

# Fire and Life Safety Competency Recognition Advisory Committee Minutes

9:00 AM ♦ Tuesday, February 5, 2008

Office of State Fire Marshal/Cache Mt. Room

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## Members Present

Stacy Warner, Asst. Chief Deputy OSFM  
Bill Bench, Fire Marshal, Forest Grove Fire Dept  
Chuck Chaffin, Deputy Fire Marshal, Lake Oswego Fire Dept  
Dan Patterson, Fire Marshal, Medford Fire & Rescue  
Ed Wilson, Fire Chief, Lake Oswego Fire Dept

## Representation

Office of State Fire Marshal  
Exempt Jurisdictions  
Oregon Fire Marshals Assoc  
Exempt Jurisdictions  
Oregon Fire Chiefs Assoc / GFSPC

## Others

Connie Dalke, staff  
Mary Olson, Training and Development Specialist II

Office of State Fire Marshal  
Office of State Fire Marshal

## Members Absent

Traci Cooper, Fire Marshal, Redmond Fire & Rescue  
Nathan Philips, Governor, OR-Pacific-Cascade Chapter  
Terry Riley, Fire Training Supervisor  
Mark Wilson, Fire Marshal, Lebanon Fire Dept

Non-exempt Jurisdictions  
Nat'l Electrical Contractors Assoc  
Dept Public Safety Standards & Training  
Non-exempt Jurisdictions

## Welcome/Introductions

Stacy Warner called the meeting to order and welcomed Bill Bench, representing exempt jurisdictions. Ed Wilson moved to approve the minutes from the December 11 meeting; Mary Olson seconded; motion carried.

## Proposed Rule Change - OAR Chapter 837 Division 039

The primary purpose of today's meeting was to review proposed changes to Oregon Administrative Rule 837 Division 039 governing the administration of fire prevention programs. The lion's share of the discussion focused on 837-039-0120 governing Certification and Training Requirements for Conducting Fire Code Enforcement.

That particular section of the proposed rule change, as it was presented to the committee, is included at the end of these minutes.

Stacy Warner said the division will amend the draft based on today's input, and then run the new draft by the Oregon fire chiefs. Their comments may lead to further changes. Once we have a final draft, we'll start the adoption process. The rule should be in effect by April 2008.

The timeline for compliance will begin when the rule is adopted:

Company Inspector	six months from the date of the rule
Fire & Life Safety Specialist I	24 months from the date of the rule
Fire & Life Safety Specialist II	30 months from the date of the rule
Fire Marshal	36 months from the date of the rule

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## Review of the proposed rule changes and Committee comments:

### 837-039-0001 Scope and Application

#### Section (2)

The program went from four to six elements. The two new elements are a description of non-exempt jurisdiction responsibilities, enforcement activities, and inspection and enforcement of the code; and the certification and training requirements for plan reviews and code enforcement.

### 837-039-0003 Definitions

#### Section (3) Applicant

Deleted the definition of 'applicant' as it pertains to exempt jurisdictions. If they're exempt they applied for exemption.

#### Section (5) Classroom

Added a definition.

#### Section (6) Company Inspection

Committee suggested deleting definition for Company Inspection and keeping definition for Company Inspector. Other thoughts included changing "means any fire department" to "means a company inspection training education program put into place by a fire department." Another suggestion was to align this definition with the one in 837-039-0040 (4) on page 8.

#### Section (7) Company Inspector

Added a definition

#### Section (9) DPSST's NFPA Fire Inspector I

Added a definition at the request of DPSST

#### Section (10) DPSST's NFPA Fire Inspector II

Added a definition at the request of DPSST

#### Section (11) DPSST's NFPA Fire Inspector III

Added a definition at the request of DPSST

#### Section (17) Fire Code Official

Added a definition (taken from the Oregon Fire Code)

#### Section (18) Fire Official

Added a definition (taken from the Oregon Fire Code)

#### Section (19) High Priority Training

Added a definition (taken from the Oregon Fire Code)

#### Section (22) NFPA

Added a definition

#### Section (26) Requisite Knowledge

Added a definition

#### Section (27) Requisite Skills

Added a definition

#### Section (29) Scope of Practice

Committee suggested changing "means an established list of competencies" to "means compliance with an established list of competencies."

