



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
Office of the State Fire Marshal

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April 20, 2009

To Stakeholders and Interested Parties

Re: Request for Clarification of Health and Safety Code 13145 and 13146

This is in response to recent inquiries for clarification on the authority/responsibility of fire and panic safety for state fire marshal regulations; and on the transfer of responsibilities for State Fire Marshal regulated occupancies from fire chief to the local building officials.

The issue is whether local building officials can assume the responsibilities of enforcing State Fire Marshal fire and panic safety regulations, to include both building and non-building standards. The Health and Safety Code, Section 13145 and 13146 authorizes the local fire chief, or their authorized representatives to enforce the State Fire Marshal fire and panic safety regulations as indicated below:

Health and Safety Code, Section 13145:

The State Fire Marshal, the chief of any city or county fire department or district providing fire protection services, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the State Building Standards Code 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.

Health and Safety Code, Section 13146:

The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:

- (a) *The same agency or entity to whom authority to enforce building standards not related to fire and panic safety is delegated by the city, county, or city and county with jurisdiction in the area affected by the building standard shall enforce within its jurisdiction the building standard and other regulations of the State Fire marshal as they related to R-3 occupancies, as defined in Section 1201 of Part 2 of the California Building Standards Code.*
 - (1) *The chief of the fire authority of the city, county, or city and county, or his or her authorized representative.*
 - (2) *The chief building official of the city, county, or city and county, or his or her authorized representative.*
- (b) *The chief of any city or county fire department or of any fire district and their authorized representatives shall enforce within its jurisdiction the building standards and other regulations of the State Fire Marshal, except those described in subdivision (a) or (d).*

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- (c) *The State Fire Marshal shall have authority to enforce the building standards and other regulation of the State Fire Marshal in areas outside of corporate cities and districts providing fire protection services.*
- (d) *The State Fire Marshal shall have authority to enforce the building standards and other regulations of the State Fire Marshal in corporate cities and districts providing fire protection services upon request of the chief fire official or the governing body.*

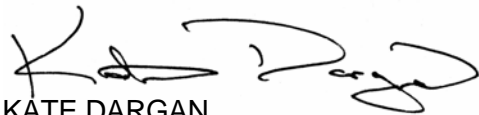
Health and Safety Code, Section 13146.5 continues by saying, "The provisions of Sections 13145, 13146, and 13146.3 (inspection of school buildings) shall, as far as practicable, be carried out at the local level by persons who are regular full-time members of a regularly organized fire department of a city, county, or district providing fire protection services, and shall not be carried out by other persons pursuant to Section 34004 of the Government Code.

In summary, the applicable statutory provisions to Health and Safety Code, Section 13145 and 13146 expressly designates those authorized by the Legislature who can enforce State Fire Marshal regulations. These statutory provisions specifically authorize the local fire chief, or their designated representative to enforce State Fire Marshal regulations (exception for R-3 as specified in 13146(a)). The fire chief can appoint the building official as an authorized representative, however, the ultimate responsibility lies with the fire chief. Also, according to statute, if the building official is designated to enforce such regulations, they must be a full-time member of the fire department.

As for language within 13143.6 that states," The provisions of Sections 13145, 13146 and 13146.3 shall, so far as practicable, be carried out at the local level by persons who are regular full-time members of a regularly organized fire department of a city, county, or district providing fire protection services, and shall not be carried out by other persons pursuant to Section 34004 of the Government Code." The Office of the State Marshal interprets the language to mean that regular full-time members of the local fire departments are responsible for enforcing the regulations to the extent they are able. If, however, due to financial or other constraints, the local fire department members cannot perform the mandated tasks, then the responsibility falls to the State Fire Marshal who may or may not have local personnel assigned to the particular area. The responsibility would not fall to the local building officials as their authorization is limited to the enforcement of regulations dealing with R-3 occupancy buildings.

Thank you for your continued support of the Office of the State Fire Marshal and your continued dedication to fire and life safety.

Sincerely,



KATE DARGAN
State Fire Marshal