

INITIAL STATEMENT OF REASONS (ISOR)

CALIFORNIA CODE OF REGULATIONS TITLE 19. PUBLIC SAFETY Division 1. State Fire Marshal Chapter 1. General Fire and Panic Safety Subchapter 1. Administration Article 3A. Special Event Permit

EXISTING LAW

Pursuant to Health and Safety Code Sections (HSC) Section §13145, the State Fire Marshal shall enforce regulations and standards and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

The State Fire Marshal has determined that the public interest and public welfare will be adequately served by clarification language regarding Special Events on State properties. The regulations adopted by the State Fire Marshal will meet the intent of HSC §13145.

SPECIFIC PURPOSE AND RATIONALE

1. Problem being addressed: The current regulations and adopted references do not address the concerns for the prevention of fire or for the protection of life and property against fire or panic on State properties or in state buildings during special event activities which are beyond the normal scope of activities and operations conducted on state properties.

2. Anticipated benefits from this regulatory action: The benefits of the proposed regulations are establishment of enforcement processes, as well as minimum elements for permitting special events and criteria to enable the SFM to carry out the purposes and intent of Health and Safety Code 13145, and to exercise the powers and duties conferred upon the SFM. The specific benefits anticipated from the proposed regulations include increased safe evacuation practices near special event activities through inspections of possible violations of the Article, and enforcement of the Article; and implementation of a system that allows special event activities to operate with less disruption to activities while complying with fire safety practices. This regulatory proposal benefits the California Fire Service and related stakeholders by clarifying and updating the safety requirements for special event activities conducted on State properties. The proposed regulations will create a fair, balanced process that promotes shared responsibility for a successful and safe event between the permit operator/promoter and potential hazard or liability to the state around special events.

3. Factual Basis/Rationale: Without clearly defined procedures, the State Fire Marshal cannot adequately assimilate information to provide risk analysis and threat conditions on State properties to ensure the preservation and protection of life and property against fire or panic.

The proposed regulation will require the following:

1. Operational procedures for obtaining a special event permit on state properties owned and specified state-occupied properties.
2. Create standard submittal information.
3. Submittal of a permit application to the State Fire Marshal for special events on state properties.
4. Specifying and defining terms and definitions used in the proposed regulations.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY OR REPORT

The proposed regulation amendments by the Office of the State Fire Marshal were developed based on operation need. The Office of the State Fire Marshal consulted with State Parks and Fair Operators who requested a clear and concise process. These were conversations only, and there were no documents relied upon in connection with these consultations.

Documents Relied Upon:

The State Fire Marshal relied on the following sources and has entered into the rulemaking record as a document relied upon:

1. Strategic Plan 2019. This strategic plan identifies, defines, and describes that the organization evolve to current responsibilities. The first goal is to improve our core capabilities, which the clarifying language will provide. The “Strategic Plan 2019” is available on the State Fire Marshal, Fire and Life Safety website at: <https://www.fire.ca.gov/about-us/strategic-plan/>

DOCUMENTS INCORPORATED BY REFERENCE:

The following form, in the format developed by the Office of the State Fire Marshal, is hereby incorporated by reference in the text of regulations and available from the electronic permitting and license application system called “[GOVmotus Fire](#)” on the State Fire Marshal’s website: <https://osfm.fire.ca.gov/> or [Special Events Tab](#) at <https://osfm.fire.ca.gov/divisions/fire-and-life-safety-division/>

(1) GOVmotus Special Event Application (dated February 2021)

It would be cumbersome, unduly expensive or otherwise impractical to publish this document in the California Code of Regulations. The document is made available from the agency or is reasonably available to the affected public from a commonly known or specified source which is made available on the State Fire Marshal’s website above.

NECESSITY

The regulations are needed to memorialize and solidify special events through an approved permit. These proposed regulations provide clarity and consistency for all State agencies and stakeholders requesting or applying for a permit for special event activities held on State properties or in State buildings. Special events are some of the biggest liabilities that the State faces due to the wide spectrum of variables. Special events broadly consist of outdoor public displays of fireworks, indoor theatrical and special effect events, private events, sporting events, fairs & festivals and other public events. These activities are considered special events because they are outside of the host's normal business, program, or activity. Even when facilities are made for a specific event, there are added variables which require monitoring for the prevention of fire or for the protection of life and property against fire or panic issues that may arise.

