

TEXAS COMMISSION ON FIRE PROTECTION
January 25, 2018, 9:00 a.m.
1701 N. Congress Ave., William B. Travis Building, Room 1-104, Austin, Texas

- 1. Call to order with Invocation, presentation of colors, and Pledge of Allegiance.**
- 2. Roll call – 9:00 a.m. (including consideration of whether to excuse absences).**
- 3. Discussion and possible action regarding the election of the positions of Secretary and Vice-Chairman of the commission.**
- 4. Adoption of the commission meeting minutes of October 26, 2017.**
- 5. The Budget and Strategic Plan subcommittees may meet separately or together on January 25, 2018 during the commission meeting and provide reports for discussion and possible action relating to any recommendations developed by the subcommittees, including but not limited to, modifications to the agency operating budget and strategic plan.**
- 6. Discussion and possible action regarding the appointment of new commission members to the Budget and Strategic Plan subcommittees.**
- 7. Reports from fire service interest groups and agencies on matters relating to organizational purposes, functions, and objectives, including, but not limited to, the Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firemen’s and Fire Marshals’ Association of Texas, the Texas Fire Marshal’s Association, the Texas Association of Fire Educators, the Texas A&M Forest Service, the National Fire Protection Association, Texas State Association of Fire and Emergency Districts, the Center for Public Safety Excellence, and the State Fire Marshal’s Office.**
- 8. Discussion and possible action concerning reports by the commission representative to the Texas Fire School Advisory Board and by representatives of the Texas Engineering Extension Service (TEEX) regarding fire protection training provided by TEEX through its Emergency Services Training Institute (ESTI).**
- 9. Discussion and possible action regarding report from commission representative to the Homeland Security Council.**
- 10. New matters from the commission, staff, or public which may be discussed in future commission meetings.**
- 11. Discussion and possible action on future meeting dates.**
- 12. Discussion and possible action on the appointment of an ad-hoc committee to review applications for filling the vacancy on the fire fighter advisory committee.**

- 13. Matters referred from the Fire Fighter Advisory Committee (FFAC), including, but not limited to:**
 - A. Discussion and possible final adoption of proposed amendments, new sections, and repeals as follows:**
 - 1. Discussion and possible action regarding proposed amendments to title 37 TAC, Chapter 451, Fire Officer.**
 - 2. Discussion and possible action regarding proposed amendments to new 37 TAC, Chapter 459, Minimum Standards for Fire and Life Safety Educator Certification.**
 - 3. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 429, Minimum Standards for Fire Inspector Certification.**
 - B. Report from the Curriculum and Testing Committee with discussion and possible action on recommendations regarding possible changes to the Certification Curriculum Manual as follows:**
 - a. Revised Fire Investigator Curriculum, reference list, outline and phase outline**
 - b. Revised reference lists for Fire Officer III and Fire Officer IV**
 - c. New certification: Fire and Life Safety Educator I, overview, course instructor information, reference list and outline**
 - d. Revised reference lists for Hazardous Materials Awareness, Hazardous Materials Operations, Hazardous Materials Operations – Mission-Specific Competencies, Hazardous Materials Incident Commander, and Basic Fire Inspector**
- 14. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 427, Training Facility Certification.**
- 15. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 433, Driver Operator.**
- 16. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 453, Hazardous Materials.**
- 17. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification**
- 18. Discussion and possible action regarding 37 TAC, Chapter 437, Fees including but not limited to testing, certification and renewal fees charged by the commission.**
- 19. Discussion and possible action on the petition for rulemaking filed by the Texas State Association of Fire Fighters requesting changes to Rule 435.1 (37 Tex. Admin. Code §435.1). Possible actions the Commission may take include but are not limited to denying the petition for rulemaking or initiating a rulemaking proceeding concerning Rule 435.1.**
- 20. Discussion and possible action on matters from the Executive Director.**
 - A. Decisions of the Executive Director in contested cases and consent orders.**
 - B. Status of division functions.**

- 21. Executive session pursuant to Texas Government Code, Section 551.074(1), for the discussion of personnel matters regarding the appointment, employment, compensation, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director, and the appointment, employment, reassignment, or duties of personnel acting on an interim basis in this position.**
- 22. Open session for further discussion and possible action regarding preceding agenda item.**
- 23. Adjourn meeting.**

Any invocation that may be offered before the official start of the commission meeting shall be voluntary offering of a chaplain, to and for the benefit of the commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the commission and do not necessarily represent the religious beliefs or views of the Council in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to participate actively in the business of the commission. Copies of the policy governing invocations and setting forth the procedure to have a volunteer deliver an invocation are available upon written request submitted to the commission Clerk.

