

## **Addendum to the INITIAL STATEMENT OF REASONS (ISOR)**

Additional Public Comment Period: July 7, 2023, to July 22, 2023

Extension of Previous Public Comment Period: November 4, 2022, to January 4, 2023.

Previous Public Comment Period: November 4, 2022, to December 20, 2022.

### **California Code of Regulations**

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

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

#### **CHAPTER 6. Fireworks, Article 3. Licenses, Section 981.3. License Fees**

#### **CHAPTER 6.5 Flamethrowing Devices, Article 8. Fees, Section 1066. General**

This addendum includes sufficiently related modifications to the Express Terms (TEXT) and conforming changes to the Initial Statement of Reasons (ISOR). The modifications would adjust the fireworks licensing and pyrotechnic operator rockets licensing fee amounts in the Section 981.3 fee schedule and conforming changes includes detailed necessity.

### **STATUTORY AUTHORITY TO COLLECT FEES FROM THE FIREWORKS AND PYROTECHNIC DEVICES, AND FLAMETHROWING DEVICE INDUSTRIES; AS DEFINED.**

Pursuant to Health and Safety Code Sections 12550-12728 and 12750-12761, the Office of the State Fire Marshal (OSFM) has statutory authority to regulate, license, and/or permit Fireworks and Pyrotechnics Devices, Flamethrowing Devices, and associated industries. These statutes also authorize the OSFM to collect fees which do not exceed the actual costs of operating these Licensing and Certification programs, and are housed in the OSFM's State Fire Marshal Licensing and Certification Fund

Health and Safety Code Section 13137 governs the use of the State Fire Marshal Licensing and Certification Fund. This fund houses fees from the OSFM's Licensing and Certification programs. Section 13137 specifies that 1) fees may not exceed the actual cost of administrating the OSFM's Licensing and Certification programs, and 2) fees must be used for the benefit of the same group they are collected from.

In addition, Government Code Section 6157(b) authorizes a State agency to charge an appropriate fee to cover the cost of any returned or dishonored checks. This section is applicable to the Fireworks and Pyrotechnics Devices, Flamethrowing Device programs because these programs accept checks for fees.

The fees assessed by the OSFM's Licensing and Certification programs support compliance with statutory and regulatory requirements which protect life and property against fire and panic, enhancing public safety and worker safety.

### **PROBLEM, BENEFITS, and RATIONALE**

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**1. Problem being addressed:** The current fee amounts collected from the regulated community are deposited in the State Fire Marshal Licensing and Certification Fund. The fund's statute limits the use of monies to the group that the fees are collected from. However, the current fee amounts are not sufficient to cover the actual costs to operate the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices programs. The Licensing and Certification portions of these program do not currently have additional fiscal options. There is substantial evidence that the program must obtain additional revenue in order to maintain compliance with the fund's statutory requirements, which effectuate the purpose of Health and Safety Code Section 13137. In addition, the OSFM does not currently have a method to recover the fees from dishonored or returned checks, these regulations would add a fee for that purpose.

**2. Anticipated benefits from this regulatory action:**

This regulatory proposal would provide a stable and complete funding source for the current operational expenses of the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices programs, which will enable the OSFM to retain compliance with the statutory requirements of the State Fire Marshal Licensing and Certification Fund (uniform fund code 0102) and therefore retain use of the Fund. This program implements the statutory enforcement mandates in Health and Safety Code Sections 12550-12728 and 12750-12761 provides a significant public safety benefit for patrons of live entertainment which includes these products. In addition, this program enhances worker safety in industries where these devices are sold or used, such as retail firework operations, the entertainment industry, and associated industries.

In addition, the proposed regulations would allow the OSFM to recover costs from dishonored and returned checks.

These requirements also support the OSFM's broad public safety mission to foster and promote the protection of life and property against fire and panic.

**3. Factual Basis, Rationale:**

The OSFM undertakes regulatory oversight of Fireworks and Pyrotechnics Devices, and Flamethrowing Devices funded through fees generated by the regulated community. These include: pyrotechnic operators, fireworks manufacturers, importer-exporters, wholesalers, retailers, and public display companies. This process is administered by the OSFM. Fees are collected from the regulated community through registration, license, classification and Department of Justice fees. The fee structure includes a specific cost for each service provided by the program. Fees are deposited in and appropriated from, the State Fire Marshal Licensing and Certification Fund. Fees are currently the only source of revenue for the program.

