

SUBJECT: MCSCS Regulations on Mandatory Certification and Training, and Community Risk Assessments

INTRODUCTION

On January 25, the Ministry of Community Safety and Correctional Services (MCSCS) released two proposed regulations under the *Fire Protection and Prevention Act, 1997* (FPPA) related to new requirements for:

1. Mandatory training and certification for firefighters; and
2. Community risk assessments to inform the delivery of fire protection services.

The MCSCS is seeking public feedback on both regulations. Comments are due March 11, 2018.

The Ministry received input on how to modernize fire service delivery in the province from a group of fire service experts, known as the provincial Fire Safety Technical Table (the Table), which was established in January 2017. The Ministry reviewed and compiled the Table's recommendations to develop the proposed regulations.

BACKGROUND

The Technical Table was established to examine current and emerging fire safety challenges and opportunities, identify priorities for action, and support the development of evidence-based recommendations that will enhance fire safety in Ontario. Its goals are to review new and emerging challenges in fire safety, with a view to identify opportunities to enhance delivery in Ontario, such as:

- Firefighter training and professionalism (e.g. identification of specialized knowledge requirements and core competencies);
- Public education and prevention measures, including community risk assessments;
- Provincial standards for fire services, such as fire dispatch; and
- Public reporting of fire service data.

The Technical Table membership included OFAC president & executive vice president, a number of OAFC members participating on behalf of their municipalities, MCSCS and Office of the Fire Marshal and Emergency Management (OFMEM) executive and staff, the Ontario Professional Fire Fighters Association (OPFFA), the Toronto Fire Fighters Association (TPFFA), and the Fire Fighters Association of Ontario (FFAO), as well as an Association of Municipalities (AMO) staff member and a lower-tier CAO representative.

The Table met monthly over the course of 2017, offering input to the MCSCS on minimum standards for professional fire service qualifications. Those recommendations were reviewed by the MCSCS and used to develop the draft regulations, for final review by the Minister.

OVERVIEW

Draft Regulation 1 – Mandatory Certification

The MCSCS is proposing to establish mandatory certification requirements set out by the National Fire Protection Association (NFPA) for all new firefighters employed or appointed to a fire department for the following positions: suppression firefighters, pump operators, technical rescue, fire officers and fire educators.

These requirements are proposed to come into force January 1, 2019, with the exception of technical rescue, which would come into force January 1, 2020. An additional year for technical

Temagami Fire Department

Staff Briefing Note:

Proposed Regulations under the Fire Protection & Protection Act (FPPA)

rescue to achieve certification is being proposed to allow for sufficient time to develop training and certification examination materials.

In addition, The MCSCS is proposing that mandatory certification requirements also set out by the NFPA apply to existing firefighters currently employed or appointed in fire departments across Ontario, including fire inspectors, fire investigators, fire instructors, hazardous materials personnel and fire dispatchers.

It is proposed that these mandatory certification requirements apply to existing firefighters, given these positions are exposed to increased risk, including risk to the individuals performing these roles. These requirements are proposed to come into force January 1, 2020 to give fire departments additional time to train and certify their staff.

Draft Regulation 2 – Mandatory Community Risk Assessments

The MCSCS is proposing that municipalities be required to conduct a standard risk assessment every five years focusing on key profiles in their communities (e.g. demographics, geography, past fire loss and event history, critical infrastructure, building stock profile within the community, etc.).

Municipalities would be responsible for reviewing their risk assessment annually to ensure that any significant changes in the mandatory profiles are identified. If there are any significant changes (e.g. addition of retirement homes or care facilities), the municipality will be responsible for updating their assessment. This information will be used to inform decisions about fire protection services in their community. This requirement is proposed to come into force January 1, 2019. More information can be found here on the Ontario Regulatory Registry.

ANALYSIS

O AFC Analysis, Key Messages, Recommendations

Draft Regulation 1 – Mandatory Training and Certification

We understand that under the proposed mandatory training and certification regulation, the minimum certification/training requirements will only be for new hires, as of January 1, 2019 (i.e. suppression firefighters [external attack/internal attack], pump operators, fire officers and public educators). The draft regulation requires only those firefighters, in the five categories noted above, hired after January 1, 2019, to be certified.

Fire inspectors and/or fire instructors that have been grandfathered and became a firefighter before January 1, 2019 need not certify to the level to which they have been grandfathered.

Fire investigators, technical rescue, fire dispatch and hazardous material personnel cannot be grandfathered. Thus, those in the aforementioned roles, who are currently employed or appointed in fire departments, must all be certified by January 1, 2020.

