

## **FINAL STATEMENT OF REASONS (FSOR)**

### **California Code of Regulations**

#### **TITLE 19. Public Safety**

#### **DIVISION 1. State Fire Marshal**

#### **CHAPTER 5. Automatic Fire Extinguishing Systems, Article 5. Licensing, Section 905.3. Fees**

#### **CHAPTER 5.5 Automatic Extinguishing Systems Certification, Article 3. General Provisions and Fee Schedule, Section 925.1. Fee Schedule**

#### **For**

#### **FEE STRUCTURE FOR THE AUTOMATIC EXTINGUISHING SYSTEMS INDUSTRY; AS DEFINED.**

#### **Update of Initial Statement of Reasons**

The Initial Statement of Reasons (ISOR), released December 6, 2024, is incorporated by reference herein, and contained a description of the rationale for the adoption of the proposed regulations. On December 6<sup>th</sup>, 2024, all documents relied upon and referenced in the ISOR were made available to the public. The Office of the State Fire Marshal (OSFM) received eleven (11) public comments as originally noticed during the 45-day comment period. The written comment period deadline for this action ended January 20, 2025. No changes were made as a result of the public comment period.

#### **Public Comment Availability**

The text of proposed regulations was made available to the public for 45 days from December 6, 2024, through January 20, 2025.

#### **Materials Relied Upon**

There were no additional materials relied upon which were not available for public review during the public comment periods, as listed above.

#### **Local Mandate Determination**

The OSFM has determined that this regulatory action will not result in a mandate to any local agencies or school districts pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

#### **Small Business Effects**

The OSFM has determined that the proposed regulations may affect small businesses. The proposed regulations would incur some effect on all business types, small or typical, who apply for registration. The OSFM has not identified any alternatives that would lessen any adverse impact on small businesses and still allow the OSFM to remain in compliance with statutory requirements for the State Fire Marshal (SFM) Licensing and Certification Fund.

#### **Alternatives Determination: Affected Private Persons or Businesses**

In accordance with Government Code section 11346.9(a)(4), the OSFM has thoroughly reviewed this proposed regulatory action, including both the positive and negative impacts it will place upon the industry.

The OSFM did not consider any other reasonable alternative to be more effective in carrying out the purpose for which the regulatory action was proposed; or be as effective as and less burdensome to affected private persons or private businesses, more cost-effective to affected private persons and equally effective in implementing the public safety purpose of the statutory program.

The OSFM considered the alternative proposed by partners to postpone the fee increase for Chapter 5.5 fees since the program was recently implemented and more emphasis on enforcement could increase revenue rather than increasing fees. The OSFM attempted to implement this alternative, however, it was determined that this alternative would not create sufficient revenue to meet the operating expenses of the program and was disapproved during the rulemaking process for violation of consistency, clarity, and necessity standards. Statutorily, the program cannot create undue burden on the Chapter 5 licensees in order to support the operating costs of the AES program as a whole.

The OSFM also considered the alternative of increasing fees in order to support a full program staff load. It was determined this alternative would place an undue financial burden on the existing licensee population. Rather than increasing fees to support a full staff, as the license group increases due to increased enforcement and partnership with CSLB the additional revenue and workload would support increasing the staff assigned to the program.

Evaluation of alternatives were considered and further discussed in the response to comments received.

### **Incorporated by Reference**

There were no documents incorporated by reference included in this rulemaking.

### **Summary and Response to Each Comment Directed at the Proposed Regulation**

The OSFM accepted public comments from December 6, 2024 through January 20, 2025. A public hearing was not requested nor scheduled, and no oral comments were received. The OSFM received eleven (11) written comments on the proposed regulations during the public comment period. Only objections, recommendations, or alternatives directed at the agency's proposed action, or the procedures followed by the agency in proposing or adopting the action are summarized as permitted by Government Code, Title 2, Section 11346.9. The following public comments have been summarized and aggregated as needed, as the same comment was received by multiple commentors.

It should be noted that the Automatic Extinguishing Systems Advisory Committee meets regularly and provides a forum for public comment. The OSFM Automatic Extinguishing Systems Committee operates under a charter with the OSFM. The goal of the committee is to provide a means of communication between the OSFM, the industry, the public, and the fire service.

The Automatic Extinguishing Systems Advisory Committee also allows for the OSFM to seek comments and specific views from interested parties on proposed regulations and technical issues. The committee is comprised of representatives of local fire departments, regulated industry community, association representatives, manufacturers/distributors and Program staff. The OSFM encourages all who are interested to participate so that the OSFM can become aware of industry ideas and issues.