In 2018, the OSFM initiated the process of fully assessing the operating expenses of the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices, in order to determine if the existing program revenues meet statutory requirements to use program fees for the benefit of the group they are collected from. Through this evaluation, the OSFM determined that annual revenue under the current fee structure is insufficient to operate the program and therefore does not meet the requirements of Health and Safety Code 13137. Additional

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revenue is necessary in order for the program to implement the fund's statutory requirements, as detailed in Health and Safety Code Section 13137.

Currently costs from dishonored and returned checks must also be absorbed by the program, which is also not consistent with the fund requirements.

The current fee schedules were established over 19 years and 10 years ago, respectively. The current fee schedules are insufficient to sustain the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices Licensing and Certification programs without incurring a deficit. Since that time, program costs have risen significantly due to increased quantities of illegal fireworks Statewide, inflation, rising personnel costs, amounts required to maintain the reserve recommended by the Department of Finance, and adoption of online systems.

## **NECESSITY**

The proposed regulations are necessary to provide sustainable and complete funding to implement the programs' statutory enforcement mandates in Health and Safety Code Sections 12550-12728 and 12750-12761. Sustainable and complete funding will allow the OSFM to remain compliant with the State Fire Marshal Licensing and Certification Fund requirements in Health and Safety Code Section 13137.

The proposed fee increases, and additions are consistent with the requirements of Health and Safety Code Section 13137, Health and Safety Code Sections 12630-12637, and Health and Safety Code Sections 12755-12759 in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs. Over time, revenues from fees and costs for the program may vary due to increased or decreased activity by regulated entities.

If the revenues for this Program do not meet the statutory fund requirements for the State Fire Marshal Licensing and Certification Fund in Health and Safety Code Section 13137, it may necessitate delays or reductions in services. In addition to impacts to the directly affected entities, this program provides a key public safety benefit and protects worker safety for workers in industries such as the entertainment industry, the hospitality industry, and fireworks retail operations.

## **ECONOMIC IMPACT ANALYSIS AND ASSESSMENT**

The proposed regulations will impose cost impacts that a directly affected business would incur in reasonable compliance with the proposed action.

The OSFM estimates that there are approximately 87 individual businesses operating under this program which would be directly affected by the proposed regulations. The impact will vary depending on the size and the number of licenses obtained by that business.

The proposed fee increases would increase the cost of existing services. The proposed regulations also offer an opportunity for cost savings for some businesses.

Finally, the proposed regulations would also add a new \$30 fee for returned or dishonored checks, which would assign the cost of a returned or dishonored check to the individual

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rather than the program.

A five-year trend was used to project the average number of license and registrations, resulting in the revenue and expenditures. A fee structure was built based on the overall need to maintain the program operations. Fees were set at the lowest possible amounts, and still provide for full support of the program costs.

### **Addendum Updates**

This addendum includes a change to the fee schedule for fireworks licensing fees and pyrotechnic operator rocket licensing fees.

The proposed increase for fireworks licensing fees and modifications for both new and renewal are as follows:

- Manufacturer License  
Current Fee: \$1,500. Proposed Updated Fee: \$2,320. Increase: \$820.
- Wholesaler License  
Current Fee: \$3,000. Proposed Updated Fee: \$4,635. Increase: \$1,635.
- Importer & Exporter License  
Current Fee: \$4,500. Proposed Updated Fee: \$6,950. Increase: \$2,450.
- Retailer License  
Current Fee: \$50. Proposed Updated Fee: \$150. Increase: \$100.
- Public Display License (special)  
Current Fee: \$350. Proposed Updated Fee: \$540. Increase: \$190.
- Public Display License (limited)  
Current Fee: \$200. Proposed Updated Fee: \$310. Increase: \$110.
- Public Display License (general)  
Current Fee: \$1,500. Proposed Updated Fee: \$2,320. Increase: \$820.

