



March 25, 2016

The Honorable Tonya Hoover
California State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460
Attention: Diane Arend

**SUBJECT: PROPOSED RULEMAKING: CALIFORNIA CODE OF REGULATIONS:
TITLE 19, DIVISION 1, CHAPTER 5.5: AUTOMATIC FIRE EXTINGUISHING
SYSTEMS CERTIFICATION**

Dear Fire Marshal Hoover:

The California Association of Life Safety and Fire Equipment (CALSAFE) appreciates the opportunity to provide comments in response to the Proposed Rulemaking: California Code of Regulations: Title 19, Division 1, Chapter 5.5: Automatic Fire Extinguishing Systems Certification, regarding a new fee-supported program for the installation of water-based Automatic Fire Extinguishing Systems, including a certification and registration program for individual fire sprinkler fitters or installers.

CALSAFE is an organization that represents fire equipment installation and service companies throughout the state of California. We are committed to bringing professionalism and quality to the service industry. Our members benefit from the training offered, the communication of code, and regulation updates and various interpretations as provided by CALSAFE. A number of our members currently serve on State Fire Marshal Advisory Committees and Workgroups as unpaid volunteers, and work diligently with the agency to help update existing regulations for Title 19 of the California Health and Safety Code and the State Fire Code.

General Comments

CALSAFE has always been in support of a Certification Program relating to testing and maintenance of Automatic Fire Extinguishing Systems. While CALSAFE did not agree there was a need for certification of installers, CALSAFE worked within the process in an attempt to keep the work of the Committee and Workgroup focused on the task of creating a reasonable and functional Certification program for installation of Water-Based Fire Protection System. This proposed regulation moved away from creating a reasonable and

functional installation certification process to instead codifying apprenticeship/journeyman programs. CALSAFE appreciates the attempt with the JREP program to be an alternative path to certification, in application; however, it ultimately will require the worker to follow a path through a state or federally approved apprenticeship program to gain certification.

CALSAFE is concerned that this Apprenticeship/Journeyman Fitters Certification Program does not allow for specialists. There are many very qualified individuals that are specialists that work only on Fire Pumps, Underground, Dry Systems, or Foam Systems, to name a few.

The proposed regulation would require these workers to be trained and be proficient on all segments of the installation of Water-Based Fire Protection Systems they may never be involved in because of their specialty. The program, as proposed, will exclude critically needed specialty workers who are experts in their specialty, but not involved in other aspects of Water-Based Fire Protection Systems.

Need for proposed rule making

CALSAFE has strong concerns that the proposed California Code of Regulations: Title 19, Division 1, Chapter 5.5: Automatic Fire Extinguishing Systems Certification (T19) rulemaking package will place an unnecessarily negative regulatory burden on our industry and other business enterprises. CALSAFE has identified issues in various sections of the proposed rulemaking that raise concerns on the scope of authority; the clarity and consistency in language used in the proposed rulemaking; and duplicative or conflicting requirements. We are also concerned by the distinct lack of any scientific or verifiable data that indicates a need for such an extensive rulemaking on this issue.

CALSAFE believes there is not “adequate information concerning the need” for this regulation. There is also deep concern that the OSFM has not performed any data-supported economic impact analysis on the regulated community or any analysis on the impact that this regulation will have on the businesses for whom they work.

Under Government Code 11340.1, the Legislature has stated *“It is the intent of the Legislature that agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process.”*

The Government Code goes on to provide in 11346 (a) that, *“A state agency proposing to adopt, amend, or repeal any administrative regulation shall assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements. For purposes of this subdivision, assessing the potential for adverse economic impact shall require agencies, when proposing to adopt, amend, or repeal a regulation, to*

adhere to the following requirements, to the extent that these requirements do not conflict with other state or federal laws: (1) The proposed adoption, amendment, or repeal of a regulation shall be based on adequate information concerning the need for, and consequences of, proposed governmental action. (2) The state agency, prior to submitting a proposal to adopt, amend, or repeal a regulation to the office, shall consider the proposal's impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states. For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, an agency shall consider, but not be limited to, information supplied by interested parties. No analysis has been done or submitted with this proposed regulation for stakeholders to review.

