

NOTICE OF PROPOSED RULEMAKING

OFFICE OF THE STATE FIRE MARSHAL California Code of Regulations Title-19

The State Fire Marshal proposes to adopt the proposed regulations described below after considering all comments, objections or recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

A public hearing has not been scheduled; however, the State Fire Marshal will accept written comments regarding this regulatory action for 45 days beginning June 26, 2009 until 5 pm on August 10, 2009.

Please address your comments to:

**OFFICE OF THE STATE FIRE MARSHAL
Attention: Diane Arend, Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460**

Written comments may also be faxed to (916) 445-8459 or by e-mail to diane.arend@fire.ca.gov Attention: proposed gasoline containers repeal.

PUBLIC HEARING

The State Fire Marshal has not scheduled a public hearing on this proposed action. However, pursuant to Government Code Section 11346.5(a)(17), The State Fire Marshal will hold a public hearing if a written request is received from any interested party or their authorized representative no later than 15 days before the end of the 45-day comment period.

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Section(s): 13139 with reference to 13139, Health and Safety Code.

INFORMATIVE DIGEST - POLICY STATEMENT OVERVIEW

Proposed Title 19 Modified Sections

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) of the 110th Congress and the signing of the Children's Gasoline Burn Prevention Act by President George W. Bush, Health and Safety Code Section 13139 ceases to be applicable. Federal regulations 16CFR1700.14(a) 31 now address portable gasoline containers.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following determinations:

1. Mandate on local agencies and school districts: **None**
2. Cost or savings to any 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. Cost impact on representative private persons or affected businesses: The State Fire Marshal is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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.

8. Significant effect on housing costs: **None**

SMALL BUSINESS EFFECTS

The State Fire Marshal has made the initial determination that the amendments to these 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 businesses. The State Fire Marshal amendments to these regulations clarifies the requirements for listing of portable gasoline containers for purposes of establishing the criteria by which these items will be included into the State Fire Marshal's listing program. The proposed regulations do not have an impact on small business in that federal fire safety standards for portable gasoline containers have preempted state regulations thereby eliminating business to comply with duplicate standards. Therefore it is more efficient and cost effective to business.

The express terms of the proposed action are written in plain English and are available from the agency contact person.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5 subdivision (a) (13), The State Fire Marshal must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

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.

CONTACT PERSON

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:

Diane Arend
P.O. Box 944246
Sacramento, California 94244-2460
Telephone: (916) 324-9592
Fax: (916) 445-8459
E-mail: diane.arend@fire.ca.gov

Alternate Contact:

Francis Mateo
CDF/Office of the State Fire Marshal
Fire Engineering Division

P.O. Box 944246
Sacramento, Ca 94244-2460
Telephone: (916) 445-8396
Fax: (916) 445-8458
E-mail: francis.mateo@fire.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office of the State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, shown above. As of the date this notice is published in the Notice Register the State Fire Marshal rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons for the proposed action. The full text of the regulations, along with the initial statement of reasons upon which the changes are based is available from the contact person as shown. Copies may be obtained through the contact person at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the 45-day comment period, the State Fire Marshal 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 State Fire Marshal adopts (amends or repeals) the regulations as revised. Requests for copies of any modified regulations should be sent to Diane Arend at the address indicated above. The State Fire Marshal will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Diane Arend at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of proposed regulations, highlighted in underline and strikethrough, can be accessed through our web-site at <http://osfm.fire.ca.gov> or <http://osfm.fire.ca.gov/codedevelopment/codedevelopment.php>