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## Section (30) Service Area

There is no proposed change for this section; however, the Committee suggested changing "Exempt Jurisdiction" to just "Jurisdiction" as the definition seems to apply to all departments. Discussion ensued about exempt vs. non-exempt. Stacy explained, non-exempt jurisdictions may opt to provide service at the Company Inspector level, whereas exempt jurisdictions provide full service (Fire Marshal level). Mary explained, as far as conducting code enforcement, there is no difference in the criteria - whatever service level you opt to provide, you must meet the criteria for that level.

Stacy said the division plans to ask every department statewide what level of code enforcement service they provide. We'll check it against our data base to ensure they have people recognized at that level.

## 837-039-0040 Exemption Criteria

### Section (4)(a)-(f)

Replaced with "Personnel performing fire code enforcement shall meet the competency recognition requirements for their scope of practice as outlined in 837-039-0120."

Stacy explained that exempt jurisdictions should have a written agreement or memorandum of understanding with their Building Department that provides for plan review input.

## 837-039-0115 Minimum Fire Code Requirements

### Section (8)(a)

Changed "DPSST certified as a Fire Investigation Officer" to "DPSST certified as a NFPA Fire Investigator."

Stacy explained that DPSST is forming a task force to assemble a list of known and acceptable training. This should help the fire service when they apply for certification. He is invited to participate on the task force.

## 837-039-0120 Certification and Training

This entire section is new. The committee comments were:

### Section (1)(a)

Change "a Oregon Fire and Life Safety Competency Recognition" to "an Oregon ..."

### Section (4)

The committee suggested imposing a three-year renewal requirement for Company Inspector, to coincide with the code amendment cycle.

Mary suggested a flier from OSFM to all departments that itemizes the code changes.

Departments could have their personnel sign off that they've received and read the information, and that may be all that's needed for renewal (as opposed to taking a code class).

### Section (8)(b)(B)

The committee suggested removing the requirement for class room instructors to possess a Fire and Life Safety Specialist I Competency Recognition certificate. It conflicts with the rule's timelines for compliance. It can be managed administratively by OSFM and doesn't need to be in rule. The division will accept ICC Inspector I certification until the dates for compliance are phased in. After that, the division will require a FLSS I competency recognition certificate.

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### Section (9)

There was discussion about what constitutes modifying the Company Inspection training. Adding a picture to illustrate a sprinkler system, for example, is okay. But, if you add a new occupancy type outside the original scope of practice, i.e., common areas of Residential Group R-1 inspections, then OSFM needs to review and approve your modified training program.

### Section (9)(d)

Change "classroom" to "curriculum for classroom presentation."

### Section (12)

On page 17 change section (9) to (12).

Lastly, there was discussion about the penalty or consequence for failure to comply with the rule. Stacy said there are no sanctions, it's a matter of accountability for the departments, and they may want to check with their own legal counsel. OSFM does not intend to seek an AG opinion at this time.

### Fiscal Impact Statement for Proposed Rule Revision

Fiscal and Economic Impact; including Cost of Compliance: The primary fiscal impact, if any, will arise from Oregon Fire Department's who are responsible for providing fire code enforcement services within their jurisdiction. Depending upon the level of service and current fire jurisdictions internal qualifications for fire code enforcement personnel, some agencies will have to budget the cost of obtaining necessary training, state and national certification. Another potential fiscal impact identified by the fire service is the effect the rule requirement might have on collective bargaining agreements since the rule will impose new job requirements for fire inspection personnel.

State agencies: State agencies affected by this rule include the Office of State Fire Marshal and the Department of Public Safety Standards and Training (DPSST) fire certification programs. DPSST has determined that there is no projected fiscal impact of implementing the rule. DPSST believes that they have the necessary staffing for processing additional applications for DPSST's National Fire Protection Association (NFPA) Fire Inspector I, NFPA Fire Inspector II, and NFPA Fire Inspector III.