The Texas Commission on Fire Protection may go into executive session on any agenda item if authorized by the Open Meetings Act, Texas Government Code Chapter 551.

1. Call to order with Invocation, Presentation of colors and Pledge of Allegiance.

2. Roll call - 9:00 a.m. (including consideration of whether to excuse absences).

3. Discussion and possible action regarding the election of the positions of Secretary and Vice-Chairman of the commission.

4. Adoption of the commission meeting minutes of October 26, 2017.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer, Robert Moore, at 10:00 a.m. called the October 26, 2017 meeting of the Texas Commission on Fire Protection to order at 1701 N. Congress Avenue, Room 1-104, Austin, Texas.

Attending	Tommy Anderson*	Carlos Cortez	Kelly Doster	Joseph Gonzalez	Mike Jones
	John McMakin	Bob Morgan*	Robert Moore	Leonardo Perez	Mala Sharma
	J. P. Steelman	Steve Tull	Tivy Whitlock*		

*absent entire meeting
 **absent part of meeting

Staff	Tim Rutland	Deborah Cowan	Sylvia Miller	Joyce Guinn	Mark Roughton
	Sylvia Miller	Andrew Lutostanski,	Assistant Attorney General		

Guests	Cary Roccaforte	Juan A. Gloria	Danny Kistner	Larry Wright	Leonard Chan
	Darren Brinkkoeter	Harvie Cheshire	Sean Fay	Jason Frizzell	David Rosier
	Randall Alexander	Bobby Fimbres	Steve Kelley	Bill Pearson	Darrell Rutledge
	Thomas McMonigle	Dave Lowe	Tom Foster	Gregg Salmi	Wayne Baker
	Laurie Christensen	David Coble	Chris Barron	David Gallagher	Trent Herrod
	Daniel DeYear	Doug Boeker	Amanda Taylor	Pablo Ruiz	Richard Mann
	D. Michelle McLeod	Glenn DeShields	Jim Reidy	Chris Willeford	Ted Padgett, Jr.
	Stuart Blasingame	Michael Grove	Randy Safer	Manuel Casarez	Eran Denzler
	Mario D'Agostino	Howard Rinewalt	James Mallinger	Ken Stevens	Raymond Hill
	Chris Biggerstaff	Rob Vires	Will Schwall	Leonard Chan	

1. Presentation of colors, Pledge of Allegiance and Invocation
 The presentation of colors was performed by the Coppell Fire Department. Vice-Chair Joseph Gonzalez led the Pledge of Allegiance and Nathan Robertson, Chaplain, Austin Fire Department performed the invocation.

2. Roll call
 Commission Vice-Chair, Joseph Gonzalez called roll and a quorum was present.

3. Adoption of Minutes
 A motion to approve the minutes of July 12, 2017 and July 13, 2017 commission meetings was made by Steve Tull and seconded by Leonardo Perez. The motion carried.

4. Budget and Strategic Plan Subcommittee Meeting/Reports
 No action necessary.

5. Reports from Interest Groups
 A brief report was given by the Texas Fire Chief's Association, Texas State Association of Fire Fighters, Texas Fire Marshals Association, State Firemen and Fire Marshal's Association, the National Fire Protection Association, and the Center for Public Safety Excellence.

6. Report from Fire School Advisory Board & TEEX
 Commission Representative Juan Gloria gave a brief update on activities of the committee since the last meeting.