Public Participation in rule drafting process lacking

CALSAFE respectfully requests public hearings on this comment package be held at each stage of the rulemaking package development. CALSAFE also respectfully requests to be notified of any or all modifications made to these proposed rules.

Lack of Representation in the rule making development

On Page 4 of the ISOR, while C-16 contractors and Fire Sprinkler fitters were represented, other directly affected contractor and labor disciplines were not included such as A-General Engineering, C-34 Pipeline, C-36 Plumbing, Engineers/Architects, Labor's unions and OSFM Type A license holders and others were not represented.

Public notification laws not followed

California has robust sunshine laws, including the Bagley-Keene Open Meeting Act, which establish the standards state agencies must follow when holding public meetings. This includes advance posting of agendas, notice of place of meeting and a requirement that items to be discussed be included with any agenda and background materials provided to the body holding the public meeting, among many other provisions. Lack of compliance with Bagley-Keene was a concern that CALSAFE raised on several occasions, including where agendas were not posted in a timely fashion, discussion documents were not provided at least 10 days ahead of meetings and meetings were held without proper advance notice to the public as required by law, or minutes of prior meetings failing to be available for review by the working group -- or posted in a timely fashion in accordance to according to the Government Code.

Government Code 11346.45. (a) provides *"In order to increase public participation and improve the quality of regulations, state agencies proposing to adopt regulations shall, prior to publication of the notice required by Section 11346.5, involve parties who would be subject to the proposed regulations in public discussions regarding those proposed*

regulations, when the proposed regulations involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period.”

To our knowledge, commercial and public entities that will be affected by these rules have not been invited to -- or made aware of --these proposed regulations, including the potential impact upon their operations due to the higher cost of obtaining these services in the future.

CALSAFE Position

For these reasons and more, CALSAFE must respectfully **OPPOSE** the California Code of Regulations: Title 19, Division 1, Chapter 5.5: Automatic Fire Extinguishing Systems Certification rulemaking package as currently proposed for rulemaking on February 12, 2016.

Comments in regards to the Initial Statement of Reasons (ISOR)

The Initial Statement of Reasons (ISOR) is designed to supply information to the regulated community about the need for the proposed regulation, data gathered to support the necessity for a regulation and the potential impact the regulation will have on the regulated community, small business and local public entities, among others. CALSAFE has a number of comments regarding the ISOR:

- **Lack of verifiable data**

The ISOR states on Page 4 that these meetings were to “provide recommendations and review proposed regulations” but that “no documents” were relied on in connection with these consultations.” However, on Page 2 of the ISOR the office has stated that “*Fire departments across the state have shared many stories describing faulty and inadequate work on fire suppression systems in their respective jurisdictions,*” but fails to note what those stories are so they can be fact-checked. Additionally, on Page 5 of the ISOR, it states, *The OSFM (Office of the State Fire Marshal) has not relied on any other facts, evidence, documents, or testimony to make its initial determination of no statewide adverse impact.*” CALSAFE believes that there should be verifiable, evidence-based documentation to establish the need for this certification, not just anecdotal stories or unsupported statements in compliance with Governmental code section 11346.

Again, no evidence-based data has been produced from any source to demonstrate that the current system is not working. The burden is on the OSFM to show there is verifiable data to support a need for such a broad based, costly regulation.

It should be noted that this proposed regulation is similar to legislation that was unsuccessfully attempted for at least 6 years. Throughout the legislative process, proponents were not able to produce any empirical data to show the need for the

legislation. The same holds true for the current proposed regulation. When pressed, proponents could only provide anecdotal information based on experience in other states. Those other states do not have the checks and balances of California.