The MCSCS is still attempting to gather information on fire services that do their own dispatch, which will be captured in this draft regulation; however, the MCSCS is looking to include other fire dispatch service providers in future regulations. In rural and northern Ontario, there are many other non-fire services that provide fire dispatch services. The full extent of different types of dispatch and where it occurs is not known at this time to the MCSCS or the OFMEM. A survey was conducted in November 2017 to gather this information; however, it was not successful in gathering sufficient information. Another survey is being conducted in February 2018 to retrieve additional data.

We understand that the MCSCS will consider provincial funding to support implementation of this regulation, once final; however, no decisions or commitments have been made. The MCSCS is scheduled to send a survey to all fire departments (release date to be determined) in

order to understand the needs and potential gaps in the current training, certification, risk assessment and public reporting within Ontario's fire services, as well as to identify fire services' challenges in meeting the new fire services regulations requirements. Survey responses will inform the Ministry's implementation plan, including whether additional funding is available.

O AFC urges all municipal fire services to respond to the MCSCS survey, highlighting funding requirements to support implementation of the regulations. You need to clearly identify how achievable the mandatory certification will be, and the additional training costs that will be necessary. The value of any additional training (both time and costs) should be outlined in your response. We must advocate collectively.

The O AFC believes sections of the Mandatory Training and Certification regulation require amendments to improve understanding and compliance.

- The Internship Program of 24 months needs to be expanded to include all applicable areas and positions, such as fire inspectors and Fire Officer I & II, replacing the limiting language found in section 3(b). As it's currently written, the regulation only applies to new hires.
- Table 1: Wording needs to be introduced to ensure future updates to NFPA standards are implemented by the Authority Having Jurisdiction (AHJ) as standards are updated, published, and testing/skills are made available. This will support and complete the certification process.
- Commencement: The date of implementation needs to be reviewed. With an election year upon us, there likely is not enough time before July 2018, or at the initial council meeting on/or after December 1st, 2018, to make decisions (e.g. training funding) to ensure full implementation of the Mandatory Training and Certification regulation. For this reason, a later effective date is needed.
 - In the meantime, all departments are urged to begin the work to move their department toward compliance with the regulations.
- Commencement: Certification for some individual chapters within NFPA 1006 may not be available for the January 1, 2020 deadline. Additional wording should be added, allowing the AHJ to manage the implementation of NFPA 1006 Technical Rescue as the standards are updated, published, and testing/skills are made available, in order to support and complete the certification process.

Draft Regulation 2 – Mandatory Community Risk Assessments

We understand that the OFMEM will be providing support and assistance for small rural and northern municipalities in completing the Community Risk Assessments. The regulation speaks to the OFMEM providing the approved, standardized fillable form for fire departments for Community Risk Assessments (i.e. the former Simplified Risk Assessment form). The O AFC believes this regulation, specifically under Schedule 1 Mandatory Profiles, requires amendments to improve understanding and compliance.

- The reference to building stock and classifications should use MPAC data to classify building usage in regards to fire risk.
- Section 2: Reporting the "state of compliance within the fire code" should be deleted as this is directly dependent upon municipalities' set level of service for fire prevention (e.g. fire inspections upon request or complaints as permitted, under the FPPA). This item is not attainable.
- Section 6: In a multi-tier government (e.g. lower-tier fire, upper-tier EMS and provincial police), the data required for public safety response profile is not attainable.
- Section 7: While the community services profile has some duplication of the risk assessments under Emergency Management and Planning, it should be considered a

Proposed Regulations under the Fire Protection & Protection Act (FPPA)

risk assessment specifically for the risks that can/should be addressed by that reporting fire service, as indicated by E&R bylaws or other legislation.

- Specific risks around technical rescue are not captured in a HIRA, for example.
- Another example would be risk associated with property inspection frequencies.
- The Mandatory Risk Assessment for fire, under Section 7 of this regulation, needs clarification on content and formatting as a stand-alone document.
- Section 9 (2): Comparison to other “like” communities may be difficult to achieve. Reporting against provincial trends would be more appropriate.

OAFC POSITION AND KEY MESSAGES

Professionalization of the Ontario Fire Service

- The OAFC supports the Fire Safety Technical Table’s mandate, recognizing the proposed regulations are an important stride forward in the professionalization of the Ontario fire service.
- The OAFC applauds the provincial government for taking steps to modernize the FPPA.
- The MCSCS proposed regulation on mandatory training and certification is the culmination of 25 years of effort to professionalize the Ontario fire service.
- At this time, the NFPA Professional Qualification Standards – currently the standards used throughout the rest of Canada, the USA and other areas of the world, were accepted by OAFC members, by resolution, as the recognized fire service standards in Ontario.

