WAS MADE AVAILABLE TO THE PUBLIC FROM June 9, 2009 through June 27, 2009.

COMMENT NO. 1: Mr. Don Averill of LeFiell Manufacturing Company, comment provided via email.

Mr. Averill requested clarification as to whether the scope of the L license would cover the quarterly main drain tests.

Response to Comment No. 1:

Support Comment: The SFM answered Mr. Averill's question. The proposed Exception to Section 905 identifies the scope of the L license as exempting "Annual testing or maintenance of wet pipe sprinkler systems, standpipe systems or private fire service mains may be performed by a California State Fire Marshal Licensed A (Type L) Concern, in structures or property owned or leased by that public or private entity. In addition, individuals who possess a California State

Fire Marshal Weekly Fire Pump Test Certificate in accordance with this section and are employed by a Licensed A (Type L) Concern may perform weekly fire pump tests." Quarterly tests are not exempted. The SFM does not deem any further amendments to the regulations are necessary.

STAFF COMMENTS AND MODIFICATIONS MADE BY THE OFFICE OF THE STATE FIRE MARSHAL

Section 905(c)(1) was amended to reference the code location of the application for license form. This amendment was necessary to point the code user to the exact code location of the license application forms.

Section 905(c)(3)(D) was amended to reference the SFM form numbers and the code location of the local fire authority endorsement forms. This amendment was necessary to direct the local fire authority to the correct forms and the exact code location of the forms.

Section 905(m)(1) was amended to change weekly fire pump certification to weekly fire pump certificate and to identify the exact code location of the application form. These amendments were necessary for consistency of terminology and to direct the applicant to the code location of the application form.

Section 905(m)(4) was amended to require weekly fire pump test certificate holders to be retested when modifications to the regulations are made. This amendment was necessary to ensure the certificate holder is familiar with any code changes.

Section 905(m)(6)(C) was amended to state that challenge actions taken by the Fire Marshal shall be reflected in the challenged examination. This amendment was necessary to have the action taken by the Fire Marshal apply immediately to the challenged examination.

Section 905(m)(7) was amended to add "of weekly fire pump test certificate" after renewal and to identify the code sections where the form and fees are located. These amendments were necessary to identify which renewal was affected and the code location of the renewal form and fee.

Section 906.3(a) was amended to reflect the dates of forms AES 11 and AES 12. This amendment was necessary to ensure that the correct forms are being used.

Section 906.3(b) was added to list the application forms incorporated by reference for the Automatic Fire Extinguisher License, the Weekly Fire Pump Test Certificate, and the Renewal of the Weekly Fire Pump Test Certificate. This amendment was necessary to list the applicable application forms and their date.

COMMENTS RECEIVED DURING THE PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC.

The modified text was made available to the public for a second 15 Days from September 11, 2009 through September 26, 2009. No public comments were received.