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7. Report from Homeland Security Representative
Commission Representative, Joseph Gonzalez informed the commission that the council was scheduled to meet next week and he would provide an update at the January meeting.
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8. New matters
Appointment of new officers; reappointment of members to the Budget and Strategic Plan Subcommittees; possible selection of new member to the fire fighter advisory committee
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9. Future meeting dates
The commission set the following dates for its quarterly meetings:
January 24, 2018 (Workshop); January 25, 2018 Commission meeting
April 26th, 2018 Commission meeting
July 11, 2018 (Workshop); July 12, 2018 Commission meeting
October 25, 2018 Commission meeting
-
10. Appointment of Subcommittee to Evaluate current Injury Reporting Program
A motion was made by Joseph Gonzalez and seconded by Kelly Doster to appoint the subcommittee with the members as presented. The motion carried. The following individuals were appointed to this subcommittee: Tommy Anderson, (Commissioner/Chair), Danny Kistner, Chief, McKinney FD, Bobby Abbott, Chief, Travis Co. ESD #6, Daniel Buford, Bryan FD (FFAC member) and Leo Mendoza, McAllen FD
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11. Fire Fighter Advisory Committee membership
After discussion, a motion was made by Steve Tull and seconded by Mike Jones to take no action. The motion carried, (8 for, 1 against, 1 abstention)
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12. Matters from Fire Fighter Advisory Committee
A. 1. A motion to approve for final adoption the proposed amendments to 37 TAC, Chapter 423, §§423.1, 423.3, 423.5, 423.7, 423.9, 423.11, 423.13, 423.201, 423.203, 423.205, 423.207, 423.209, 423.211, 423.301, 423.303, 423.305, 423.307 and 423.309 as discussed was made by Leonardo Perez and seconded by Mike Jones. The motion carried.
2. A motion to approve for final adoption the proposed amendments to 37 TAC, Chapter 433, §§433.3, 433.201, and 433.203 as discussed was made by Steve Tull and seconded by Kelly Doster. The motion carried.
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13. 37 TAC, Chapter 451 Fire Officer
A motion was made by Joseph Gonzalez and seconded by Leonardo Perez to approve for publication 37 TAC, Chapter 451, §451.303, §451.307, §451.403 and §451.407 as discussed
The motion carried.
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14. 37 TAC, Chapter 459 Fire & Life Safety Educator Certification
A motion was made by Steve Tull and seconded by John McMakin to approve for publication new 37 TAC, Chapter 459, §§459.1, 459.3 and 459.5 as discussed. The motion carried.
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15. 37 TAC, Chapter 437 Fees
After discussion, a motion was made by Steve Tull and seconded by J. P. Steelman to add this item to the January 24, 2018 workshop for further discussion and to the January 25, 2018 commission meeting agenda for possible action. The motion carried.
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16. A & B List For Higher Levels of Certification After discussion, a motion was made by Joseph Gonzalez and seconded by Mike Jones to approve the additional classes or courses as presented for higher levels of certification. The motion carried.
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17. Request from Chief Danny Kistner, McKinney Fire Department A motion was made by Steve Tull and seconded by Joseph Gonzalez to table the issue of fire fighter medical physicals and for staff to publish a survey on the agency website regarding the need for a residential fire inspector certification. The motion carried. (9 for, 1 against)
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18. 37 TAC, Chapter 429 Fire Inspector A motion was made by Mike Jones and seconded by Joseph Gonzalez to take the original Subchapter A proposed language from the April 2017 commission meeting and send back to the fire fighter advisory committee and modify to read Minimum Standards for Fire Inspector I/II Certification. The motion carried.
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19. Matters from Executive Director a. Tim Rutland, Executive Director reported no informal conferences had occurred since the last commission meeting.
b. Mr. Rutland provided commissioners information on agency functions since last commission meeting.
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20. Executive Session 551.071(2) Presiding Officer, Robert Moore called for the Executive Session at 1:03 p.m.
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21. Open Session Presiding Officer, Robert Moore, called the executive session back into open session at 1:40 p.m.

A motion was made by Kelly Doster and seconded by Steve Tull to continue to provide the invocation and create an invocation policy covering the process. The motion carried.