To our knowledge, not one sprinkler failure is attributable to improper installation. In fact, the Nation Fire Protection Association 2013 Fact sheet [U.S. Experience with Sprinklers](#) indicated that *“Sprinklers operated in 91% of all reported structure fires large enough to activate sprinklers, excluding buildings under construction and buildings without sprinklers in the fire area.”* When sprinklers fail to operate, the reason most often given (64% of failures) was shutoff of the system before fire began, as may occur in the course of routine inspection or maintenance. Other leading reasons included manual intervention that defeated the system (17%), lack of maintenance (6%), and inappropriate system for the type of fire (5%). Only 7% of sprinkler failures were attributed to component damage and none of these were attributed to improper sprinkler installation.

When sprinklers operate but are ineffective, the reason usually had to do with an insufficiency of water applied to the fire, either because water did not reach the fire (44% of cases of ineffective performance) or because not enough water was released (30% of cases of ineffective performances). Other leading reasons were system component damage (8%), manual intervention that defeated the system (7%), lack of maintenance (7%), and inappropriate system for the type of fire (5%). As noted, while there may have been issues with the original design or a change of use in the building, improper installation was not cited in the study as a reason for the ineffective operation of a sprinkler.

CALSAFE firmly believes a proposed rule that will both financially impact the industry and limit work for their already trained workforce should have been supported by an evidence-based study or report. Questions continue as to evidence and statistics that show the safety of the public is threatened today where these regulations do not exist. Also, no data has ever been provided that demonstrates the number of system failures due to improper installation due to inexperienced or unsupervised installers. Data is sadly lacking from this rulemaking.

- **Current Processes and remedies are effective**

When sprinklers are installed today in California, CALSAFE believes there is strong evidence that the current sets of checks and balances already in place in California law are effective.

CALSAFE would like to point out, as it has in a number of meetings and settings over the past few years, in the state of California the current system of licensing, along with the check and balance provided by permitting and inspections, is doing the job in ensuring that water-based Fire Protection Systems are installed correctly.

Today, these Fire Protection Systems are already reviewed, approved, inspected and tested by some/all of the following:

- Licensed Architects
- System Design Engineers
- Representatives from Insurance Companies (FM Global, Chubb, etc.)
- City/County Building Agencies or Fire Agencies (including Fire Protection Districts)
- State Agencies (OSFM, OSHPD, DSA, DoC, HCD, etc.)
- Specific Inspections include a review of:
 - ✓ Design and Calculations
 - ✓ Water Supply capability
 - ✓ Underground Service
 - ✓ Piping Inspection (before cover-up)
 - ✓ Hydrostatic Test
 - ✓ Final Walk-thru Inspection

In addition to this, Contractors installing these systems must not only be licensed with the Contractors State License Board (CSLB), but must also be bonded. The license and bonding process establishes a clear path of liability to ensure the systems are installed correctly. Clearly, the fees paid for the Permits for the application, review, inspection, and approval of any installation or modification is associated with the responsibility by the permitting/ inspecting authority to enforce the currently adopted Codes/Standard and to insure that these Fire Protection Systems are installed in accordance with these Codes/and Standards.

California already has clear enforcement mechanisms in place and CALSAFE fully supports them. For example, if the system is not installed according to design, code or permitting, the authority has remedies through the Fire Code. If the intent is criminal, there are procedures through the Penal Code 386 for legal prosecution of felony charges. C-16 Contractors face harsh felony criminal penalties under Penal Code 386 for failure to correctly install or maintain a fire sprinkler system. This existing law is has appropriately acted to deter bad actors and to ensure that systems are installed correctly. Penalties such as this help to demonstrate why C-16 contractors ensure that those who install their systems are properly trained to install the fire sprinkler systems correctly. Felonies are rare in terms of compliance and reserved for the extraordinarily serious situations. Most work related penalties are misdemeanors with significant fines and up to a year in county jail. A felony means a year or more spent in state prison with criminal fines assessed, along with loss of license and likely debarment from public works contracting.

