

Nevada State Fire Marshal Division
Minutes of Workshop - Friday, December 21, 2018, 9:00 am
107 Jacobsen Way, Carson City, NV

Videoconferencing to:

Clark County Fire Department, Station 18, 2nd floor, 575 E. Flamingo Road, LV
Great Basin College, High Tech Center Room 123, 1500 College Pkwy, Elko, NV 89801
Teleconference 775-687-0999

Present:

Bart J. Chambers – State Fire Marshal Division, Chief
Doug Sartain – Certified Fire, Las Vegas
Dave Ruben – Carson City Fire Department
Rich Harvey – Central Lyon Fire
Jenny Reese – Carrara NV/NV Realtors
Susan V. Riolo – State Fire Marshal Division
Dennis Pinkerton – State Fire Marshal Division
Eric Guevin – Tahoe Douglas Fire Protection District
John Holmes – City of Elko Fire Department, Fire Marshal
Lee Marx – American Fire
Gwen Barrett – State Fire Marshal Division, Administrative Assistant
Nathan Hastings – Deputy Attorney General
Duane Resop – Clark County School District, Building Department
Mark Samousky - City of Henderson, Fire Safety Plans Examiner

1. CALL TO ORDER/INTRODUCTIONS. Chief Bart J. Chambers opened the third Workshop for NAC 477. Introductions were made and it was noted that the meeting is in compliance with the Nevada Open Meeting Law.
2. PUBLIC COMMENT
Bart Chambers asked if there was any public comment in Carson City.

Doug Sartain would like to discuss three items: labels on the front of a fire extinguisher, swapping of fire extinguishers, and servicing and installing equipment and the approval of said equipment by the AHJ's.

He went on to say the swapping of extinguishers seems to be a more common practice. There are several companies that will pick up fire extinguishers from a business, whether it's one, 20, or 200 and swap them out with extinguishers that were serviced back at their shop. Over many years Doug Sartain has witnessed this where a company will take 200 or 300 brand new fire extinguishers and replace them with fire extinguishers that are pretty much at the end of their life; need to be hydro-tested, they're all scratched up, can barely read the UL manufacturer's label. Legal advice has informed him that the fire extinguishers are the property of the land owner. When you start taking their equipment and giving them something else, it's like taking a brand new 2018 Volkswagen and giving them a 1967. We would like to see it stopped and are asking for your office to make an opinion. Again, it becomes an issue on who the fire extinguishers belong to. The biggest point I am trying to make is we are seeing new equipment being replaced with old equipment.

The second item we want to make you aware of is we are seeing a lot of fire protection companies taking their advertising labels; sizes as big as four-inch by four-inch and plastering them on the front of a fire extinguisher. It is very clear and specific in National Fire Protection Association (NFPA) 10, Section 6.1.3.9, label visibility; the only thing allowed on the front of a fire extinguisher is a manufacturer's label, the operating instructions shall be located in the front of the fire extinguisher clearly visible. All of the other labels shall not be placed or located on the front of a fire extinguisher. We would like to see a warning or an opinion.

The third just came up again yesterday. There is a jurisdiction that believes that you have to be certified by a manufacturer in order for the system to be approved. This has come up about a dozen times in his 40 years, and generally it is very quickly resolved. The problem is you have an installing company that installs a particular product, and they may not be certified to install that particular piece of equipment. Saying you can't install a certain product becomes "a restriction of trade." There is no reason why any company that is licensed and certified by the State Fire Marshal Division should be restricted, whether it's an Ansul, an Amerex, a Buckeye, a Badger, or a Pyro-Chem. Industry would like for the State Fire Marshal to offer an opinion and open it up for comment.

Lee Marx agreed. He was performing a functional test in a building yesterday and was told by the inspector that because they do not have training or certification from the manufacturer they will not test the system. Two days prior he did a test on an Ansul system and had no problems; same systems, different inspectors, different results. Lee Marx spoke with Chief Page, Sam Palmer, and Jerry Stevie, asking for a formal interpretation. They gave code references, but in NFPA 17A it says that you have to be obviously trained and certified to work on and install and submit plans for a good system. I've been licensed by the State Fire Marshal Division to do the work. The NRS states that in order for me to get the license, which I hold, I had to originally provide you with documentation from the manufacturer of the, that I can get materials and am certified to find materials and to install systems. I think there needs to be something in writing because unfortunately, due to the county's stance, I have a person that can't open a business because we've been doing business as usual.