Commitment to Public Safety

- The Fire Safety Technical Table was established with the vision of enhancing fire safety province-wide through the provision of effective, cost-efficient and sustainable fire safety services.
- Training and certifying your fire service personnel to the standards set out in the regulations improves both firefighter and public safety.
- As per the FPPA, the onus is on the municipality to have properly trained fire service personnel that meet the level of service municipal council has determined to be appropriate for its community.
- Mandating the training and certification of personnel performing and delivering fire services improves public safety. It also reduces municipal risk exposure, as third-party companies cannot certify fire service personnel. Certification can only be achieved at the provincial, standardized level.

Implementation Challenges

- The OAFC believes that specialized funding must be provided to all fire services to support implementation of the regulations.
- The OAFC recognizes there are timing concerns and cost implications for departments to support compliance with the regulations.
- The OAFC encourages any fire department who did not take advantage of grandfathering in 2013/14, which will be re-opened to specifically support implementation of the regulations (date to be determined), to use this option to certify its fire service personnel.
- The OAFC believes that OFMEM should allow fire departments who previously grandfathered personnel to grandfather any additional staff that did not qualify in 2013/14, once grandfathering is re-opened.
- There has been significant training over the years to NFPA standards outlined in the regulations, which is already limiting risk exposure.

Proposed Regulations under the Fire Protection & Protection Act (FPPA)

- Access to free, online testing through the OFMEM will aid the certification process and reduce municipal travel expenses. OFMEM must ensure these services are available to departments, in a timely manner, otherwise success/compliance is not likely.
- While the regulations do not detail how non-compliance will be handled, there is great liability risk to a municipality if it does not certify to the new mandatory standard for all categories of fire operations, in the event something unfortunate occurs.
 - Although there is protection from personal liability and indemnification provisions in the FPPA (see s. 74, 75, 76), it is only for those working in fire services (municipal or provincial) and not for municipal corporations.
- The OAFAC, in alignment with AMO, believes that liability indemnification should be available for all municipal governments who comply with these new regulations at least 12 months before the training and certification regulation comes into force.
- If the province does provide liability indemnification to accompany these regulations, the province should provide sufficient funding to municipalities to cover the new training and certification costs for those designated positions at least 12 months before the training and certification regulation comes into force for those positions.
- If sufficient provincial funding is not provided to municipal governments, the province will be knowingly creating a new unfunded mandate on municipalities.

RECOMMENDATIONS (OFAC)

Respond to the MCSCS survey, scheduled to be released this month, highlighting funding requirements to support implementation of the regulations. Clearly identify how achievable the mandatory certification will be, and the additional training costs that will be necessary. The value of any additional training (both time and costs) should be outlined in your response. We must advocate collectively.

The OAFAC believes the following amendments to the regulations should be made before they become law, in order to improve understanding and compliance. We urge all fire chiefs and their municipalities to echo these requests in their comments to the Ministry, in addition to other relevant local details, so the government is aware of the unique concerns across Ontario's fire service.

1. **Mandatory Training and Certification Draft Regulation:**

- That the Mandatory Training and Certification regulation not come into force until at least July 1, 2019, preferably January 1, 2020, to allow municipal councils and their fire services to make all the necessary training funding decisions.
- The provincial government to provide the necessary funding for training and liability indemnification 12 months prior to the regulations coming into force.
- That the OFMEM must ensure timely access to free, online testing for departments.
- That the Internship Program of 24 months be expanded to include all applicable areas and positions, such as fire inspectors and Fire Officer I & II, replacing the limiting language found in section 3(b). As it's currently written, the regulation only applies to new hires.
- That Table 1 be revised to include wording that ensures future updates to NFPA standards are implemented by the Authority Having Jurisdiction (AHJ) as standards are updated, published, and testing/skills are made available. This will support and complete the certification process.
- Certification for some individual chapters within NFPA 1006 may not be available for the January 1, 2020 deadline. Therefore, additional wording should be added to the

Proposed Regulations under the Fire Protection & Protection Act (FPPA)

regulations, allowing the AHJ to manage the implementation of NFPA 1006 Technical Rescue as the standards are updated, published, and testing/skills are made available, in order to support and complete the certification process.

2. Community Risk Assessments (Schedule 1 Mandatory Profiles) Draft Regulation:

- That the reference to building stock and classifications should use MPAC data to classify building usage in regards to fire risk.
- That the line about reporting the “state of compliance within the fire code” in Section 2 be deleted, as this is directly dependent upon municipalities’ set level of service for fire prevention (e.g. fire inspections upon request or complains as permitted, under the FPPA).
- That Section 6 be removed. In a multi-tier government (e.g. lower-tier fire, upper-tier EMS and provincial police), the data required for a public safety response profile, as currently called for in the draft regulation, is not attainable.
- That the mandatory risk assessment for fire, under Section 7 of this regulation, be clarified in regards to content and formatting as a stand-alone document.
- That Section 9(2) be edited to remove the requirement to compare to other “like” municipalities, as this data is not readily available. Reporting against provincial trends would be more appropriate.