A second motion was made by John McMakin and seconded by Kelly Doster to approve the policy drafted by the Attorney General's Office using alternate No. 1. The motion carried.
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22. Executive Session 551.074 Presiding Officer, Robert Moore did not call for this Executive Session.
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23. Open Session No action necessary.
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24. Adjournment A motion to adjourn was made by Kelly Doster and seconded by Steve Tull. The motion carried.

5. **The Budget and Strategic Plan subcommittees may meet separately or together January 25, 2018 during the commission meeting and provide reports for discussion and possible action relating to any recommendations developed by the subcommittees, including but not limited to, modifications to the agency operating budget and strategic plan.**

- 6. Discussion and possible action regarding the appointment of new commission members to the Budget and Strategic Plan subcommittees.**

- 7. Reports from fire service interest groups and agencies on matters relating to organizational purposes, functions, and objectives, including, but not limited to, Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firemen's and Fire Marshals' Association of Texas, the Texas Fire Marshal's Association, the Texas Association of Fire Educators, the Texas A&M Forest Service, the National Fire Protection Association, Texas State Association of Fire and Emergency Districts, the Center for Public Safety Excellence, and the State Fire Marshal's Office.**

- 8. Discussion and possible action concerning reports by the commission representative to the Texas Fire School Advisory Board and by representatives of the Texas Engineering Extension Service (TEEX) regarding fire protection training provided by TEEX through its Emergency Services Training Institute (ESTI).**

9. Discussion and possible action regarding report from commission representative to the Homeland Security Council.

10. New matters from the commission, staff, or public which may be discussed in future commission meetings.

11. Discussion and possible action on future meeting dates.

12. Discussion and possible action regarding the appointment of an ad-hoc committee to review applications for filling the vacancy on the fire fighter advisory committee.

13. Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:

A. Discussion and possible final adoption of proposed amendments, new sections, and repeals as follows:

1. Discussion and possible action regarding proposed amendments to title 37 TAC, Chapter 451, Fire Officer.



Texas Commission on Fire Protection

Agenda Item Summary

MEETING: Commission

DATE: 01/25/2018

Agenda Item #: 13 #A-1

Agenda Title: Chapter 451, Fire Officer

Action to be taken: Discussion and possible final adoption

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

Proposal to revise qualification for Fire Officer III certification, and deletion of obsolete language.

2. DESCRIPTION/ JUSTIFICATION

The proposed language expands the opportunity for qualification for Fire Officer III certification. Current rule language has created an unintended consequence whereby some individuals are able to qualify for Fire Officer IV, but are not able to qualify for Fire Officer III. The proposed change seeks to correct the issue.

3. BUDGET IMPACT

No impact is anticipated.

4. TIMELINE CONSIDERATIONS

Proposal for final adoption.

5. RECOMMENDATION

Recommend for final adoption.

6. REFERENCES

37 TAC, Chapter 451, Fire Officer.

CHAPTER 451

FIRE OFFICER

SUBCHAPTER C

MINIMUM STANDARDS FOR FIRE OFFICER III

§451.301 Fire Officer III Certification.

A Fire Officer III is a midlevel supervisor who performs both supervisory and first-line managerial functions who has met all the job performance and certification requirements of Fire Officer II as defined in NFPA 1021, *Standard for Fire Officer Professional Qualifications*. Typical duties of an individual at the Fire Officer III level include: establishing procedures for hiring, assignment, and professional development of personnel; developing public service/partnership and programs; preparing budgets and budget management systems; planning for organizational resource management; evaluating inspection and public safety programs and plans; managing multi-agency plans and operations; serving as Incident Commander at expanding emergency incidents for all hazard types; and developing and managing a departmental safety program.

§451.303 Minimum Standards for Fire Officer III Certification.