The proposed increase for pyrotechnic operator licensing fees and exact changes for both new and renewal are as follows:

- Pyrotechnic Operator Unrestricted License  
Proposed New Fee \$1,000.
- Pyrotechnic Operator Basic Commercial License from \$125 to \$250  
Current Fee: \$125. Proposed Updated Fee: \$250. Increase: \$125.
- Pyrotechnic Operator Restricted Commercial License  
Current Fee: \$50. Proposed Updated Fee: \$100. Increase: \$50.
- Pyrotechnic Operator Rockets License: 1st Class, 2nd Class, and 3rd Class  
Current Fee: \$50. Proposed Updated Fee: \$50. Increase: \$0.
- Pyrotechnic Operator Special Effects License, 1st Class  
Current Fee: \$250. Proposed Updated Fee: \$500. Increase: \$250.
- Pyrotechnic Operator Special Effects License, 2nd Class  
Current Fee: \$200. Proposed Updated Fee: \$400. Increase: \$200.
- Pyrotechnic Operator Special Effects License, 3rd Class  
Current Fee: \$100. Proposed Updated Fee: \$200. Increase: \$100.
- Pyrotechnic Operator Theatrical License  
Current Fee: \$200. Proposed Updated Fee: \$400. Increase: \$200.

- Pyrotechnic Operator Theatrical Trainee License  
Current Fee: \$100. Proposed Updated Fee: \$200. Increase: \$100.
- Pyrotechnic Operator Performer License  
Current Fee: \$125. Proposed Updated Fee: \$250. Increase: \$125.
- Additional items for Pyrotechnic Operators only:
  - Fingerprint Background Check fee, also known as Live Scan.  
Fee set as actual costs from the Department of Justice.
  - Background check record keeping fee  
Current Fee \$5

The proposed increase for additional fireworks licensing fees and exact changes for both new and renewal are as follows:

- Manufacture, Import, Export or Wholesale, or any combination thereof Agricultural and Wildlife Fireworks License  
Current Fee: \$500. Proposed Updated Fee: \$775. Increase: \$275.
- Manufacture, Import, Export, or Wholesale, or combination thereof Model Rocket Motors License  
Current Fee: \$500. Proposed Updated Fee: \$775. Increase: \$275.
- Party Popper/Snap Cap Distributor Permit  
Current Fee: \$750. Proposed Updated Fee: \$1,160. Increase: \$410.
- Manufacture, Import, Export, Wholesale, or combination thereof High Power or Experimental High Power Rockets and Motors License  
Current Fee: \$1,500. Proposed Updated Fee: \$2,320. Increase: \$820.
- Retailer of High Power Rocket  
Current Fee: \$500. Proposed Updated Fee: \$775. Increase: \$275.

The proposed increase for classification and registration fees of fireworks and pyrotechnic devices are as follows:

- Registration or classification for each Model of Emergency Signaling Device  
Current Fee: \$50. Proposed Updated Fee: \$250. Increase: \$200.
- Registration and classification for each model of Model Rocket Motor, High Power Rocket or Motor, Safe and Sane, Party Popper, Snap Caps/Snappers, Agricultural/Wildlife and Exempt Fireworks.  
Current Fee: \$50. Proposed Updated Fee: \$250. Increase: \$200.

The proposed increase for the Flamethrowing Device Permit

Current Fee: \$425. Proposed Updated Fee: \$650. Increase: \$225.

Additional proposed new fees:

- Replacement License Card in case of a lost card.  
Proposed New Fee \$25.
- Service Fee for a returned or dishonored check.  
Proposed New Fee \$30.

The program's current annual revenue under the current fee structure is approximately \$603,000. If the regulations are amended as proposed, the projected annual revenue is

approximately \$1,264,000. The projected increase of \$660,000 in annual revenue is anticipated to be sufficient prevent a deficient in the program. The Department of Finance has recommended that the program provide for a reserve in the case of an unexpected reduction in revenue. This reserve has been included in calculating the operational costs of the program.

As part of the regulation's development process, draft fee amounts were presented to the OSFM General Fireworks Advisory Committee, the OSFM Special Effects Advisory Committee, and the State Board of Fire Services for consideration. Some stakeholders had questions regarding the process used to determine the new fees, the role of State General Fund monies in supporting the program, or questions regarding the impact to their specific type of licensing.

### **Evidence Supporting Finding of No Significant Adverse Economic Impact on Any Business.**

The OSFM has initially determined that the proposed regulations will not have a significant adverse economic impact on business. The proposed regulation will incur some effect on the regulated community, but the OSFM anticipates those impacts will be absorbed by industry and businesses engaged with industry. The OSFM can find no facts, documents, testimony, or evidence this action will have a significant adverse economic impact on any business enterprises or individuals.

### **The Creation or Elimination of Jobs within the State of California**

The proposed regulations are not expected to have a significant impact on the creation or elimination of jobs within the State of California.