Planning is essential when reviewing each special event, to weigh each variable in totality, properly identify and assess the likelihood of an adverse event and develop risk analysis. Planning can reduce human casualties, personal losses, property damage and the general social disruptions which occur because of natural catastrophes or technological accidents. A risk analysis is a tool that can be used to determine a successful and safe event. When the risk analysis is too high, mechanical measures are required to be in place (i.e., extra staffing, additional exiting, reduced occupant loads, etc.) to plan for and reduce risk. These regulations address the staffing levels needed for monitoring, reviewing, and providing a risk analysis for each individual special event permit.

A special event venue does not want to be remembered for nor do patrons want to become a statistic of preventable tragedies. The 2003 E2 Nightclub stampede was supposed to be closed to the public, but the occupancy load that night topped 1,100 people, per police reports. There were many issues due to locked exits, blocked exits, a non-sprinklered assembly, overcrowding and a myriad of other issues which contributed to the crushing deaths of 21 people and injuries to more than 50. Three days later, in February of 2003, another tragedy occurred in Rhode Island at the Station Nightclub. A fire broke out at the nightclub for failure to follow fire safety rules (with no sprinkler system and use of flammable materials) causing the needless deaths of 100 people during a "Great White" concert.

Tragedies happen on a regular basis when fire prevention measures are not considered. A recent incident in Oakland, CA in December 2016, referred to as the "Ghost Ship" warehouse fire, was an industrial warehouse that had been illegally converted to a residence and event space for artists where the occupants hosted a dance party. On the night of the fire, the two-story building was stuffed with flammable materials and extension cords and permits did not allow for residential or entertainment uses. 36 people were killed when a fire ignited during this unpermitted special event.

Each of these special events have commonalities; the spaces were not capable of handling these types of events or crowds. There were other preexisting issues and lack of current event crowd control and in some cases lack of proper permits. These special

event regulations are intended to help mitigate these types of incidents from occurring. Through preplanning and risk analysis, state agencies, stakeholders and event promoters have a better understanding if the event is safe and feasible to occur on State properties or in State buildings.

ECONOMIC IMPACT ANALYSIS AND ASSESSMENT

The proposed regulations were made after an analysis of existing policies and procedures. Over the past year 2019-2020, there have been over 950 special event permit applications with approximately 37,250 hours logged to special event inspections from the Office of the State Fire Marshal. This equates to approximately \$8,567,500 in fees for services. Currently events are processed and billed through the SFM office. These regulations would allow State agencies, stakeholders and event promoters to prepare and better calculate expenditures for services. The proposed regulations will have a positive impact on the ability of the SFM to carry out its enforcement authority, protect California's citizens and the public at large and reduce the risk of loss of life due to fires.

The Creation or Elimination of Jobs within the State of California

The SFM has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs. By adding these changes in regulations there will be no impact on industry in that the proposed amendments do not fundamentally change the way of doing business.

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

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

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

The SFM has determined that this regulatory proposal will not have a significant impact and will not limit or discourage the expansion of existing businesses within the State of California. The regulations serve to clarify existing procedures and requirements which have no effect on the business environment.

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

This regulatory proposal provides a direct benefit to the protection of fire and life safety of Californians. The regulations would ensure consistency throughout the State with special event permits to protect California's citizens, and reduce the risk of future loss of life due to fires.

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 OSFM can find no facts, documents, testimony, or evidence that this action will have a significant adverse economic impact on any business. The proposed regulation clarifies and adds language that better defines the special events process, criteria for issuance, and restrictions on use for State buildings and grounds.

CONSIDERATION OF REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES

The State Fire Marshal (SFM) has thoroughly reviewed the proposed regulatory action, including both the positive and negative impacts it will place upon the regulated community. No alternatives considered by the SFM would be more effective in carrying out the purpose of these proposed regulations or be less burdensome to the affected parties than the proposed regulations. The alternative of no regulatory action would continue confusion and ambiguity to the stakeholders holding special events that these regulations are intended to assist.

