



STATE FIRE MARSHAL
FIRE EXTINGUISHER ADVISORY COMMITTEE

June 21, 2022, Meeting Minutes, 10:00 A.M. to 12:00P.M. Pacific Daylight Time (PDT)

Office of the State Fire Marshal
Zoom Meeting Conference Call

Meeting ID: 589 249 0488

MEMBERS PRESENT

Randy Dysart, California Association of Life Safety and Fire Equipment (CALSAFE)
Edie Wade, Brooks Equipment
Marcus Hernandez, CALFIRE/City of Morgan Hill
Patrick Chew, Amador County Fire Protection District
Darrell Hefley, Jorgensen Company
Randy Rousseau, La Sierra Fire Equipment
James Knowles, Amerex
Ron Tilton, Ansul

MEMBERS ABSENT

Tom Santos, Imperial County Fire District
J.R. Nerat, Badger/Kidde
Frank Gardner, Stanford University
Chris Hoiland, Orange County Fire Protection Company
Robert Calderon, Kaiser Permanente

GUESTS PRESENT

None

OSFM STAFF

Jeffrey Schwartz, Chairperson, OSFM
Al Adams, OSFM

Megan Lopes, OSFM

1. CALL TO ORDER

A. Welcome and Logistics Briefing

Chairperson Jeffrey Schwartz called the meeting to order at 10:05 A.M. Pacific Daylight Time (PDT).

B. Roll Call/Determine Quorum

Roll call was conducted by Megan Lopes and determined that a quorum (7 of 13) of members was present at the start of the meeting. A quorum of 7 of 13 members was consistent as the meeting progressed.

C. Introductions

All attendees introduced themselves.

D. Approval of Previous Minutes

Approval of draft meeting minutes was reserved for the July 26, 2022 advisory committee meeting.

E. Announcements

Chairperson Jeffrey Schwartz welcomed everyone to the meeting. Chief Al Adams explained that after further discussion amongst OSFM staff, they determined it was important to bring the committee together for a special meeting to discuss the topic of exchanges and the proposed language updates in the regulations. He further explained that it is understood that the process of exchanges has occurred in the field, however, it is not addressed within the confines of Title 19. Chief Adams reopened the discussion amongst the committee members so that the OSFM can understand the committee's direction regarding this issue.

2. OLD BUSINESS

There was no old business up for discussion, reserved for July 26, 2022 advisory committee meeting.

3. NEW BUSINESS

A. Exchange of Extinguishers

Chief Adams explained that there is currently no regulation surrounding exchanges. Current practice involves a fire protection company servicing a business's extinguisher and either replacing the extinguisher with a loaner while it is being serviced or selling them a new extinguisher as a replacement. It is being proposed that the word "exchange" be added into regulation to acknowledge this business practice. Chief Adams stated that "exchange" needs to be

adequately defined if added to the regulation, so enforcement issues do not arise. Chief Adams proposed the committee discuss whether this should be addressed in the regulation, or if this is an issue that should stay at the level of the fire protection company and the business they are servicing. Chairperson Schwartz contributed that the issue lies with legitimate versus illegitimate business practices, and the best way to address illegitimate business practice and deter fraud is in the regulation. Chief Adams agreed this issue needs to be adequately discussed, as it would result in a huge change in the fire extinguisher industry moving forward.

Member James Knowles understood Title 19 addressed this practice by excluding it, and the proposed changes would now allow the practice of exchanging. Chairperson Schwartz confirmed this business practice is not currently addressed in the regulation. The new language package submitted by the committee addresses and defines exchange, so the purpose of this discussion is to clarify and consider where the proposed regulation could lead. Member Knowles then stated if exchanges are not currently addressed in Title 19 and the regulation remains as is, exchanges would be considered a part of normal business practice. Member Darrell Hefley also confirmed that it is not currently addressed in Title 19, but in the new regulation package “exchange” is specifically defined so they can outline and enforce legitimate business practice by stating that the owner needs to provide written approval for the exchange.

Chief Adams then posed the question of how to further define “exchange” so the owner and the fire extinguisher company understand the product they are getting. Member Hefley further explained that since there is a definition being proposed for “exchange” a section could be added to the regulation explicitly stating what kind of written acknowledgement is needed from the owner.

Member Marcus Hernandez asked if it is possible to add a minimum hydrostatic test date for the replacement extinguisher preventing an unscrupulous vendor from selling the owner an extinguisher with a limited hydro date placing the owner back in the same position requiring service. Chief Adams stated this is something to consider.

Member Randy Rousseau stated an exchange is opportunity for abuse. Member Hefley agreed that exchanges are a legitimate business practice, however transparency is key and should be addressed within the regulation. He suggested the language be further discussed and presented to the committee at the next meeting. Member Hefley also stated he agrees with Chief Adams

that there needs to be something in regulation addressing fraudulency. Member Hernandez agreed that exchanges are a legitimate business practice if transparency is explicitly stated to the customer.