### **The Creation of New Businesses or the Elimination of Existing Businesses**

It is anticipated that the proposed regulations will not significantly impact the creation or elimination of businesses in California, however, the proposed regulations may impact some creation or elimination of businesses because, the fireworks industry in California is well established with several companies occupying much of the market share. Prior to this fee increase, new companies rarely entered the California market. This fee increase may further disincentivize companies from entering California. Additionally, many pyrotechnic operators are themselves small businesses who hold several licenses, this increase may reduce the desire of smaller pyrotechnic operators to upgrade or expand into new license scopes.

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

It is unlikely that the proposed regulation will encourage or discourage regulated businesses from expanding their business in California. This includes importation, exportation, sales, and permitted use of fireworks/pyrotechnics and flamethrowing device(s).

### **Benefits of the Regulations to the Health and Welfare of California Residents**

The OSFM has determined that this regulatory proposal will benefit public safety, and worker safety. This program specifically enhances worker safety by reducing the risk of catastrophic fire in industries such as retail firework operations, the entertainment industry, and associated industries such as hospitality. This regulation enhances the use of

preventative measures to reduce the risk of a fire ignition or spread in many public spaces, protecting workers and patrons from the impacts of fire and panic.

### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY OR REPORT**

In developing these proposed regulations, the OSFM researched the program's operational costs, historical fee structure, and statutory fund requirements. The OSFM also consulted with and received input from the OSFM General Fireworks Advisory Committee, the OSFM Special Effects Advisory Committee, and the State Board of Fire Services. These were conversations only, and there were no documents relied upon in connection with these consultations.

The OSFM General Fireworks Advisory Committee operates under a charter with the OSFM. The committee is comprised of representatives of local fire departments, members of the public as end users, the fireworks industry, the film industry, rocket motor users, and Program staff. Many committee members would be legally required to comply with the new regulations and are therefore directly impacted by amendments to the current regulations. Committee members are appointed by the State Fire Marshal. This item was on the meeting agenda and discussed on July 29, 2020. A detailed visual presentation was provided by staff on August 4, 2021.

The OSFM Special Effects Committee operates under a charter with the OSFM. The committee is comprised of representatives of local fire departments, manufacturers, wholesalers, labor/end user, the film industry, and rockets, and Program staff. Many committee members would be legally required to comply with the new regulations and are therefore directly impacted by amendments to the current regulations. Committee members are appointed by the State Fire Marshal. Nonprofit entities who participate in retail fireworks sales licensed through wholesale companies based on physical sales location. This item was on the meeting agenda, a visual presentation was provided by staff, and the item was discussed on August 25, 2021.

All proposed fees with justifications were presented again to the General Fireworks Advisory Committee on May 24th, 2023. Two alternatives were presented by the members of the committee for the Pyrotechnic Operator's License: Rockets 1st, 2nd, and 3rd Class. No alternatives were presented for any fireworks licensing fees, fireworks and pyrotechnic devices, or the flamethrowing device permit.

A motion was passed by the committee with a majority vote. The motion was to not increase the rocket group license and disperse the fee over another operator group. The OSFM concurred with the committee's determination regarding the Pyrotechnic Operator's License: Rockets 1st, 2nd, and 3rd Class status. The OSFM has modified the text to reflect zero increase for this license. However, the OSFM did not choose to recoup the fee amounts by raising fees for another operator group.

The OSFM also sought the advice of the State Board of Fire Services on the proposed amendments. The State Board is a statutorily required advisory board to the State Fire Marshal. The State Board is comprised of representatives from fire service labor, fire chiefs, fire districts, volunteer firefighters, local government, the Office of Emergency Services, and

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the insurance industry. Members are appointed by the Governor or selected by relevant professional organizations or agencies. This item appeared on the August 19, 2021, agenda. Program staff provided a verbal presentation during the Board meeting, which is memorialized in the meeting minutes.

### **Documents Relied Upon:**

In addition to the sources noted above, the OSFM relied on the following technical, theoretical, and/or empirical studies, reports, and laws in developing the proposed regulations:

- Department of Finance Fund: 0102 - California Manual of State Funds (Revised June 2011)
- State Board of Fire Services Meeting Agenda, August 19, 2021
- Department of Justice Fingerprint Background Check information can also be found at the Office of the Attorney General's website: <https://oag.ca.gov/fingerprints>

### **Documents Incorporated by Reference:**

No documents are incorporated by reference as part of this proposal.