- **Inappropriate incorporation of State Apprenticeship Requirements**
On page 6, in paragraph 2, the ISOR states that *“This is the current standard practice for C-16 fire protection contractors who draw their labor force from the current state and*

federally approved sprinkler fitter apprenticeship programs. Experiences in other states have proven that these companies will continue to remain competitive in the industry.” CALSAFE questions where this statement comes from? What data supports such a statement? How is this knowledge substantiated? Where is the survey or study that quantifies this fact? CALSAFE does not believe this statement is supported by real world facts. CALSAFE is concerned that this statement does not point out that being required to draw their labor force from the current state and federally approved programs will drive a lot of small business out of business. Additionally, public entities, commercial consumers and businesses will be faced with paying increased prices for installing, modifying or repairing their water based system due to this regulation.

It is highly likely that a significant cost will fall on small C-16 contractor businesses to have their existing employees obtain the required certification and registration through the new proposed “apprenticeship” process and may force some of them to close their doors. Consumers will also see costs rise significantly, as CALSAFE anticipates a labor shortage created by this regulation, and the increase of labor cost due to this program. The ISOR on Page 6 suggests that there will be no labor shortage due to the fact that the apprenticeship programs are running at full capacity. The problem will exist when those fitters who are short by a few hours or a few months of experience have to enter one of the topped out programs and therefore will have to wait for acceptance putting the small C-16 contractor at a disadvantage. It will also be a problem when they don’t have enough certified fitters to meet the ratio requirements therefore will not have the staff to complete jobs and will have to lay off people.

The ISOR suggests that there will not be an increase to labor cost due to this regulation package. It states that it is a standard practice for C-16 contractors to draw their labor force from the current state and federally approved sprinkler fitter apprenticeship programs. There are a number of C-16 contractors who, in fact, do not draw their labor force from those programs since they are currently voluntary. CALSAFE respectfully disagrees. This will definitely lead to higher labor costs, which constitutes more than just wages, for our members, many of which are small businesses.

- **CALSAFE questions the Disclosure Regarding the Impacts and Costs of the Proposed Regulation**

We question all eight statements beginning on Page 8 of the ISOR by the OSFM in determining the lack of impact on schools, local school districts, state agencies, local public entities, individuals or businesses seeking to compete with similar businesses in other states or the new costs to be placed on the shoulders of C-16 contractors through California.

- **Impact on Building and Fire Agencies**

In the Initial Statement of Reason (ISOR) does not address of the impact on the enforcement community (local Building and Fire Agencies) who are being asked to enforce/oversee these regulations. According to Government Code Sections 17572-

175747.5 agencies cannot burden local agencies without appropriate reimbursement avenues for associated cost.

- **Impact on Creation of New Businesses or the Elimination of Existing Businesses**
CALSAFE also strongly questions the statement by the OSFM in the ISOR that *“this regulation will not have any impact on (a) create or eliminate jobs; (b) create new businesses or (c) eliminate existing businesses within California; or affect the expansion of businesses currently doing business within California.”* Again, no data is provided to support such statements of “no impact.” We have stated previously that CALSAFE believes that this proposed rulemaking will certainly have an impact on some, if not many, C-16 contractors as well as the other contractor disciplines mentioned previously. CALSAFE is also concerned about the impact on the OSFM Type A license holder’s ability to perform minor repairs below \$500 during maintenance and testing.

An unclear statement is made on Page 7 paragraph 3, in the ISOR that *“Similar regulations have shown that adequate training and education for those who install fire sprinkler systems will reduce the likelihood of an uncontained catastrophic fire, which will ultimately lessen the resulting adverse impact on people and business.”* CALSAFE questions what is this referring to? Is the reference to a similar regulation in California or similar regulation in other states? Many states do not have the overlaying of process we have in California and therefore it might be a true statement in those states, but not here. However, California has contractor licensing, a strong fire code and a process of permits and inspections that already addresses this likelihood. Again, CALSAFE questions why the OSFM needs to add a new layer of bureaucracy for which the need has not been documented.