Lee Marx contacted Ansul Technical Services and had a conversation with a gentleman by the name of Zach and he said that if we are not trained by them, it would void the warranty on the equipment. But warranty is not an issue here. And I asked him point blank, "If I install the system per your installation guidelines and recommendations, does the system still hold its UL listing?" And he said, "Of course it does."

Doug Sartain asked Lee Marx if there was a problem within one year of that system, you would in fact honor that warranty, would you not? Lee Marx replied that absolutely he would.

Bart Chambers asked for any further comment.

Lee Marx advised that he has spoken with his attorney and he said that Ansul does have a certain amount of liability because if any of their components fail, regardless of whether they've been installed correctly or not, they are still liable for those components, and then the person installing that would be liable if the system is not installed correctly, that is why we have liability insurance, to cover any of the customers that we deal with.

Lee Marx went onto say that ultimately he is the one responsible because his company is putting the tag on it, and he is certified and almost every system we do we are required to do a letter of completion, which basically says that we've installed the system per NFPA requirements, state local fire codes, which, again, covers all aspects of taking responsibility for that system.

Bart Chambers thanked Lee Marx.

Doug Sartain echoed what Lee Marx said that over the years they have confirmed with legal counsel that in fact the manufacturer would still be on the hook if there was a malfunction or if there was a bad device. Secondly, it was also confirmed over the years and he will gladly produce the document; it becomes a restriction of trade when you tell somebody they can't work on a said system or item.

There was no additional public comment.

3. Bart Chambers read the following: The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations: Proposed changes to regulations may include but is not limited to fee increases including fees for Certificates of Compliance, Hazardous Materials, Plans Examination, and Licensing. Proposed changes may include replacing or updating words in the text, clarifying language, simplifying categories and other possible suggestions. Review of current Fire Code.

Bart Chambers is going to streamline this, by going through the pages as we did in the last Workshop. Any questions, concerns, clarifications, recommendations, suggestions will definitely be noted and discussed.

Rich Harvey requested to go to page 3. Central Lyon Fire is a bit interested and concerned about the adoption of the 2018 edition of the International Wildlife Urban Interface Code. Because that code has in it some workloads on local fire districts, everything from doing defensible space inspections to creating maps of the WUI zone, to possibly doing residential plan reviews for sprinklers and code compliance and everything. And also the possibility that the code would require sprinklers in residential construction in WUI areas. That's a significant change from the way we've been doing business, because this is an entirely new code, a complete adoption of a brand new code that has not been in effect in our district before. We think there should be some discussion and some work on whether or not the benefits, which we would support the benefits of a WUI code. Defensible space; we think that works. But there's some definite workload on the district. There's some definite workload in the plant shop. There's some definite fee and cost increases, because we're going to include a plans review fee if we've got to review plans. And every building now, every residential construction built in Central Lyon, in the WUI, is going to be required to have residential sprinklers. I'm pretty sure that's going to have an impact--maybe required to have residential sprinklers. And that's going to have a huge impact on construction in Lyon County. So, that's my two cents.

Bart Chambers thanked Chief Harvey and added that with the WUI has been in adoption since January of 2015 with the 2012 WUI. The current 2018, just for information, is that it's being adopted in the same footprint as the 2012 WUI. Bart Chambers asked for any other comments.

Dave Ruben, Carson City Fire. Chief, just one thing to keep in mind, the local jurisdiction decides what areas are in the WUI or not. So, you do have the ability to somewhat control that.

Chief Harvey replied that they understand that part of it. The problem with that is I have to go out and do the GIS mapping and everything else to define the WUI, which is workload that we really don't have. And then I'm in this catch-22 because for grants applications and for defensible space, having a large WUI is a good thing. For the residential sprinkler construction and all that, having the large WUI's a bad thing. So, we're in this kind of balance where we want to do the right thing with the workload and the staff that we have available. And so, to me it's a very big change from the way we are now to the way we want to go. Because the 2012 did not have, to the best of my knowledge, some of this stuff in it, the Chapter 5 and the Chapter 6s and all that.

Bart Chambers replied that he had the Chapter 5 and Chapter 6 available for Chief Harvey to take a look at. Bart Chambers wants to make sure that Chief Harvey has the information. In addition to the WUI, when it was adopted, as Chief Ruben had stated from Carson City, is that we're not enforcing the residential code, the International Residential Code. That's going to be incumbent on the local jurisdictions. And those entities that we've had interlocals with, currently both old and updated ones, the WUI has either been omitted or accepted by those agencies as the agency sees fit.