Issues of this type can be presented in open forum at Automatic Extinguishing Systems Advisory Committee meeting or it is provided ahead of time as an agenda item. The current roster, the committee charter, and meeting information can be found on the OSFM's website under the "Board & Committees" tab or at the following link:

<https://osfm.fire.ca.gov/boards-committees/automatic-extinguishing-systems-advisory-committee/>

**Comment 1:**

Randall of RJ Fire Sprinkler Systems Inc. states that California CSLB licensed C-16 contractors do not have a need for the AES Program Sprinkler Fitter registration, certification and fees.

**Response to Comment 1:**

The OSFM did not make any changes to the text of regulations. The reason for making no change is that this public comment does not provide evidence that sufficient revenue would be obtained through other means to meet the requirements of the State Fire Marshal Licensing and Certification Fund.

Additional revenue is necessary in order for the program to implement the fund's statutory requirements, as detailed in Health and Safety Code Section 13137. As a cost recovery division, Fire Engineering and Investigations may charge fees in order to recover the division's processing and collection costs. For example, GOV Code 6157 establishes authority for the division to charge a \$30 service fee in order to cover the banking charges from a dishonored check, in addition to administrative costs associated with the recovery process. It also poses a public safety risk by removing the certification program altogether.

**Comment 2:**

Matias Ruiz states continuing education is necessary, however, proposes the alternative of stopping the fees associated with the AES licensing and certification program or to charge a fee for the employers rather than the employees.

**Response to Comment 2:**

The OSFM did not make any changes to the text of regulations. The reason for making no change is that this alternative does not provide evidence that sufficient revenue would be obtained through other means to meet the requirements of the State Fire Marshal Licensing and Certification Fund.

Additional revenue is necessary in order for the program to implement the fund's statutory requirements, as detailed in Health and Safety Code Section 13137. The alternative presented to charge employers rather than employees is not a valid alternative as Health and Safety Code 13137 states fees shall not exceed the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation of a different group under the same program.

**Comment 3:**

Sandi Meadows of RBM Fire Protection asks for the notification of regulatory action to be resent, linking the regulatory materials.

**Response to Comment 3:**

The OSFM did not make any changes to the text of regulations. The commentor was provided the requested information.

**Comment 4:**

Miguel Alonso provides an email address.

**Response to Comment 4:**

The OSFM did not make any changes to the text of regulation. Information regarding the proposed regulatory action was provided to the email address listed.

**Comment 5:**

Randy Roxson, Executive Director of Sprinkler Fitters Association of California states the original idea behind the formation of the Sprinkler Fitter Program 7½ years ago was meaningful, however, lack of enforcement has devalued and disincentivized licensure/certification and become a revenue generator for the state. The commentor proposes the alternative of delaying the fee increase until the program is adequately enforced.

**Response to Comment 5:**

The OSFM has not made any changes to the text of regulation. The reason for making no change is that this public comment does not provide evidence that sufficient revenue would be obtained through other means to meet the requirements of the State Fire Marshal Licensing and Certification Fund.

The State Fire Marshal Licensing and Certification Fund is a special fund and does not receive any general funding. The funds from license fees are only used for the program that they are collected from and do not exceed the actual cost of operating the program.

Costs to operate the program have increased since the fees were previously addressed. The current fee schedule was updated from approximately seven to fifteen years ago and is insufficient to sustain the Automatic Extinguishing Systems program without incurring a deficit. Since the previous fee increase, program costs have risen significantly due to inflation, increasing personnel costs, amounts required to maintain

the reserve recommended by the Department of Finance, and online application processing.

The OSFM considered the alternative proposed to postpone the fee increase for Chapter 5.5 fees since the program was recently implemented and more emphasis on enforcement could increase revenue rather than increasing fees. The OSFM attempted to implement this alternative in 2022, however, it was determined that this alternative would not create sufficient revenue to meet the operating expenses of the program and was disapproved during the rulemaking process for violation of consistency, clarity, and necessity standards. Statutorily, the program cannot create undue burden on the Chapter 5 licensees in order to support the operating costs of the AES program as a whole.

The OSFM also considered the alternative of increasing fees in order to support a full program staff load. It was determined this alternative would place an undue financial burden on the existing licensee population. Rather than increasing fees to support a full staff, the OSFM determined with increased enforcement and partnership with the CSLB that as the license group increases the additional revenue and workload would support increasing the staff assigned to the program.