Units of local government: Units of local government that will be affected by the rule change are Oregon Fire Departments that provide fire code enforcement within their jurisdictions. We cannot project the estimated cost of the rule change due to the varied levels of fire code enforcement offered by Oregon's fire jurisdictions – from no fire code enforcement to fire code enforcement divisions. Currently the level of fire code enforcement services varies the actual number of departments impacted is difficult to estimate. Additionally, the internal qualifications for fire code enforcement personnel including state and national certifications, training and years of experience are dependent on individual hiring practices of each fire department. Some jurisdictions require certification and others currently do not require any state or national certifications. However, to reduce the cost of financial impact, we are implementing the rule using a phased in approach. The fire service will have a maximum of 30 months of the effective date of the rule to meet compliance. To address the required core competency trainings required

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for competency recognition, the we are developing computer based interactive training with on-line testing component to ensure that required trainings are available throughout Oregon at little to no cost to Oregon's fire service. Another potential fiscal impact identified is the effect the rule requirement might have on collective bargaining agreements since the rule will impose new job requirements for fire inspection personnel. There is no way to determine the estimated cost.

Cost of compliance effect on small business (ORS 183.336):

Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: No small businesses are affected or subject to the regulations by the rule adoption. The rules impose no new requirements on small businesses, however; they merely establish new statewide standards for fire officials responsible for enforcing the fire code.

Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None. The proposed rule revision imposes no reporting, recordkeeping, or administrative requirements on small businesses.

Equipment, supplies, labor and increased administration required for compliance: None. The proposed rule revision imposes no reporting or other requirements on small businesses.

How were small businesses involved in the development of this rule? The rule writing advisory committee meetings were open to any interested parties.

### Concerns and Solutions for Rule Revision

The committee has been meeting since April 2006 to provide OSFM with input on the recognition program. During that time items have been identified that may need to be addressed and solutions have been offered or implemented. Mary provided a Concerns and Solutions matrix, that grouped topics into 10 areas:

1. Timing of the Rule
2. Unfunded Mandate
3. DPSST Certification and Requirement and Process
4. Paperwork and Recertification Requirements
5. Clarification on NFPA Inspection Levels
6. Company Inspection
7. Is this Rule Necessary
8. Required Classes
9. OAR Language Clarification
10. General Concerns

There was discussion on item 9.A. The proposed rule does not address OSFM staff members that are responsible for enforcing the code (cardlock auditors and LPG tank inspector). The committee

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recommended that the rule should apply to OSFM deputy state fire marshals, specifically. The other code enforcement activities don't fit with the intent of the recognition program.

There was discussion about the use of self-inspection programs at some fire departments. There was some feeling that the activity and associated document should not be called an 'inspection.' Suggestions included using the term 'safety check list' instead. Departments who utilize a self-inspection program may want to defer to their own legal counsel for input.

### Statement of Objective

Since DPSST provides voluntary certification, the committee suggested adding the word 'required' to the objective, to read, "Currently there is no *required* statewide standard for education and certifications to conduct fire code inspections in Oregon."

There was some discussion about the role of Oregon Building Codes Division (BCD) and the local building departments. They don't test or inspect alarm systems; there're questions about equivalencies.

Stacy said BCD is working on it. They're interested in some of our training curriculums.

### **Timeline for Comment**

OSFM will amend the rule based on the discussion and suggestions for changes that came out of today's meeting. Mary will email the meeting minutes and updated rule draft to all committee members no later than February 11. She'll include the handouts from today's meeting.

OSFM would like comments back from the committee by February 15. Be sure to 'reply all' when you send your comments.

### **Adjourn and Next Meeting**

Stacy adjourned the meeting at 12:39.

The next meeting is Tuesday **June 10 at 1:00 at OSFM** in Salem.

Dan Patterson announced that he will retire effective May 31, and asked Stacy to seek another representative from an exempt jurisdiction to replace him on the committee.

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