Bart Chambers added that in regards to grants and everything else, that's going to be incumbent upon the agency. I know that there is a current stance by the Board of Fire Services that was discussed last month to potentially look at Chapter 5 and to glean the information from that on the construction materials to support defensible space, as well as the appropriate construction, especially in light of the Tubbs fire and most recent Camp Fire. The three elements of fire prevention, of course are: the engineering, education, and enforcement. And if none of that is being done, especially on the education and engineering aspect, education and its totality, we will see results of what we have seen in those significant fires. And as we are all aware of the 435,000 acres in the Martin Fire and what people lost up there, different fuel model, still sustained major, major losses for the people up in the Elko County area.

Chief Harvey added that they would agree on one thing Bart Chambers said in there; Central Lyon completely supports the ability to change that language in the interlocal agreement as to whether or not we prefer the document or not. And that's one thing that's been on our discussion with you for a while is that if you adopt that code; don't ask us to enforce it in Central Lyon.

Bart Chambers replied that the code has been adopted since 2015. Actually, prior to that when Director Wright was the State Fire Marshal and they got support state-wide on that. Yes, it was a piece of contention with some jurisdictions but as we have seen the significant changes, not only in this state but throughout the United States on Wildland Interface, especially with the National Fire Protection Association identifying the Tubbs Fire and at the last National Fire Marshal's Forum, it was of concern in what is being addressed, not only in a specific state but nationally. So, it is being recognized that some agencies like it, some agencies can't have the capability. The Fire Chief from Santa Rosa said that they couldn't do the fire protection or fire prevention aspect because of their prevention bureau. It was also noted that the engine companies were also potentially doing work as well. But again, these are some of the items that we can discuss in the future on adjusting and adopting certain elements of the WUI. One of the collaborations that we are looking at right now with the WUI is partnership, not only with fire districts and the agencies throughout the state in critical areas, but with REALTORS Association, NV Energy, and beginning dialogue with the insurance association with the state. It looks to be positive. But I think that there is something in place that is going to be palatable for all. Chief Harvey was thanked for that information.

Bart Chambers asked if there was anything else on page three, there was no further comment. Page four, no comment.

Page five, Bart Chambers noted there is a blur for regulation of liquefied petroleum gas. They updated their section in NAC 590 and we mirrored that to ensure consistency, not only in our NAC but their NAC as well.

Page six, no comment.

Page seven, no comment.

Page eight: Bart Chambers noted that there is a recent addition that is probably not in your copies that he wanted to discuss. The NFPA 2400 was finally adopted by NFPA. The 2019 edition and NFPA 2400 addresses the utilization and effect of drones for emergency responders, not only fire department personnel but law enforcement. So, we're looking at putting that in the NAC. Bart Chambers asked if there were any questions or concerns in regards to NFPA 2400.

Eric Guevin commented that he is not 100% familiar with that new NFPA standard and asked if there would be a conflict there.

Bart Chambers replied that as of right now there's no conflict. It would be supporting the agencies and entities utilizing drones.

Page nine, no comment.

Pages 10, 11, 12, no comment.

Page 13: Bart Chambers noted there was a change in some of the verbiage in Section 915. It would be towards the bottom of the page; Section 915.1.1. Verbiage is revised by adding a new paragraph to read as follows: "Section 915.1.1. Where required, carbon monoxide detection shall be provided in Group I1, I2, I4, and R occupancies, including R3 occupancies used for transient occupancy of less than 30 days and in classrooms and Group E occupancies in the location specified in Section 915.2, where any of the conditions in Sections 915.1.2 through 915.1.6 exists."

Doug Sartain asked if that only applies where gas appliance are installed

Bart Chambers replied it is gas appliances as well as fireplaces.

Pages 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, no comment.

Page 26: Doug Sartain referred to line item number 9D, the "maintain the records of all services performed." I believe on our last workshop we talked about a timeframe. There's no timeframe mentioned with electronics and paper and wasn't the intent to put in an actual timeframe like the building? I think this verbiage is very important but how long are you requiring us to carry the documentation?

Bart Chambers answered he remembered correctly, the discussion was life of the building.

Doug Sartain agreed, and added that it was all over the place. Even if a service company loses the service contract, they're still required to retain those records for the life of the building. And I don't think anybody would be opposed to the life of the building. I hope I can speak for the industry that it would be for the life of the building.

Lee Marx commented that they are starting to do everything electronically, which he recalls was indicated in the last meeting. It is easy to keep electronic files forever, so he is having problems with a timeframe.

Doug Sartain suggested "Life of the building."

Bart Chambers suggested verbiage change to: "Maintain accurate records of all service performed and all installations and service agreements made by the firm. These records must be made available for inspection by the State Fire Marshal or his or her authorized representative during business hours. These records can be maintained electronically for the life of the building."