(a) In order to be certified as a Fire Officer III an individual must:

- (1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and
- (2) hold Fire Officer II certification through the commission; and
- (3) hold, as a minimum, Fire Service Instructor II certification through the commission; and
- (4) document completion of ICS-300: Intermediate Incident Command System; and
- (5) possess valid documentation as a Fire Officer III; from either:
 - (A) the International Fire Service Accreditation Congress; or
 - (B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements—General); or
- (6) complete a commission approved Fire Officer III program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Officer III program must consist of one of the following:
 - (A) completion of a commission approved Fire Officer III Curriculum as specified in Chapter 9 of the commission's Certification Curriculum Manual;
 - (B) completion of an out-of-state and/or military training program that has been submitted to the commission for evaluation and found to be equivalent to or exceed the commission approved Fire Officer III Curriculum; or
 - (C) successful completion of 15 college semester hours of upper level coursework from a four-year regionally accredited institution in any of the following subject areas:
 - (i) Administration/Management;
 - (ii) Budget/Finance;

- (iii) Planning/Organization;
- (iv) Leadership/Ethics;
- (v) Risk Management;
- (vi) Safety and Health; or
- (vii) Community Risk Reduction; **or**[:]

(viii) Criminal Justice.

(D) successful attainment of a bachelor's degree or higher from a regionally accredited institution in any of the following:

- (i) Fire Science/Administration/Management;
- (ii) Emergency Management;
- (iii) Public Administration;
- (iv) Emergency Medicine;
- (v) Business Management/Administration;
- (vi) Political Science;
- (vii) Human Resources Management;
- (viii) Public Health;
- (ix) Risk Management;
- (x) Criminal Justice; or
- (xi) a related management/administration/leadership degree.

~~[(7) Special temporary provision: Through February 2015, an individual is eligible for Fire Officer III certification upon documentation of the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 edition of the NFPA standard applicable to this discipline.]~~

- (b) Out-of-state or military training programs which are submitted to the commission for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 9 (pertaining to Fire Officer) of the commission's Certification Curriculum Manual are met.

§451.305 Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer III certification.
- (b) Individuals will be permitted to take the commission examination for Fire Officer III certification by documenting the following: Structure Fire Protection Personnel certification, Fire Service Instructor II certification and Fire Officer II certification through the commission or the equivalent IFSAC seals, and completing a commission approved Fire Officer III program.

§451.307 International Fire Service Accreditation Congress (IFSAC) Seal.

- ~~[(a) Individuals holding a current commission Fire Officer III certification that was issued from a commission examination and received prior to September 1, 2016, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Officer III by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on August 31, 2017.]~~
- [(b)] Individuals completing a commission approved Fire Officer III program; documenting IFSAC seals for Fire Fighter II, Instructor II and Fire Officer II; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer III by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

CHAPTER 451

FIRE OFFICER

SUBCHAPTER D

MINIMUM STANDARDS FOR FIRE OFFICER IV

§451.401 Fire Officer IV Certification.

A Fire Officer IV is an upper level supervisor who performs both supervisory and managerial functions who has met all the job performance and certification requirements of Fire Officer III as defined in NFPA 1021, *Standard for Fire Officer Professional Qualifications*. Typical duties of an individual at the Fire Officer IV level include: Administering job performance requirements; evaluating and making improvements to department operations; developing long-range plans and fiscal projections; developing plans for major disasters; serving as Incident Commander at major incidents for all hazard types; and administering comprehensive risk management programs.

§451.403 Minimum Standards for Fire Officer IV Certification.

(a) In order to be certified as a Fire Officer IV an individual must:

(1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(2) hold Fire Officer III certification through the commission; and

(3) document completion of ICS-400: Advanced Incident Command System; and

(4) possess valid documentation as a Fire Officer IV; from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements—General); or

(5) complete a commission approved Fire Officer IV program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Officer IV program must consist of one of the following:

(A) completion of a commission approved Fire Officer IV Curriculum as specified in Chapter 9 of the commission's Certification Curriculum Manual;

(B) completion of an out-of-state and/or military training program that has been submitted to the commission for evaluation and found to be equivalent to or exceed the commission approved Fire Officer IV Curriculum; or

(C) successful attainment of a bachelor's degree or higher from a regionally accredited institution in any of the following:

(i) Fire Science/Administration/Management;

(ii) Emergency Management;

(iii) Public Administration;

(iv) Emergency Medicine;

(v) Business Management/Administration;

- (vi) Political Science;
- (vii) Human Resources Management;
- (viii) Public Health;
- (ix) Risk Management;
- (x) Criminal Justice; or
- (xi) a related management/administration/leadership degree.