The ISOR also states on Page 7 finds that the displacement of people and businesses due to an uncontained fire is an economic burden to the state and the local economy. While there is overwhelming evidence that buildings without sprinkler systems can and have contributed to catastrophic losses the Committee or Workgroup presented NO examples where there have been such losses due in improperly installed systems documented in California.

A statement is made in ISOR on page 8, paragraph 4, that *“During the creating of the regulations, representatives of the fire sprinkler industry were consulted and the consensus of the representatives was that by adding these regulation changes, there would be no impact on the industry.”* There were many in the fire sprinkler industry that stated there absolutely would be an impact on business in this industry. CALSAFE does not believe this is reflected in the Initial Statement of Reasons and the ISOR should be updated to ensure the record is accurate and balanced.

Specific Comments by Section

1. Purpose.

922. CALSAFE request the word “repairs” be removed from this section as that is beyond the scope of this regulation and could be misused and interfere with cost of maintenance (i.e. installation of a replacement gauge).

2. Definition of Apprentice

924 (b) Apprentice. In addition to someone currently enrolled in a California or federally approved Fire Sprinkler apprenticeship Program, this section also includes those registered with the OSFM “Training Program” outlined in section 947 which is a program defined as the Job Related Experience Program (JREP) which has both education and experience related requirements along with reporting requirements and associated fees. CALSAFE is also concerned that this provision will be confusing as these JREP “apprentices” cannot be used to comply with public works projects.

3. Definition of Certified Sprinkler Fitter – Grandfathering C-16 license holders

924.1 (a) Certified Sprinkler Fitter. CALSAFE appreciates OSFM grandfathering language for C-16 contractors. CALSAFE believes that C-16 license holders should be totally exempt from the proposed installation certification.

4. Definition of Installation and Repair

924.4(a) Installation. This definition includes the term “repair” as does the scope in 923. 924.9(b) Repair. The definition “To restore to normal working condition or to fix damage” leaves a lot up to interpretation. CALSAFE believes replacing a gauge or cleaning out a Water Motor Gong will be considered a “repair” and require certification. These items are currently being performed by those providing testing and maintenance, and therefore beyond the parameters of “installation”.

5. Definition of Licensee

924.6(a) Licensee. This restricts the definition of a licensee to only those C-16 license holders. This regulation will impact other trades such as the as A-General Engineering, C-34 Pipeline, C-36 Plumbing and Engineers/Architects who also install portions of the sprinkler systems such as the underground piping. It also eliminates the ability of an OSFM A license holder who is not a C-16 license holder who performs work that is under the \$500 Contractor State License Board limit that requires a contractor’s license from performing any of the defined work on a water based fire protection system that they may otherwise be able to do if they employed Certified Sprinkler Fitters.

6. Definition of the Water Based Fire Protection System

924.12(a) Included in the definition of water based fire protection systems for which a certification is required are items such as “fire pumps” and “water storage tanks.” Since installation and repair are part of the proposed regulatory scope, then someone like a diesel mechanic would not be able to work on a fire pump to “repair” it unless they

were a certified sprinkler fitter. CALSAFE respectfully requests these terms either be deleted from the regulation or clarified as to coverage.

7. Directly Supervised Employees

926. Maximum Number of Directly Supervised Employees. Under this section it allows for 2 trainees to work in a situation where a Certified Fitter is supervising apprentices under a state or federal apprenticeship program. However, under the proposed section 926, that same Certified Fitter cannot supervise 2 trainees when there is no apprentice program involved. CALSAFE believes this is inconsistent and needs to be addressed. What is the difference in one over the other? If the Certified Fitter is qualified to supervise trainees in one situation, then why is the same Certified Fitter not qualified to supervise trainees in the other?

