



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL

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April 29, 2013

Sharon Gin, Legislative Assistant
Los Angeles City Clerks Office
200 North Spring Street, Room 360
Los Angeles, California 90012

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

Dear Ms. Gin:

The Office of the State Fire Marshal always stresses the importance of working with stakeholders when keeping our communities and emergency responders safe from the effects of fire. I have received the City of Los Angeles's 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 other agencies or departments within your city. Also, a Memorandum of Understanding (MOU) between the Office of the State Fire Marshal (OSFM) and the City of Los Angeles Fire Department has existed since the early 1990s. The City of Los Angeles has elected to enter into the MOU to conduct State mandated annual inspections of high-rise buildings throughout the city. The State Fire Marshal has designated the Fire Chief of the Los Angeles Fire Department as the responsible party for enforcement as outlined in State statute.

The issue appears to be who 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).

(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 designate those authorized by the Legislature who can enforce State Fire Marshal regulations. These statutory provisions 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 with the ultimate responsibility for enforcement remaining with the fire chief. According to statute, if an individual is designated to enforce such regulations, the persons *are regular full-time members of a regularly organized fire department... and shall not be carried out by other persons pursuant to Section 34004 of the Government Code.*

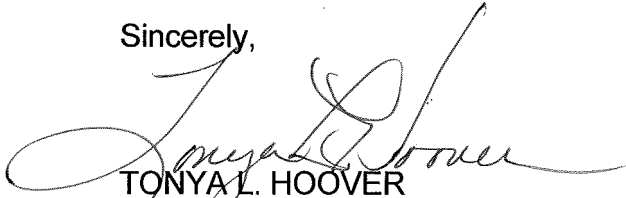
After reading the plain language of the statutes and research of legislative intent and past attorney general opinions issued on sections 13145, 13146, and 13146.3 topics, the OSFM continues to maintain that the language of 13146.5 to mean that regular full-time

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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. If such inspections are conducted by the OSFM staff, the OSFM is required to invoice for these fire and panic safety services.

Again, cooperative efforts are important in keeping our communities and emergency responders safe. I appreciate the City of Los Angeles efforts in fire and life safety.

Sincerely,



TONYA L. HOOVER
State Fire Marshal

cc: Mark Stormes, Los Angeles Fire Department