Doug Sartain added "Electronically or on paper." There are not a lot of people that have gone to electronic, so either the hard copy or electronics would be his suggestion.

Bart Chambers re-read suggested verbiages: "These records to be maintained electronically or by paper for the life of the building."

Doug Sartain commented that he thought that would be palatable for everybody.

There were no more questions, and moved to Page 28

Doug Sartain referenced line item number 15, "a conviction of a felony is basis for a denial." We tell our employees or we tell potential candidates that if they have a felony they cannot apply and they will not be allowed to get state certification. The word "basis" allows for someone to make a decision, if he correctly understands it, that you could in fact be licensed with a felony. We are not sure of the purpose of the word "basis." It is either absolute or not. Doug Sartain is just asking again for clarification on that, with all due respect. He quite frankly does not care, but does not want to turn down a potential candidate if he's got a felony, if in fact there is a possibility that it would be waived.

Bart Chambers asked if the word "basis" should be changed to "absolute"?

Doug Sartain replied that he does not think industry would have a problem. The conversation he has had with people over the years is if a guy made a mistake at 17 years ago and now he is an upstanding citizen, he has done everything right and paid his price, it was a foolish mistake but he was still charged with a felony, he is a pillar of the community but we are restricting him from doing a job. With all due respect, he does not have a problem either way, but if you are going to allow the word "basis", then what is the criteria for acceptance?

Bart Chambers thank Doug Sartain and will work with Legislative Counsel Bureau on their recommendation to find a better verbiage that would be applicable and palatable with industry.

There were no more questions on page 28. Pages 29 and 30, no comments.

Page 31, Bart Chambers referred to NAC 477.3146; there was some verbiage change for training and courses by fire departments. We added in number one, “The State Fire Marshal may issue a certificate to a person for training received from a course which is not offered through the state training program. If that course meets or exceeds the standards of the State Fire Marshal through national standards.” We put this in there because the interpretation from either me or my predecessors or those that would take my place in regards to standards of the State Fire Marshal, we needed to make sure that we were maintaining something that was consistent. The SFM is accredited by IFSAC and soon to be by ProBoard, both nationally recognized, as well as NFPA. We wanted to make sure that there was something a little bit more solid to identify this.

Bart Chambers went on to number 2: “A person must apply for certification on a form provided by the State Fire Marshal. The person must provide all of the information necessary to demonstrate that the training course meets or exceeds the standards established by the State Fire Marshal and national standards.”

Bart Chambers then went on to NAC 477.3148, number three, “Any fire service training which leads to certification conducted by a fire department must have an appropriate level fire service instructor listed and approved through the State Fire Marshal Division, along with providing class syllabus and curriculum meeting or exceeding the national standards.” Again, we raised this question and some of the concerns that many of the agencies have had reaching out to neighboring states bringing instructors in. We are not saying “no” to it but we need to make sure that the curriculum is meeting the national standard working with those agencies to have the appropriate certification and training. Bart Chambers asked if there were any questions or concerns with those elements being added. There were none.

Doug Sartain had a comment on Page 33, that as a business owner for 40 years, we have no objections at all to the fee increases as stated in 33, 34, 35, and 36. We have seen just a great level of enforcement from the State Fire Marshal Division and we hope to have that continue, and assuming by increasing the fees that that will help your office. So, just more of a comment; no one in the industry that I know of, nobody’s reached out to me, has any issue at all with those new fees.

Bart Chambers thanked Doug Sartain for his comment. There were no more comments on page 33.

Pages 34, 35, 36, 37, 38, 39, 40, 41, 42, no comments.

Doug Sartain had a comment of page 43; the tagging. We discussed having an in impairment tag and discrepancy tag. You actually have got a good clear definition on page one of the impairment and the deficiency. We respectfully request that the State Fire Marshal consider making it a requirement; it is already a requirement in NAC 380. It is already a requirement that it be marked impairment. We would like to see a second tag be added for discrepancy, as they are two completely different issues. And as the insurance industry and the fire departments get better educated on the definition, it’s going to draw probably a stronger action from both, depending on what tag is hung.

Bart Chambers confirmed with Doug Sartain that there is a request from industry to have a deficiency tag as well as an impairment-to accompany the impairment tag within the code on tags.

Doug Sartain replied "Yes." As spelled out in the definitions in section four and five as is spelled out whether it is a deficiency or impairment.

Bart Chambers commented that it will be added.

Doug Sartain replied thank you.

Bart Chambers asked if there were any additional questions, comments, concerns. There were none.

Page 44, 45, 46, 47, 48 no comment.

