

OFFICE OF THE STATE FIRE MARSHAL

CALIFORNIA CODE OF REGULATIONS

TITLE 19. DIVISION 1. STATE FIRE MARSHAL,

CHAPTER 1.

INITIAL STATEMENT OF REASONS

EXISTING LAW

Health and Safety Code, (HSC) Sections (§)13108(c) and 13145, require the State Fire Marshal to adopt and enforce regulations and standards deemed necessary for the protection of life and property implemented through the application of fire and life safety laws and regulations. This is achieved through code compliance inspections for new and existing buildings and building plan review of state-owned and state-occupied projects as mandated by the HSC, Sections 13108(c) and §13138(a).

Health and Safety Code, §13138 requires the State Fire Marshal to charge a fee in an amount sufficient to recover the costs incurred for fire and life safety building code inspections and related fire and life safety activities, including review of building plans and specifications, construction consulting, fire watch, and investigations for state agencies, local agencies, or private entities.

Government Code, §14963 mandates the duties and functions formerly conducted by the State Fire Marshal that relate to construction, school, plan checking, and construction inspection, are transferred to the Office of the State Architect.

These proposed regulations of the State Fire Marshal will meet the intent of Health and Safety Code, §13108, §13145, §13138 and Government Code, §14963 and expand the current requirements.

SPECIFIC PURPOSE, PROBLEM, BENEFITS AND RATIONALE

- 1. Problem being addressed:** The current regulations and adopted references do not address the number of changes that have occurred in existing law and the current practices of the State Fire Marshal. Currently both the Health and Safety Code and Government Code require the State Fire Marshal to review building plans and specifications to ensure compliance with California Code of Regulations, (CCR) Title 24 in all buildings and facilities, or portions thereof, to ensure the protection of life and property against fire and panic. The State Fire Marshal is making editorial changes in Title 19 to clearly define the statutory authority for review of building plans and

specifications for “state owned and state occupied” buildings and “public school” buildings.

HSC, §13138 requires the State Fire Marshal to "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 for state agencies, local agencies or private entities. The legal mandate to charge a fee for service has been in effect since 2003 and then amended in 2008 by AB 1338. The State Fire Marshal is making editorial changes in Title 19 to provide clarity and reflect the amended requirements from Statute.

2. **Anticipated benefits from this regulatory action:** This regulatory proposal benefits State agencies, departments and related stakeholders by clarifying the duties and responsibilities of the State Fire Marshal to enforce building standards adopted within CCR, Title 24. These changes are to ensure that the built environment is safe from the harmful effects of fire and panic and are continued to be applied consistently throughout the state.
3. **Factual Basis/Rationale:** Without these amendments, the duties, roles and responsibilities, recovering of costs and submittals to proper agencies would not be adequately defined, resulting in unclear and inconsistent information for our stakeholders as noted below:

Section 3.28(b) Without clearly defining the roles and responsibilities of the State Fire Marshal to foster, promote, and develop ways and means of protecting life and property against fire and panic through code compliance, inspections, and plan review services, our stakeholders cannot adequately disseminate information regarding the process used by the State Fire Marshal to achieve and ensure that state owned and leased buildings meet the fire prevention, fire control and extinguishment methodologies required to ensure that those who work, live, and assemble at state facilities are safe from the harmful effects of fire and panic.

Section 3.28(c) Without clearly defining that Health and Safety Code, Section 13138(a) mandates the Office of the State Fire Marshal recover 100% of its program cost by invoicing local and state government for all building plan review and fire and life safety inspections, our stakeholders may not be clear with why they are receiving an invoice for services. It is the mission of the SFM to foster, promote, and develop ways and means of protecting life and property against fire and panic. This is achieved through code compliance inspections and plan review activities, the Fire and Life Safety Division ensures that those who work, live, and assemble at state, local, and public facilities are safe from the harmful effects of fire and panic.

Section 3.28(d) Without clearly defining that Government Code, Section 14963 requires building plans and specifications for the construction, alteration or addition to any building owned, leased or rented by any public-school district be submitted to the Office of the State Architect rather than the Office of the State Fire Marshal, our stakeholders may submit drawings to the wrong agency resulting in delays for review and construction.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY OR REPORT

No technical, theoretical, or empirical studies or reports were used. The proposed regulation amendments by the Office of the State Fire Marshal were developed to maintain consistency with existing requirements found in Statute and are mostly editorial. During the crafting of the regulations, stakeholder organizations were consulted. These were conversations only, and there were no documents relied upon in connection with these consultations.

NECESSITY

The proposed additions and amendments are necessary to provide clarity and consistency for people directly affected by the regulations. These changes reduce redundancy and duplication in policy and procedures adopted by reference.