The OSFM has determined that enforcement is a significant factor that could impact the stability of the program, resulting in a public safety risk. While enforcement activities are otherwise not directly related to fee amounts in this rulemaking, the OSFM determined that increasing the fees by a lesser amount than previously proposed in addition to increased enforcement will satisfy statutory requirements. In instances where fire sprinkler fitters are operating illegally without licensure/certification the OSFM welcomes complaints which shall be investigated. Further education to local AHJ's have also been implemented in order to improve enforcement as AHJ's are bound to California state laws and regulations. The OSFM suggests that the Advisory Committee and other stakeholders continue exploring this key topic.

**Comment 6:**

Randy Roxson, Executive Director of Sprinkler Fitters Association of California states the State Fire Marshal has not adequately explored other reasonable alternatives to increasing fees. The commentor states that lack of enforcement has disincentivized licensure, and therefore proposes the alternative of increasing enforcement to increase revenue. The commentor also expresses concern on the cost associated with licensure/certification in California compared to costs of licensure in other states throughout the country.

**Response to Comment 6:**

The OSFM has not made any changes to the text of regulation. The reason for making no change is that this public comment does not provide evidence that sufficient revenue would be obtained through other means to meet the requirements of the State Fire Marshal Licensing and Certification Fund.

In California, the State Fire Marshal Licensing and Certification Fund is a special fund and does not receive any general funding. The funds from license fees are only used for the program that they are collected from and do not exceed the actual cost of operating the program. Health and Safety Code 13137 states fees shall not exceed the actual cost of administration of the program, nor authorize the charging of fees to a particular group being regulated under a program, for the costs of regulation of a different group under the same program. Due to this statutory requirement set forth by the state of California the fees proposed were determined by evaluating the programs operating costs.

Costs to operate the program have increased since the fees were previously addressed. The current fee schedule was updated from approximately seven to fifteen years ago and is insufficient to sustain the Automatic Extinguishing Systems program without incurring a deficit. Since the previous fee increase, program costs have risen significantly due to inflation, increasing personnel costs, amounts required to maintain the reserve recommended by the Department of Finance, and online application processing.

The OSFM considered the alternative proposed to postpone the fee increase for Chapter 5.5 fees since the program was recently implemented and more emphasis on enforcement could increase revenue rather than increasing fees. The OSFM attempted to implement this alternative in 2022, however, it was determined that this alternative would not create sufficient revenue to meet the operating expenses of the program and was disapproved during the rulemaking process for violation of consistency, clarity, and necessity standards. Statutorily, the program cannot create undue burden on the Chapter 5 licensees in order to support the operating costs of the AES program as a whole.

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The OSFM has determined that enforcement is a significant factor that could impact the stability of the program, resulting in a public safety risk. While enforcement activities are otherwise not directly related to fee amounts in this rulemaking, the OSFM determined that increasing the fees by a lesser amount than previously proposed in addition to increased enforcement will satisfy statutory requirements. The OSFM suggests that the Advisory Committee and other stakeholders continue exploring this key topic.

**Comment 7:**

Andrew Merino, Training Coordinator; Derek Miles, Assistant Training Director; John Medina; Daniel Mangan, Organizer; and Steven Miles, Training Director; and Daniel Torres, Business Agent; of Sprinkler Fitters UA Local 483 state they are in opposition

of the proposed fee increase due to the lack of enforcement giving an unfair advantage to uncertified fire sprinkler fitters. Lack of enforcement has disincentivized licensure for those who continue to meet the requirements and fees associated with certification and have led to public safety risks. Due to the lack of enforcement the State Fire Marshal has failed to attain a purpose for increasing the fees. The commentors propose the alternative of postponing the fee increase until improvements in the program are made.

**Response to Comment 7:**

The OSFM has not made any changes to the text of regulation. The reason for making no change is that this public comment does not provide evidence that sufficient revenue would be obtained through other means to meet the requirements of the State Fire Marshal Licensing and Certification Fund.

The State Fire Marshal Licensing and Certification Fund is a special fund and does not receive any general funding. The funds from license fees are only used for the program that they are collected from and do not exceed the actual cost of operating the program.

Costs to operate the program have increased since the fees were previously addressed. The current fee schedule was updated from approximately seven to fifteen years ago and is insufficient to sustain the Automatic Extinguishing Systems program without incurring a deficit. Since the previous fee increase, program costs have risen significantly due to inflation, increasing personnel costs, amounts required to maintain the reserve recommended by the Department of Finance, and online application processing.

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The OSFM has determined that enforcement is a significant factor that could impact the stability of the program, resulting in a public safety risk. While enforcement activities are otherwise not directly related to fee amounts in this rulemaking, the

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**Comment 8:**

Arturo De Santiago provides a blank message with “sent from my iPad” tag line.

**Response to Comment 8:**

The OSFM determined this comment was irrelevant as no material was provided relating to the proposed regulations.