Doug Sartain inquired On 477.400, number two was stricken completely and he is trying to understand what it says; if I have an employee, he has to test after 45 days? Is that what that's saying?

Susie Riolo replied that she figures as soon as a company says someone is qualified to sit down and take a test, that's it. If we're talking about a 45-day ruling in only one section of the regs, it should not be there.

Doug Sartain agreed and added that some people would learn faster and I think it was 90 days we had to wait. Is it being reduced to 45 days? But if somebody takes 90 days or six months or whatever the case may be, there's no restriction for them to continuing work with somebody so long as they're working with a licensed company.

Susie Riolo agreed, and confirmed he is looking at 477.400

Doug Sartain asked if he has an alarm guy or a sprinkler guy, how does that carry over to those as well.

Susie Riolo replied that once the company owner writes a letter saying this person has the knowledge and training and wants a new test. Whether it is a 45 days, three days, they could be coming from another company. So, I they are taking on the liability along with the company- along with the individual.

Doug Sartain. Agreed 100% and wants to make sure that there were no restrictions, that after 45 days we have to either terminate the employee or have them test.

Susie Riolo replied that you do not have to terminate, not in her opinion, but that's certainly Chief Chambers' rule.

Bart Chambers commented that we probably need to do is massage some of the verbiage in here.

Doug Sartain agreed.

Susie Riolo suggested striking it because it's only under that section.

Doug Sartain replied that he does not understand that section, and has read it about a hundred times.

Doug Sartain suggested referring back to Susie because she's been doing the licensing for 25 years. Whether it is fire extinguishers or fire alarms or fire sprinklers, if somebody comes from another company, do they have to wait a period of time? Why are we even putting a number of days? Can we just strike that altogether?

Susie Riolo replied that if you are asking her opinion and if Chief Chambers would ask, she would say strike it.

Doug Sartain added that if he is going to send you a letter that says this person is qualified, again, everybody has a different learning curve, does not know that there should be a restriction of days. And so, Chief, with all due respect, I think one ought to be stricken and two ought to be stricken and there should be no restriction and a licensee. He is not sure where, but we have to supply a letter to you and to the Chief that says that that person is qualified.

Bart Chambers commented that one of the reasons that this was here was to ensure that people were getting the appropriate license with the time within a timeframe so we did not have people that were taking multiple years.

Doug Sartain agreed.

Bart Chambers reached out to agencies in the room if they have any concerns with this section. No additional concerns were noted, so we will massage the verbiage and get the changes out.

Pages 50-98, no comments.

Bart Chambers that asked if there were any concerns, questions from Elko on the document?

John Holmes replied that there were none from Elko.

Bart Chambers asked if there were any comments, questions, or concerns from Las Vegas?

Marx asked for the next step.

Bart Chambers indicated that after today's public workshop he will make immediate corrections, get it over to LCB, who is currently working on this document that we've submitted to them, other than the changes of course today. If all goes well as we're moving into session, we're hoping to get this on a public hearing by the end of January, beginning of February. So, as soon as we can get this taken care of with LCB I'm going to immediately get it out there for public hearing and meet the required timeframes. So, as soon as we can after today.

4. PUBLIC COMMENT Public comments are limited to three (3) minutes. Comments will not be restricted based on viewpoint.

Bart Chambers asked for public comment in Elko, there was no public comment.

Bart Chambers asked for public comment in Las Vegas, there was no public comment.

Bart Chambers asked for public comment in Carson City.

Doug Sartain went back to the swapping of fire extinguishers and labels. Does that become written into this document or does that become the opinion of your office?

Bart Chambers answered that it is going to be an opinion from our office. We can make the changes in NAC but based on upon what has been brought to our attention is still in line with NFPA. So, I'm not seeing a significant change other than opinions being given to hold that is needed.

Doug Sartain added that the only thing that is not addressed in NFPA is the swapping of extinguishers. And again, that might be another statute within the state because there is a title to that fire extinguisher, so I'm not sure how that would play into what currently the state has with forwarding title, whether it's a vehicle or for fire extinguisher or whatever the case may be. So, I'm not sure how that would play into the rewriting of the regs or your opinion. I would assume that there's got to be some-somewhere in our state regulations that don't allow you to take somebody's property without notifying them, especially if you're given him something of a lesser value. And it is my opinion-my opinion in the last five or-probably the last five years that it started that we always see a lesser value given back.

Bart Chambers made the notes and thank Doug Sartain. He then asked for any other public comment, and there was none.

5. Adjournment.

Bart Chambers adjourned the workshop and thanked everybody for their attendance. He also wished everybody a very Merry Christmas and safe and prosperous New Year. Thank you very much.