CONSIDERATION OF REASONABLE ALTERNATIVES TO THE REGULATION AND THE STATE FIRE MARSHAL'S REASONS FOR REJECTING THOSE ALTERNATIVES

The State Fire Marshal staff has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts it will place upon the industry. No alternatives considered by the State Fire Marshal would be more effective in carrying out the proposed regulations. This proposed regulation change would be less burdensome to the affected parties than the alternatives and would be more cost effective to private persons. The proposed regulations will be effective in implementing the statutory policies or other provisions of the law. The alternative of no regulatory action would create unclear authority resulting in inconsistent application.

REASONABLE ALTERNATIVES – SMALL BUSINESS

The proposed regulations have no substantial effect to small business. The SFM has identified no alternative that would lessen adverse impact, if any, on small business and still allow the SFM to effectively enforce the regulations.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The SFM can find no facts, documents, testimony, or evidence that this action will have a significant adverse economic impact on any business. The proposed regulation clarifies and adds language that better defines the requirements for businesses in current statute. There is no direct cost impact anticipated to businesses as a result of these regulations.

ECONOMIC IMPACT ANALYSIS AND ASSESSMENT

The proposed regulation amendments were made after an analysis of the building and fire code requirements for the building industry and the operations of the State Fire Marshal. No economic impacts are known or were identified.

The Creation or Elimination of Jobs within the State of California

The SFM has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs. During the crafting of the regulations, stakeholder

organizations were consulted. The consensus of the stakeholder representatives was that by adding these changes in regulations there will be no impact on industry in that the proposed amendments do not fundamentally change the way they are doing business.

The Creation of New Businesses or the Elimination of Existing Businesses within the State of California

The SFM has determined that this regulatory proposal will not have an impact on the creation of new businesses or the elimination of existing businesses. The regulations serve to clarify existing mandates and requirements which have no effect on the business environment.

The Expansion of Businesses Currently Doing Business within the State of California

The SFM has determined that this regulatory proposal will not have a significant impact and will not limit or discourage the expansion of existing businesses within the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

This regulatory proposal provides a direct benefit to the protection of public health and safety of Californians by better preparing stakeholders.

COORDINATION WITH FEDERAL LAW

The State Fire Marshal has determined that this proposed regulatory action neither conflicts with nor duplicates any federal regulation contained in the Code of Federal Regulations.

SPECIFIC SECTIONS WHICH HAVE BEEN MODIFIED:

Section 3.28(b). It is proposed to retain existing Section 3.28(b) Public Schools language and renumber it to Section 3.28(d). New subsection (b) language is added to reflect the statutory requirements of the State Fire Marshal to enforce provisions of the HSC which requires the State Fire Marshal to review building plans and specifications to ensure compliance with California Code of Regulations, Title 24 in all “state owned or state occupied” buildings and facilities, or portions thereof.

Necessity: The addition of this section is necessary because the existing regulations regarding building plans and specifications are outdated. The amendments added are necessary to clarify the statutory mandate that the State Fire Marshal has authority to enforce building standards adopted by the Building Standards Commission in all “state owned or state occupied” buildings and facilities, or portions thereof consistently throughout the state.

Section 3.28(c). California HSC, Section 13138(a) directs the State Fire Marshal to "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".

Necessity: The addition of this section is necessary to clarify the requirements for compliance with existing law. It is the mission of the OSFM to foster, promote, and develop ways and means of protecting life and property against fire and panic. This is achieved through code compliance inspections and plan review activities, the SFM Fire and Life Safety Division ensures that those who work, live, and assemble at state, local, and public facilities are safe from the harmful effects of fire and panic. In 2004, the program was modified drastically to accommodate the billing functions as outlined in HSC, Section 13138. This law mandates the Office of the State Fire Marshal recover 100% of its program cost by invoicing local and state government for all plan review and fire and life safety inspections.

Section 3.28(d). This section is proposed to be amended to comply with existing law and reflect those statutory requirements requiring that plans and specifications for the construction, alteration or addition to any building owned, leased or rented by any “public-school district” be submitted for review and approval to the Office of the State Architect rather than the Office of the State Fire Marshal.

Necessity: This amendment is necessary so it clearly identifies the correct agency with the authority and required responsibility as stated in statute, Government Code, Section 14963. Current Title 19 regulations indicate two possible agencies having authority for plan review of public schools. Current regulations incorrectly state to submit plans and specifications for the construction of schools to the Office of the State Fire Marshal instead of the Office of the State Architect and do not reflect the transfer of authority that occurred in 1991. The words “State Fire Marshal” are being removed and replaced with the words “Office of the State Architect”.

Sections 3.28(b), 3.28(c), 3.28(d) and 3.28(e). These sections are amended to correct numbering sequence because of the insertion of new language in Sections 3.28(b) and (c).

Necessity: These amendments are necessary to keep number and letter sequence. Re-lettered Section 3.28(b) language to (d); Section 3.28(c) language to (e); Section 3.28(d) language to (f); and Section 3.28(e) language to (g). No amendments to existing text were made, only re-lettering.

NOTE: Authority and Reference Cites: The authority and reference cites are amended for current information.

Necessity: These amendments are necessary to reflect the current authority and references for the section and provide clarity.