Member Patrick Chew stated he is not concerned with violations and enforcement of large businesses more so the impact on small businesses. He stated that most small business owners want to be compliant and do not know the difference between a replacement of a five-year-old extinguisher with a twenty-year-old extinguisher.

Member Knowles stated since it is a normal business practice for a fire extinguisher company to discuss options with their customer and allow the customer to decide what is best for their business, then why is there a need to introduce it to Title 19. Member Randy Dysart stated there is a long history of abuse regarding exchanges and the transparency of the fire extinguisher company to the customer. The challenge lies with infringing on business practice and commerce versus eliminating the problem of fraud. Member Dysart suggested instead of defining the word "exchange" the regulation should address this issue within the replacement section.

Chief Adams concurred that there are a lot of different ways to address this issue to avoid loopholes in the regulations. Member Ron Tilton agreed that language updates are an attempt to regulate poor business practice and structure a minimum standard protecting the consumer. The issue lies with how and who will regulate it.

Member Knowles referenced how NFPA 10 addresses exchanges. He stated the language should be modeled after NFPA 10 to address this issue. Chairperson Schwartz stated NFPA 10's language is too vague for this issue. Member Rousseau agreed that the language presented in NFPA still allows opportunity for abuse. Member Knowles stated as long as the fire extinguisher company explains to the customer what they are purchasing, the contract between them is legitimate. Chairperson Schwartz drew the attention of the committee to Section 591.5 in regulation that addresses replacement extinguishers just as NFPA 10. He believed this is where the loophole lies that is needing to be tied.

Chief Adams also presented the situation where serviced extinguishers are returned by an unlicensed individual from the servicing company.

Chairperson Schwartz also presented the idea of identifying the "owner's agent" as someone who has the authority to consent for

work to be performed. Member Dysart agreed that “owner’s agent” was a good addition.

Chief Adams asked the committee if adding the word “exchange” is the correct direction. He emphasized the importance of getting this regulation update right the first time. Member Knowles expressed concern regarding enforcement and is in favor of mimicking NFPA 10, as it is sufficiently vague to establish business practice and allow other laws regarding fraud to supplement. Member Hernandez stated since exchanges are a common business practice it needs to be addressed within the regulation. As far as enforcement, he believed the AHJ will catch fraud by businesses recognizing fraudulent activity.

Chairperson Schwartz also suggested that a work group be created to present updated language to the committee at the next meeting. Member Dysart stated he would be willing to work on the language and agreed with Member Knowles that he is not sure how much benefit will result, but this issue needs to be addressed within the industry.

Member Hefley stated that the history of adding the definition of “exchange” in the new regulation package by the committee started because there was language explicitly stating exchanges were not allowed. Since then, that language was removed. He posed the question to Chief Adams, since the language was removed, is it plausible to remove the definition of exchange completely. Chief Adams stated it is a possibility and they could work within the replacement section alternatively.

Member Hefley recommended the definition of exchange be removed, and the other sections of regulation be expanded upon for simplicity. Member Knowles and Member Edie Wade agreed. Member Knowles stated it is important to keep in mind that replacing a new extinguisher with an old extinguisher, as long as it is the same rating, type, size, etc. is a legal business practice. He stated the committee should not try to regulate something that is not illegal if the owner agent is aware and agrees to the replacement. Chief Adams emphasized the owner needs to be fully aware. Member Wade agreed, even though it is acceptable practice most owners, if they were fully aware, would not choose to have the older extinguisher. Member Knowles agreed that owner signature is above everything. Member Dysart stated deception is the problem needing to be addressed and the deception is illegal.

Chairperson Schwartz summarized that the goal of the work group is to remove the definition of “exchange”, work on updating the language of the other sections, and work on the definition of “owner’s agent” to present to the committee in July. Member Hefley agreed to be chairperson of the work group. Member Wade, Knowles, and Dysart agreed to be members. Chairperson Schwartz also agreed to be a member of the work group. Member Dysart suggested that Member J.R. Nerat, who was absent, be offered a position in the workgroup.

Chief Adams made a final announcement that Chief Greg Andersen will be the new division chief as of July 1st and will begin participating in the committee meetings moving forward.

4. OPEN FORUM

There was no open forum, as this meeting was specialized for specific discussion.

5. PUBLIC COMMENT

There was no public comment.

6. MEETING ADJOURNMENT

The next committee meeting is scheduled for July 26, 2022 at 10:00 A.M. (PDT) via Zoom. Chairperson Schwartz adjourned the meeting at 11:10 A.M. (PDT).