8. Violations

928(a). Violations are subject to a Notice of Violation or Correction Order. Since the NOV is issued against the individual who holds the OSFM certification or registration, the contractor whose job those employees are working may not be aware of the NOV and therefore given no opportunity to correct before the next degree of action is taken. CALSAFE believes this should be clarified to ensure the contractor is also provided with a timely copy of the NOV.

9. Violation correction

928(b) states that if a NOV or Notice of Violation or Correction Order is not corrected in 72 hours the SFM, SFM Designee or AHJ is authorized to issue a "Stop Work Order". CALSAFE is asking for clarification on situations where the person that was working on the job on the day of the Correction order leaves that contractors employment before the re-inspection. Will the fact that all who are on the job on at the time of the re-inspection have current certifications and registrations satisfy the correction requirement or can a "Stop Work Order" still be issued because of the fact that the employee who created the infraction is no longer available to request certification verification? What are the parameters of a violation correction? This is undefined and overly zealous inspectors might require the complete uninstall of the entire system because one worker forgot their card on the last day of the installation. This section needs a narrow definition and set limits.

CALSAFE is also concerned that a Stop Work Order for a certification violation is beyond the scope of this certification/registration package. Another refinement suggested by CALSAFE is that the OSFM should seriously consider adding the ability to permit a "certification card" to be able to be shown electronically to an inspector in order to speed compliance checks.

10. SFM Designee

Another concern is who can be designated as a SFM designee? Under the definition in 924.10(b) this can be "those who have been designated by the SFM to act on his/her

behalf in an official capacity”. Can individuals from an organization or from a competitor who may have an ulterior motive be such a designee? CALSAFE believes that there should be strict limits that ensure only OSFM personnel are permitted to be an “OSFM designee” due to the power a designee may wield over the contractor’s business operations. A better solution may be to not permit an OSFM designee to issue stop orders.

11. Stop work order questions.

929 Stop Work Order. First, as noted above, CALSAFE is opposed to the inclusion of a Stop Work order in this regulation. This section proposes that all work on a fire sprinkler system that has had a Stop Work Order issued not be resumed until a full investigation by the SFM, SFM designee or AHJ has been completed and verification has been made that all work on the fire protection system in question has been performed by duly authorized persons. CALSAFE is very concerned that there is no time limit on how long such an investigation may take. This has the potential of being very costly to employees working on a job, the contractor employing those workers, other contractors on the job, as well as the property owner for what might be determined at the end of that investigation to be a non-issue. This is complicated by the fact that a SFM designee may be conducting that investigation as noted previously.

CALSAFE strongly urges this section of the proposed rule be deleted or revised to include specific time limits on re-inspections and investigations. This is a part of the program that should be defined very specifically as it can be both costly to the business; to the affiliated contractors and their workers through interrupted construction timelines, which are tightly choreographed; and last of all have a negative impact on public safety. Moreover, CALSAFE believes that stop work orders should be eliminated from this package, but if it is retained, that all stop orders should be immediately transmitted to the SFM for immediate attention.

12. Violation Reports.

930 Report of Violations. Under this section actions taken by the AHJ do not have to report for up to 15 days after the action. This is a concern because if this action is a stop work order and work is stopped on a project this could add up to 15 days before the SFM even receives the notice to start an investigation. This just adds unnecessary time to the process during which work is stopped on a project. CALSAFE believes these reports should be electronically transmitted and a copy of the report should also be provided electronically to the C-16 immediately.

13. Certificate or Registration suspensions.

931 Penalties. This question goes back to who can be named a SFM designee and why they would have the authority to revoke or suspend a certificate or registration. This needs to be clarified that only the OSFM can revoke or suspend a certificate or registration.