REASONABLE ALTERNATIVES – SMALL BUSINESS

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

DUPLICATION OR CONFLICT WITH FEDERAL LAW

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

PURPOSE AND NECESSITY

Specific sections which are proposed to be adopted:

TITLE: Article 3A. Special Event Permit.

Purpose: New article and header is proposed identifying the new section “Article 3-A. This section provides the scope, general requirements, and timeframes for special event permits and promoters of special event activities to follow.

Necessity: Because this is a new article the regulations provide the groundwork for the regulated community to understand the requirements necessary for compliance. Without this section the regulated community may not recognize what special event activities are subject to the article’s requirements or the timeframes for issuance of a special event permit.

Section 3.34. General.

Purpose: The purpose of the proposed regulation is to provide information on the scope and purpose of special events.

Necessity: It is necessary that a process for standardizing procedures of operation for permitting special events is provided to better assist those entities affected so they are

aware of the plan details; and clarification is provided for owners and operators of properties where special events are held.

Section 3.35. Applicability.

Purpose: The purpose of the proposed regulation is to provide information on applicability of special events.

Necessity: It is necessary to identify groups that are affected by the regulations and those who are exempt from following these regulations to provide clarity when issuing permits. Existing statues allow the California Film Commission to grant permits for filming operations on state property and thereby are exempt from these regulatons.

Section 3.36. Definitions.

Purpose: Definitions are being proposed to add clarity to key definitions, terms, and acronyms used throughout the proposed regulations.

Necessity: The user may need more clarifying information regarding a term. It is necessary to include these definitions referenced from other sections so the user can easily find each definition alphabetically while clarifying the terms used.

Section 3.36.1. “A” Definitions. (a) Assembly Event.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “Assembly Events”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “Assembly Events” clarifies the areas of use.

Section 3.36.2. “C” Definitions. (a) Commercial Activity.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “Commercial Activity”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “Commercial Activity” clarifies the activities by businesses or persons for profit.

Section 3.36.3. “D” Definitions. (a) Demonstration.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “Demonstration”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “Demonstration” clarifies actions of people during gatherings. This can be an assembly but with different motivations.

Section 3.36.3. “D” Definitions. (b) Department.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “Department”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “Department” identifies Authority Having Jurisdiction for these regulations.

Section 3.36.4. “G” Definitions. (a) Gathering.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “Gathering”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “Gathering” distinguishes the ability to create assemblages of persons.

Section 3.36.5. “S” Definitions. (a) Special Events.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “Special Events”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “Special Events” clarifies those activities the state agency holds outside their normal daily operation would require permits.

Section 3.36.5. “S” Definitions. (b) Specified State-Occupied.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “Specified State-Occupied”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “Specified State-Occupied” clarifies and identifies the buildings as identified in existing statute pursuant to Health and Safety Code Section 13108(e).

Section 3.36.5. “S” Definitions. (c) State Capitol Grounds.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “State Capitol Grounds”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “State Capitol Grounds” located in Sacramento, identifies the area associated with the Capitol Mall and park areas that hold outdoor special events.

Section 3.36.5. “S” Definitions. (d) State Fire Marshal.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “State Fire Marshal”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “State Fire Marshal” identifies the state agency.

Section 3.36.5. “S” Definitions. (e) State Property.

Purpose: It is proposed to add the definition of an important term used in the proposed regulations and include clarifying verbiage to define “State Property”.

Necessity: It is necessary to include this definition to carry out the proposed regulations because the term “State Property” identifies several types of properties that are subject to these regulations. Included are the following properties of: the University of California, California State University or Hastings College of Law, any department or subdivision of state government, the Departments of Mental Health or Developmental Services, parks and beaches of the Department of Parks and Recreation, Department of Corrections or Youth Authority, Department of Transportation and State Capitol Grounds synonymous with State Capitol Park or Park.

Section 3.37. Incorporated References.

Purpose: It is proposed for applicants to specify and fill out an application form for issuance of a special event permit by the SFM.

Necessity: It is necessary to identify the applicant's contact information, location of event, type of event, estimated number of attendees to adequately perform a safety analysis to identify and reduce hazards of fire and for the protection of life and property against fire, explosion and panic.

Section 3.38. Permits for Activity on State Property.

Section 3.38 (a) Permit Application.