## **CONSIDERATION OF REASONABLE ALTERNATIVES AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

The OSFM has reviewed the proposed regulatory action, including both the positive and negative impacts it will place upon the industry. However, none of the alternatives would be more effective in carrying out the purpose of the legislation and proposed regulations or be less burdensome to the affected parties than the proposed regulations.

The alternative considered would not generate sufficient revenue to operate the program. The result of the reasonable alternative would be inconsistent with the requirements of Health and Safety Code Section 13137, the State Fire Marshal Licensing and Certification Fund.

The alternative of no regulatory action would also not be in the best interest of the public because a funding deficit would impact the operational stability of the program, which would cause a negative impact to directly affect businesses and impair the public safety benefits of the program.

The OSFM invites and will consider all public comments on alternatives to any of the proposed regulations.

### **Alternative 1: Two-Stage Increase in Fees**

The OSFM considered implementing the fee increase in two stages, starting with an increase of half of the fee amount and then implementing the full fee increase the following fiscal year. However, this alternative would not create sufficient revenue to meet the operating expenses of the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices Licensing and Certification programs operating expenses.



## **Alternative 2: No Action**

The OSFM considered the alternative of taking no action to raise fees. However, this alternative would generate no additional revenue.

## **Addendum Update: Alternatives Proposed**

All proposed fees with justifications were presented to the General Fireworks Advisory Committee on August 4th, 2021 and May 24th, 2023. Two alternatives were presented by the members of the committee for the Pyrotechnic Operator's License: Rockets 1st, 2nd, and 3rd Class; and to recoup those costs from another operator group. No alternatives were presented for other fireworks licensing fees, fireworks and pyrotechnic devices, or the flamethrowing device permit.

## **Alternative 1: Pyrotechnic Operator's License**

To remove the fee increases for Pyrotechnic Operator's License: Rockets 1st, 2nd, and 3rd Class; and to recoup the fees by raising fees in for another operator group.

The Committee provided the following comments to support their alternative:

- Rocket operators work for non-profit organizations volunteering their time.
- Rocket operators are also required to hold a special display license. The special display license fee is set for an increase.

A motion was passed by the committee with a majority vote to not increase the rocket group license and disperse the fee over another operator group. The OSFM concurred with the committee's determination regarding the Pyrotechnic Operator's License: Rockets 1st, 2nd, and 3rd Class status. The OSFM has modified the text to reflect a zero increase for this license. However, the OSFM did not choose to recoup the fee amounts by raising fees for another operator group.

## **Alternative 2: Seek Revenue From Other Sources**

The committee also proposed to seek out revenue from other sources rather than increasing operator licenses. The OSFM explained per statute fees must be generated through program licensure and made no modifications to the text based on this alternative.

## **SMALL BUSINESS DETERMINATION**

The OSFM has determined that the proposed regulations have no "substantial" effect to small business and the OSFM has not identified any alternatives that would lessen any adverse impact on small business and still allow the OSFM to remain in compliance with statutory requirements for the State Fire Marshal Licensing and Certification Fund.

## **Alternative: Small Business**

The OSFM also considered the two-stage fee increase as an option which may lessen the cost burden to small businesses, as defined. However, stakeholders who are also small business concerns provided feedback as part of the regulation's preliminary activities, confirming that the increased cost would be absorbable within their business model. Therefore, a two-stage fee increase would not substantially reduce the cost burden to business and also would not generate sufficient revenue to allow the program to be consistent with Health and Safety Code Section 13137, the State Fire Marshal Licensing and Certification Fund. It was ultimately determined that no reasonable alternative would be

equally effective and less burdensome than the proposed regulations.

**Does the Proposed Regulatory Action Mandate the Use of Specific Technologies or Equipment, or Prescribe Specific Actions or Procedures?**

No.

**Duplication or Conflict with Federal Law?**

The OSFM has determined this proposed regulatory action neither conflicts with nor duplicates any federal regulations contained in the Code of Federal Regulations.

**SPECIFIC SECTIONS OF TEXT WHICH HAVE BEEN MODIFIED: Addendum**

Subsections that have not been modified can be obtained by referencing the original Initial Statement of Reasons.