14. Denial, Revocation and Suspension.

932(b). A Certificate can be suspended for 30 days pending an investigation for the violation of the proposed rule. During this time a fitter will be denied the opportunity to work. Has the State Fire Marshal considered the financial impact on the worker if they do not have a timely resolution process? This should be addressed through the establishment of an expedited process to ensure that workers are not economically harmed by a slow resolution process.

CALSAFE also believes that OSFM should ensure the agency has capacity to update the OSFM website daily. There needs to be a regular process where information will be reviewed and removed so that contractor businesses are not harmed by inaccurate information being posted on the OSFM website. CALSAFE believe that any posted information on the OSFM website must be timely and kept up to date. To do otherwise would be detrimental to the regulated community.

15. Deceptive Practices.

933(a) and 933 (b). CALSAFE is deeply concerned that this section inappropriately inserts Business and Professions Code 17000, 17200 and 17500 type lawsuits into the proposed regulation. This was not contemplated in the discussions surrounding the originating statute, AB 433. This does not have a place in this regulation and needs to be completely deleted.

The OSFM is the regulator of the proposed rule and that work is supported by the new fee for certification and registration. The OSFM should be the mechanism to enforce these requirements and this should not a new ability for anyone to sue businesses in California under the Business and Professions Code. CALSAFE believes all reference to these sections of the Business and Professions Code need to be removed from the regulation. This is an individual certification for a worker, not a license for a business.

16. Duplicate Issuance.

937. Duplicate issuance of Trainee or Apprentice Registration or Certification. CALSAFE believes that these documents should be made available in electronic format both when registering for the first time and when need arises for a duplicate to be issued. This will expedite the ability of the Trainee or Apprentice to return to work, and allowing quick verification for OSFM and employer.

17. Fire Sprinkler Trainee

938(c). This sections states that if the Trainee does not qualify for an apprenticeship program within one year they shall no longer be classified as a Trainee. Why could this Trainee not enroll in the SFM JREP program as well? As it now reads, a person can never start as a Trainee again. There are many situations where latitude must be given, such as when a Trainee is called up for military service, has a serious accident on the job or experiences some other significant life event. There are many protections in the state Labor Code and other state and federal statutes that protect these situations (job protections for those called to military service, prevention of discrimination against a

worker with a workers' compensation claim, family leave law protections as the Americans with Disability Act, just to name a few). CALSAFE believes this needs immediate clarification

18. Renewals

939(b) One of the prerequisites for registration and renewal is that a person only performs installation of water-based fire protection systems for a properly licensed CSLB C-16 Contractor. This does not allow for those who work for A- General Engineering, C-34 Pipeline, C-36 Plumbing and Engineers/Architects or those who work for an OSFM A license that are performing repairs under \$ 500 and do not need a C-16 license.

A better way to deal with this issue may be to examine the pathways already created by the Division of the State Architect and set out in Title 16 regarding who is able to install fire sprinklers in schools and other public buildings in California under the DSA's jurisdiction. For example, the DSA, in their publication "*Who May Install?*" sets out that a Civil Engineer, Mechanical Engineer, Class General A or Class C-34 or C-16 licensed contractor, are all authorized to install the underground portion of the system, including exterior (outside of the building) Backflow Preventers, Double Detector Check Valves, Gate Valves, Hydrants, Fire Pumps, and/or other pressure reducing or increasing device within parameters of their license. A C-36 may install the underground portion, from the property owner's side of the utility meter to the structure or fixed work, (outside of the building) including Backflow Preventers, Double Detector Check Valves, Gate Valves, Hydrants, Fire Pumps, and/or other pressure reducing or increasing devices of the AFSS, within the parameters of their license. CALSAFE questions why is the OSFM recreating this process from scratch when a useable framework exists that does not add new bureaucracy or costs to the industry.

The same comments apply to section 940(b) for certification. CALSAFE believes this needs to be clarified.