Purpose: It is proposed to update organization procedures and the timelines to process applications.

Necessity: It is necessary to ensure that information is provided in writing so internal procedures are met to properly vet applications in a timely manner. 10 business days is needed to have adequate time to review and approve applications for permits prior to commencement of the activity.

Section 3.38. (b) Criterial for Issuance of Permit.

Purpose: It is proposed to ensure that the application is processed in a timely manner.

Necessity: It is necessary to ensure that internal procedures are met to properly vet completed applications in a timely manner.

Section 3.38. (b) (1).

Purpose: It is proposed to designate areas for permitted uses.

Necessity: It is necessary to designate areas of use and perimeters for the permit activities.

Section 3.38. (b) (2).

Purpose: It is proposed to ensure that there are not conflicts with times and areas of permits on state property.

Necessity: It is necessary to ensure that the permitted activities do not conflict with other events on state properties.

Section 3.38. (b) (3).

Purpose: It is proposed to set time limits on applications and to ensure there is equal opportunity to gain permits for state property.

Necessity: It is necessary to provide opportunity for permittees to obtain permits a maximum of one year in advance.

Section 3.38. (b) (4).

Purpose: It is proposed to ensure best practices and does not conflict with Special Events Permits parameters or Prohibited Conduct.

Necessity: It is necessary to ensure that rules are met, and conflicts are reduced.

Section 3.38. (b) (5).

Purpose: It is proposed to ensure that the permittee assumes liability for damages related with use.

Necessity: It is necessary to preserve and protect state properties from abuse and destruction from events.

Section 3.38. (b) (6).

Purpose: It is proposed to identify that it is the responsibility of permittee to provide insurance or a bond after consultation with the Department of General Services or Office of Risk and Insurance Management.

Necessity: It is necessary to safeguard and protect State Properties, Interests and Assets.

Section 3.38. (b) (7).

Purpose: It is proposed to reduce the liabilities and ensure protection of life and property against fire, explosion and panic during a permitted event by providing a qualified fire life safety person when deemed necessary.

Necessity: It is necessary to address notation changes to accurately locate the appropriate agency representative and street address.

Section 3.38. (b) (8).

Purpose: It is proposed to ensure that the applicant of the permit is the point of contact and not a third party.

Necessity: It is necessary to ensure accountability, responsibilities, and liabilities are met for the permit.

Section 3.38. (b) (9) Minimum Staffing of Special Events.

Purpose: It is proposed to provide minimum deputy staffing during events based on size and special factors.

Necessity: It is necessary to provide basic staffing patterns for prescriptive special events. Levels can change after a safety analysis of the event has been performed.

Section 3.38. (b) Table 1. Minimum Staffing of Special Events

Purpose: It is proposed to provide a matrix table to identify minimum Deputy staffing. The matrix is based on providing deputy safety by working in pairs.

Necessity: It is necessary to identify possible variances that could affect staffing levels. Although the table is not all inclusive, it provides general guidelines for special events.

Minimum Staffing Levels are dependent upon the overall circumstances and the totality of the event while taking in consideration full safety analysis. The staffing numbers are based on Deputy safety matrix established in California Fire Code Section 403.12.3 and Section 3106.4.3. Crowd Managers.

403.12.3 Crowd managers. Where facilities or events involve a gathering of more than 500 people, crowd managers shall be provided in accordance with Sections 403.12.3.1 through 403.12.3.3.

403.12.3.1 Number of crowd managers. Not fewer than two trained crowd managers, and not fewer than one trained crowd manager for each 250 persons or portion thereof, shall be provided for the gathering.

3106.4.3 Crowd managers. Where events involve a gathering of more than 1,000 people, trained crowd managers shall be provided in accordance with Section 403.12.3.

Deputy responsibilities are significantly more in than a crowd manager, but these levels have been established.

Special Factors: a. 2 Deputies are required per stage as the stage usually has two sides and for one person to be in two places at one time is impossible.

b. 1 Deputy per special effect display. Each of these display poses an enhanced risk and requires specialized supervision.

c. After a complete safety analysis of the event by the Department, staffing levels can be decreased to best suit the individual event.

d. Depending upon the outcome of the safety analysis, Emergency Medical Services may be required if not provided by the event.