**Article 3. Licenses  
Chapter 6. Fireworks**

**Section 981.3 License Fees.**

**Addendum to Necessity- General Conditions Used to Evaluate Fees**

**Operating at a deficit:**

**Applicable to all categories**

The current fee amounts are not sufficient to cover the actual costs to operate the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices programs. The Licensing and Certification portions of these program do not currently have additional fiscal options. There is substantial evidence that the program must obtain additional revenue in order to maintain compliance with the fund's statutory requirements, which effectuate the purpose of Health and Safety Code Section 13137. The proposed regulations are necessary to provide sustainable and complete funding to implement the programs' statutory enforcement mandates in Health and Safety Code Sections 12550-12728 and 12750-12761. Sustainable and complete funding will allow the OSFM to remain compliant with the State Fire Marshal Licensing and Certification Fund requirements in Health and Safety Code Section 13137. The proposed fee increases, and additions are consistent with the requirements of Health and Safety Code Section 13137, Health and Safety Code Sections 12630-12637, and Health and Safety Code Sections 12755-12759 in that the total amount of fees collected are projected to support program costs while not exceeding the actual costs. Over time, revenues from fees and costs for the program may vary due to increased or decreased activity by regulated entities.

**Baseline 50% increase with a variable 3-5 percent to keep it a whole number:**

**Applicable to all categories**

In order to sufficiently to cover actual costs to operate the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices programs it was determined all fees must increase by a minimum of 50%. Variations of 3-5% were included in order to maintain the fee as a whole

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number for accounting ease.

**Evaluate number of licensees and potential loss of licensees, that loss as it contributes to the deficit:**

**Applicable to Subsections (d)(1), (d)(2), (d)(3), (d)(5), (d)(6), (d)(8), (d)(9), (d)(10), (d)(12), (d)(13), (d)(14), and (e)(1)**

The number of licensees for each license type were evaluated and taken into consideration when determining variable fee increases across license types. It was determined with historical program data, that license types with a steady decline in the number of licensees due to industry evolutions and changes were at a higher risk of no longer fulfilling the statutory requirement of funding the program. An evaluation of the total cost and burden to fireworks licensing, pyrotechnic operator licensing, fireworks and pyrotechnic devices, and flamethrowing device permits and how that cost compared to the number of licensees within that license type was also considered in order to preserve the licensing system.

**Potential to contribute to fraud, or underground and black-market activities:**

**Applicable to Subsections (d)(1), (d)(2), (d)(3), (d)(5), (d)(6), (d)(9), (d)(10), (d)(12), (d)(13), and (d)(14)**

Each license type was evaluated for the potential risk of fraud, underground activity, and black-market activity resulting in increased public safety risks. Due to this, the fees were increased at lower variable amounts to deter illegal activity and ensure the licensing system remained intact.

**Potential for driving business out of state:**

**Applicable to Subsections (d)(1), (d)(2), (d)(3), (d)(5), (d)(6), (d)(9), (d)(10), (d)(12), (d)(13), and (d)(14)**

Each license type was evaluated for the risk of increased fees driving businesses out of state and/or operating out of state. This risk was taken in consideration when determining variable percentage increases.

**In addition to these general conditions, detailed necessity has been added below.**

**Subsection (d)** This section has also been amended to increase the fees for all license types. The purpose of the fee increase is to meet the requirements of the State Fire Marshal Licensing and Certification fund, which requires that 1) fees may not exceed the actual cost of administrating the OSFM's Licensing and Certification programs, and 2) fees must be used for the benefit of the same group they are collected from. The problem is that the current fee amounts are insufficient to operate the program without incurring a deficit. The rationale is that the program has no other sources of revenue aside from fees, so an increase in fees is required to increase revenue.

The fee increases are as follows:

The modifications made during the comment periods are indicated in the following order:

Original Fee Amount **to** First Proposed Modification **to** Second Proposed Modification.

For example: (d)(1) Manufacturer from \$1500.00 (Original) to \$2,250.00 (First Proposed) to \$2,320.00 (Second Proposed)

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Fireworks licensing fees:

- (d)(1) Manufacturer from \$1500.00 to \$2,250.00 to \$2,230.00
- (d)(2) Wholesaler from 3000.00 to \$4,500.00 to \$4,635.00
- (d)(3) Importer & Exporter from 4500.00 to \$6,750.00 to \$6,950.00
- (d)(5) Public Display (special) from 350.00 to \$615.00 to \$540.00
- (d)(6) Public Display (limited) from 200.00 to \$350.00 to \$310.00
- (d)(7) Public Display (general) from 1500.00 to \$2,600.00 to \$2,320.00