19. Possession of Trainee Registration.

942. This section requires the registration to be available whenever the holder is working. For that reason, CALSAFE believes the registration and certification should be electronically available to the worker to avoid loss of work and make for easy checking by the OSFM or employer.

20. Renewals.

945(b) This section does not allow for problems that might arise during the renewal process that is required to be in written form and submitted to the office. Since there is no acknowledgment sent on receipt of that renewal the holder may not be aware that it was not processed until after the current issue is expired and therefore will have no choice but to apply as a new applicant wait the time to take the test and in the meantime not be able to work.

CALSAFE recommends that wording be added that gives the OSFM the ability to waive this requirement at their discretion under merited circumstances or a resolution process where there are reasonable explanations for non-renewal.

21. Examination requirements.

946(a) (3). One of the conditions for Certification applications is providing proof of completion of the SFM Validation of JREP outlined in 947. Section 947 then refers to 947.1 which outlines the requirements for the JREP Commercial Certification. Since this regulation is only to cover water based systems, CALSAFE questions why CO2 Systems are included in 947.1(a)(2)(C), or Back Flow Prevention (D) included. All mention of CO2 should be deleted and Back Flow Prevention is not appropriate as part of a proposed certification program for fire sprinkler fitters, as there is already a Certification program for Back Flow Preventers.

CALSAFE also recommends that there be specificity as to what alarms are being covered by the JREP program.

22. Definition of Job Related Experience and Journeyman

947. CALSAFE is respectfully requesting consideration of adding in military service as a source of experience. This would comport with many other state laws aimed at helping veterans to return to civilian life with the fewest occupational barriers possible. We also request that term "Journeyman" be updated throughout the proposed regulation to match current use to Journey Person.

CALSAFE also believes that there should be a way to "test out" of the JREP with the demonstration of necessary skill and knowledge. This will help to ensure an available trained and certified workforce.

23. Curriculum used by JREP

947. The curricula outlined under the JREP program appears to be lifted from an existing apprenticeship training program and contains elements that do nothing to increase the skills or knowledge of a certified sprinkler fitter. Again, CALSAFE must point out that this was never intended to be an "apprenticeship" program and unnecessary program elements need to be eliminated. See authorizing Health and Safety Code *13110. (a) Notwithstanding any other provision of this part, the State Fire Marshal may propose, adopt, and administer the regulations that he or she deems necessary in order to ensure fire safety in buildings and structures within this state including regulations related to construction, modification, installation, testing, inspection, labeling, listing, certification, registration, licensing, reporting, operation, and maintenance. Regulations that are building standards shall be submitted to the State Building Standards Commission for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13.* Nowhere in this statute is there a mention of establishing an apprenticeship program.

24. Continuing Education.

948. This section requires a certified fire sprinkler fitter to receive 24 hours of CEUs. The form calls for 24 CEU's. CALSAFE is concerned that these terms are not the same and believes clarification is needed to ensure the regulation requires 24 hours of CEUS, not 24 units of additional education, which would be excessive.

25. Implementation Period.

949(a). This section provides for the provisions of the section to supersede parts of the regulation for six months, but it does not state six months from what point in time. CALSAFE believes this needs clarification. CALSAFE also believes that the time table of 6 months to apply for this allowance will also be a challenge to ensuring all those who might qualify under this clause be successful in obtaining the certification. It will take more than six months to successfully notify such a large workforce of these changes and many will miss the opportunity making them apply to an apprenticeship program and further reducing the available work force. This period should be no less than 18 months.

949(a) (3) also states that no certification card shall be required within one year of the effective date of this chapter. Again, CALSAFE believes that this needs to be revised and the implementation date be extended to 18 months.

Conclusion

While there are still many challenges to creating a final rule, CALSAFE is hopeful these comments are constructive and informative to the OSFM. We are happy to provide any clarification or additional information. We are available to meet with you or with your staff at your convenience to discuss our concerns and suggestions.

Sincerely,



Allen Quirk
President of CALSAFE