TFD analysis of proposed legislation and additional recommendations

ANALYSIS: initial analysis focused on the impact proposed legislation for mandatory training certification will have on TFD firefighter training and advancement, especially as only 2 members (Cummings, Sanderson) sought grandfathering in 2013/14.

Recruitment & Retention

- New volunteers joining would potentially have to commit to attending regional training schools within the first year (weeks).
- It is anticipated a number of existing firefighters would seek grandfathering if the window was re-opened for them.
- One issue is the ability of volunteer’s to get time off from work / ability to commit to attend regional training courses for those wanting to advance (officers)
 - a. Willingness of existing firefighters to obtain certification by Jan 1, 2020
 - b. Ability of volunteer firefighters being able to get time off from their employer to be able to attend regional training courses.

Existing service level

- Auto extrication is a component of technical rescue. The proposed legislation will require certification by existing firefighters to perform technical rescue after January 1, 2020. While the OAFRC recommends *managing the implementation of NFPA 1006 Technical Rescue as the standards are updated, published, and testing/skills are made available, in order to support and complete the certification process*, the Temagami Fire Department recommends technical rescue/auto extrication be included in the list of items in Table 1, so that existing firefighters currently trained and performing auto-X be allowed to continue performing without certification.

Funding

- Increased costs associated with firefighter training, documentation, lesson plans...
- What will firefighters obtain NFPA certification (in-house versus regional training centers, regional evaluation centers...)

Temagami Fire Department

Staff Briefing Note:

Proposed Regulations under the Fire Protection & Protection Act (FPPA)

- Some training will require travel to a regional center => mileage/meals/accommodations - level of impact is unknown at this time

Staffing:

- Legislated requirements bring increased manpower requirements for training, developing programs, monitoring individual firefighter records, and documentation
- Staffing workload for training (coordination/ documentation/ developing lesson plans / delivering training sessions)
- Staffing workload for prevention & education
 - a. + 18 days to certification for NFPA 1031- Fire Inspector (Ontario standards)
 - b. May want to consider contracting out Prevention inspections services with outside FD (if willing to provide)
- Senior management - level of impact is unknown at this time

Dispatching

- Currently done by a 3rd party so no affected at this time. Anticipate there will be some future costs associated with training that the 12 departments currently using CACC may have to cover.

Liability

- (Municipality / Senior Management) - Failure to meet standards
 - a. Municipality (council) may have to take a position on what to do with fire department members not willing/able to obtain mandatory certification
 - b. Provincial government enforce the legislation? Fire Protection & Prevention Act offence section <https://www.ontario.ca/laws/statute/97f04#BK35>

Additional Recommendations

1. Mandatory Training and Certification Draft Regulation:

- It is anticipated the new training requirements will have an impact on volunteer firefighter Recruitment and Retention, especially for volunteers with employers that do not support or allow their staff time off to obtain firefighter training certification. The province should develop regulations requiring employers to provide, similar to mandatory vacation under the *Employment Standards Act, 2000*, time off work for volunteer firefighters to attend mandated certification training where such training is not available within the community/ outside normal work hours. This will be especially critical in smaller communities where the availability of potential volunteers is very limited.
- Auto collisions & vehicle extrication is the majority of responses the Municipality of Temagami fire departments respond to. The municipality recommends MCSCS reconsider the training that existing fire department / firefighters have in this discipline. Recommend item # 4(1) of the proposed legislation be expanded to include item # 10 of Table 1, specific to the technical rescue/auto extrication performed by the department / authorized by E&R bylaw.
- A number of fire fighters did not take advantage of the grandfathering in 2013/14 as firefighters saw no need to seek certification at that time. Recommend OFMEM allow fire departments who previously grandfathered personnel to grandfather any additional staff that did not qualify in 2013/14, once grandfathering is re-opened.
- Recommend specialized, ongoing funding must be provided to Municipalities to support implementation of the mandatory training regulations, including consideration for funding to support staffing for small rural municipalities impacted by the legislated requirements.

Temagami Fire Department

Staff Briefing Note:

Proposed Regulations under the Fire Protection & Protection Act (FPPA)

2. Community Risk Assessments (Schedule 1 Mandatory Profiles) Draft Regulation:

- The municipality does not have the resources (staff / training) to complete community risk assessments. Province must provide support (funding) and assistance from OFMEM staff, for small rural and northern municipalities in completing the Community Risk Assessments.