Pyrotechnic operator licensing fees:

- (d)(8) Pyrotechnic Operator Rockets, 1st Class from 50.00 to \$100.00 to \$50.00
- (d)(8) Pyrotechnic Operator Rockets, 2nd Class from 50.00 to \$100.00 to \$50.00
- (d)(8) Pyrotechnic Operator Rockets, 3rd Class from 50.00 to \$100.00 to \$50.00

Additional Fireworks licensing fees:

- (d)(9) Manufacture, Import, Export or Wholesale, or any combination thereof; Agricultural and Wildlife Fireworks from 500.00 to \$750.00 to \$775.00
- (d)(10) Manufacture, Import, Export, or Wholesale, or any combination thereof; Model Rocket Motors from 500.00 to \$875.00 to \$775.00
- (d)(12) Party Popper/Snap Cap Distributor Permit from 750.00 to \$1,300.00 to \$1,160.00
- (d)(13) Manufacture, Import, Export, Wholesale, or any combination thereof High Power or Experimental High Power Rockets and Motors from 1500.00 to \$2,600.00 to \$2,320.00
- (d)(14) Retailer of High Power Rocket from 500.00 to \$750.00 to \$775.00

**Subsection (d)(1), (d)(2), (d)(3), (d)(5), (d)(6), (d)(9), (d)(10), (d)(12), (d)(13), and (d)(14)** proposes the minimum increase would remain at the baseline 50% with variable 3-5% increase for accounting purposes.

**Necessity:** The OSFM has determined that the Fireworks Licensing Fees, known as a Company License, increase would remain at the baseline 50% with a variable 3-5% increase for accounting purposes.

The minimum increase was applied because the OSFM has determined that minimizing the increase of fees to companies would encourage stability and growth in the California market, which would provide an economic and public safety benefit. Industry changes have led to increased barriers to entry for new companies and increased economic pressures to existing companies. This creates a danger that new companies will not enter the California market or existing companies may choose not to operate in California.

In addition, the Company license has a direct connection to pyrotechnic operator licenses and fireworks and pyrotechnic device licenses/permits because companies manufacture and import the products for the operators to use. Therefore, without a robust company license program, the other license types would not be able to operate legally in California.

Due to these factors, the OSFM has determined that an insufficient number of companies

operating in the state to meet demand would increase the risk of fraud, black market activity, and other criminal outcomes that would negatively impact public safety.

**Subsection (d)(4)** proposes to amend the fee from \$50.00 to \$150.00 for a retail booth permit.

**Necessity:** The OSFM has determined that the Retail Booth Permits will be increased by 200%. This is significantly above the baseline 50% with a variable 3-5% increase for accounting purposes. This increase is justified because the cost to meet the public safety purpose of these permits has increased since the last fee increase.

Retail Booths sell only Safe and Sane classified fireworks. However, the OSFM has noted an increase in the incidents of unapproved products being offered for sale through retail booths. Unapproved products do not meet quality or safety standards, increasing the public safety risk to stakeholders, law enforcement, and the general public. In response, the OSFM has increased the number of retail booth inspections, resulting in higher staff costs.

The retail booth fees were presented to the GFAC with justifications on August 4, 2021 and May 24, 2023. This topic remained an agenda item throughout that time for comment or proposed alternatives from the committee. No alternatives were presented by the GFAC or retail booth representatives.

**Subsection (d)(8)** proposes pyrotechnic operator licensing fees will be increased by 100%, except for pyrotechnic operator rockets license types.

**Necessity:** The OSFM has determined that the Pyrotechnic Operator Licenses will be increased by 100%, which is above the baseline 50% with a variable 3-5% increase for accounting purposes.

When evaluating the operator licenses for the fee increase, it was determined that the variation in fee amounts is reflective of the industry. Therefore, all operators were treated equally with a 100% fee increase across all license types. The robust economic status of the industry also shows that the burden of an increase will be proportionate to the benefit obtained by the licensees.

A new license fee was also added in this category. Existing regulations include an Unrestricted License for pyrotechnic operators, however, current regulations do not include a fee for the actual cost of administering this license. This license type can be found in Title 19, Section 981.5 (b)(1). This fee was determined by referencing the applicable license type fees amounts and combining them. This license type creates a streamlined process for the licensee rather than renewing multiple license types.