Section 3.38. (c) Duration of Permit.

Purpose: It is proposed ensure that the application is within parameters regarding limitation of time and provides extensions if needed.

Necessity: To ensure that internal procedures are met to properly vet completed applications and that they are carried out in a timely manner.

Section 3.38. (d) Revocation of Permit.

Purpose: It is proposed to revoke permits that do not meet the requirements.

Necessity: To ensure that internal procedures are met to properly vet completed applications, if the requirements are not met, the OSFM shall have the option to revoke the permit.

Section 3.39. Denial or Cancellation of a Permit.

Purpose: It is proposed that the Department may cancel or deny a permit if certain conditions apply.

Necessity: This is to cancel or deny permits to protect life and property due to misrepresentations, omissions or fraud.

Section 3.39. (a).

Purpose: It is proposed that the Department may cancel or deny a permit due to omissions, false statements, or misrepresentations made on the permit.

Necessity: It is necessary to cancel or deny permits due to misrepresentations, omissions or fraud to protect life and property.

Section 3.39. (b).

Purpose: It is proposed that if the Department may cancel or deny a permit if fraud was committed in the acquisition of the permit.

Necessity: It is necessary to cancel or deny permits to protect life and property due to misrepresentations, omissions or fraud.

Section 3.39. (c).

Purpose: It is proposed that if the Department may cancel or deny a permit if the applicant or applicant representative is not available at the event while the activity is taking place.

Necessity: It is necessary to cancel or deny permits if there is not a representative on site during the activity.

Section 3.39. (d).

Purpose: It is proposed that the Department may cancel or deny a permit if the applicant or applicants representative acts involves a violation of the permit, the regulations, state law, or any other statute or ordinance while the activity is taking place.

Necessity: It is necessary to cancel or deny permits if the conduct of the promoter or representatives violates the permit or laws.

Section 3.40. Tents and Other Membrane Structures.

Purpose: It is proposed to standardize and maintain building standards and codes pertaining to tents, membranes and temporary structures.

Necessity: It is necessary to standardize and fall into compliance with the industry standards and provisions in California Code of Regulations Title 19 and Title 24.

Section 3.41. Types of Permits.

Section 3.41. (a). Permits for Demonstration or Gathering.

Purpose: It is proposed to clarify that permits are required for demonstrations and gatherings.

Necessity: It is necessary to identify demonstrations and gatherings. These demonstrations and gatherings need to be permitted to protect those attending the event.

Section 3.41. (b) Permits for Structures or Equipment.

Purpose: It is proposed to clarify that permits are required for structures or equipment.

Necessity: It is necessary to identify structures and equipment are constructed of sound materials and best building practices. These structures and equipment need to be permitted to protect those attending the event.

Section 3.42. Restrictions on Use of State Buildings and Grounds (a) Prohibited Acts.

Purpose: It is proposed that no person shall remain on state property, if deemed by OSFM personnel, that a person creates a fire hazard, nuisance or is interfering with use of state property.

Necessity: It is necessary if determined that a prohibited activity occurred or there is a risk of property damage or life safety, that persons when ordered, shall disperse and leave state property.

Section 3.42. (b) Creating a Fire Hazard or Nuisance.

Purpose: It is proposed that no person shall remain on state property if deemed by OSFM personnel that the person creates a fire hazard, nuisance or disturbs state employees or the public.

Necessity: It is necessary if determined that a prohibited activity occurred or there is a risk of property damage or life safety, that persons when ordered shall disperse and leave state property

Section 3.42. (c) Obstructing or Interfering with the Usual Use of State Property.

Purpose: It is proposed that no person shall remain on state property if deemed by OSFM personnel there the person is interfering with use of or creating a health and/or safety hazard on state property.

Necessity: It is necessary so if it is determined there is a risk of property damage or life safety of persons during the activity that persons when ordered to disperse and leave state property can remain safe.

Section 3.42. (d) Emergency Order.

Purpose: It is proposed that no person shall remain on state property if OSFM personnel state an emergency order is required due to eminent danger to life or property.

Necessity: It is necessary for persons to disperse when ordered to leave state property to minimize risk of property damage or life safety and so people can remain safe if a danger is determined during the activity.