**Subsection (d)(8)** proposes no increase for pyrotechnic operator rockets license types specifically.

**Necessity:** In response to Advisory Committee recommendation and public comments, the OSFM has determined that fees for Pyrotechnic Operator's License: Rockets 1st, 2nd, and 3rd Class should not be increased.

This industry is based in hobby, educational, volunteer, and other non-profit activities. Licensees are not paid for their work. In addition to hobbyists, licensees generally volunteer

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their time with non-profit entities for educational activities.

The OSFM concurs with the Advisory Committee's comments and has modified the text to maintain the current fee amount for Pyrotechnic Operator's License: Rockets 1st, 2nd, and 3rd Class.

**Subsection (e)** proposed fee increase is necessary because the current fee amounts are not sufficient to cover the actual costs to operate the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices programs. This fee increase would provide a stable and complete funding source for the current operational expenses of the Fireworks and Pyrotechnics Devices, and Flamethrowing Devices programs, which will enable the OSFM to retain compliance with the statutory requirements of the State Fire Marshal Licensing and Certification Fund (uniform fund code 0102) and therefore retain use of the Fund. Section 981.5 (b)(1) includes an Unrestricted License for pyrotechnic operators, however, current regulations do not include a fee for the actual cost of administering this license.

**Subsection (e)(1)** proposes to amend the fee from \$50.00 to \$250.00 for an original registration and classification fee for each Model Rocket Motor, High Power Rocket or Motor, Safe and Sane, Party Popper, Snap Caps/Snapper, Agricultural/Wildlife or Exempt Fireworks. **Necessity:** The OSFM has determined that the Fireworks and Pyrotechnic Devices will be increased by 400%. This is significantly above the baseline 50% with a variable 3-5% increase for accounting purposes. This increase is justified because the cost to administer this license/permit has increased since the last fee increase.

Since the previous fee increase, the OSFM's costs to test these products has increased overall and per device.

Previously, testing locations in both regions were available, so travel for staff in either region was minimized. However, one of the regional locations was provided by a Pyrotechnics Company Licensee. While the OSFM is highly committed to utilizing opportunities for efficiencies and partnerships, it was also recognized that using the resources of a single licensee for testing could be perceived as creating a bias within the testing results.

The OSFM determined that in this case, the increased cost is reasonable to maintain the transparency and accountability of the testing process. Therefore, the cost of travel and dedicated time to testing must be incorporated.

In addition, there has been a decrease in the overall number of requests for device licenses/permits. Due to this decrease, fewer devices are tested at a time which has resulted in a higher per device testing cost.

The Fireworks and Pyrotechnic Device fees were presented to the GFAC with justifications on August 4, 2021, and May 24, 2023. This topic remained an agenda item throughout that time for comment or proposed alternatives from the committee. No alternatives were presented by the GFAC or Fireworks and Pyrotechnic Device stakeholders.

**Subsection (f)** proposes to add a new fee. The fee is the actual cost for the Department of Justice to perform a fingerprint background check for applicants of a pyrotechnic operator

license. The fee is set by contract with the Department of Justice.

**Necessity:** Health and Safety Code 12607 authorizes the OSFM to deny licensure based on certain types of crimes related to explosives, dangerous fireworks, arson, or other fire related crime. This fee is necessary to cover the cost of a service contract with the Department of Justice for furnishing background check results related to criminal history on pyrotechnic operator's license applicants. The OSFM does not have the internal resources or infrastructure to offer this type of service directly. The current fee is \$32, however, this fee may change per the contract with the Department of Justice. This text was modified for clarity, these changes were nonsubstantive.

## **Chapter 6.5 Flamethrowing Devices**

### **Article 8. Fees**

#### **Section 1066 General**

**Subsection (b)** proposes to revise which forms of payment are accepted and where the payments shall be submitted.

**Necessity:** Addition to this section is necessary to provide which forms of payment are accepted. This is a nonsubstantive change which aligns Section 1066 with Section 981.3.

**Subsection (d)(1)** proposes to amend the fee for a Flamethrowing Device Permit Original or Annual renewal from \$425 to \$650.00.

**Necessity:** The OSFM has determined that the Flamethrowing Device Permit will be increased by the baseline 50% with a variable 3-5% increase for accounting purposes. The current fee amount is more current than the fee amounts in other categories because the program was established more recently. In addition, conditions for this permit type have remained stable, with no additional justifications to increase fees.