~~[(6) Special temporary provision: Through February 2015, an individual is eligible for Fire Officer IV certification upon documentation of the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 edition of the NFPA standard applicable to this discipline.]~~

- (b) Out-of-state or military training programs which are submitted to the commission for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 9 (pertaining to Fire Officer) of the commission's Certification Curriculum Manual are met.

§451.405 Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer IV certification.
- (b) Individuals will be permitted to take the commission examination for Fire Officer IV certification by documenting the following: Structure Fire Protection Personnel certification and Fire Officer III certification through the commission or the equivalent IFSAC seals, and completing a commission approved Fire Officer IV program.

§451.407 International Fire Service Accreditation Congress (IFSAC) Seal.

- ~~[(a) Individuals holding a current commission Fire Officer IV certification that was issued from a commission examination and received prior to September 1, 2016, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Officer IV by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on August 31, 2017.]~~
- ~~[(b)]~~ Individuals completing a commission approved Fire Officer IV program; documenting IFSAC seals for Fire Fighter II, Instructor II and Fire Officer III; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer IV by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

13. Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:

A. Discussion and possible final adoption of proposed amendments, new sections, and repeals as follows:

2. Discussion and possible action regarding proposed amendments to title 37 TAC, Chapter 459, Minimum Standards for Fire and Life Safety Educator Certification.



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 01/25/2018

Agenda Item #: 13-#A-2

Agenda Title: Chapter 459, Fire and Life Safety Educator

Action to be taken: Discussion and possible final adoption

Origin of Item: *Staff and committee*

1. INTRODUCTION/PURPOSE

Proposed rule language for new Fire and Life Safety Educator certification.

2. DESCRIPTION/ JUSTIFICATION

The proposed language creates rules for a new Fire and Life Safety Educator I certification. Level II of this certification is currently under development and will be proposed later.

3. BUDGET IMPACT

No impact is anticipated.

4. TIMELINE CONSIDERATIONS

Propose for final adoption.

5. RECOMMENDATION

Recommend for final adoption.

6. REFERENCES

37 TAC, Chapter 459, Fire and Life Safety Educator (new).

CHAPTER 459

MINIMUM STANDARDS FOR FIRE AND LIFE SAFETY EDUCATOR CERTIFICATION

§459.1 Fire and Life Safety Educator I Certification.

- (a) A Fire and Life Safety Educator I is defined as an individual who performs professional work in the coordination and delivery of public fire and life safety education, and fire prevention programs.
- (b) All individuals holding a Fire and Life Safety Educator I certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).
- (c) A regulated entity that employs an individual certified as Fire and Life Safety Educator I must report the individual's employment via the commission's online data management system (FIDO system).
- (d) Special temporary provision. Individuals are eligible to take the commission examination for Fire and Life Safety Educator I certification by:
- (1) providing documentation acceptable to the commission that the individual has successfully completed Fire and Life Safety Educator I certification training that meets the minimum requirements of National Fire Protection Association Standard 1035; or
 - (2) providing documentation acceptable to the commission of proficiency in fire and life safety education as an employee of a government entity, a member in a volunteer fire service organization, or an employee of a regulated non-governmental fire department; or
 - (3) holding certification as a Fire Instructor I or higher.
 - (4) This subsection will expire on February 28, 2019.

§459.3 Minimum Standards for Fire and Life Safety Educator I Certification.

In order to be certified as a Fire and Life Safety Educator I, an individual must:

- (1) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as a Fire and Life Safety Educator I; or
- (2) complete a commission approved Fire and Life Safety Educator I program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire and Life Safety Educator I program must consist of one of the following:
 - (A) completion of an in-state Fire and Life Safety Educator I program meeting the requirements of the applicable NFPA standard and conducted by a commission certified training provider, that was submitted and approved through the commission's training prior approval system; or
 - (B) completion of an out-of-state, educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.

§459.5 Examination Requirement

Examination requirements in Chapter 439 of this title (relating to Examinations for Certification) must be met to receive Fire and Life Safety Educator I certification.

13. Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:

A. Discussion and possible final adoption of proposed amendments, new sections, and repeals as follows:

3. Discussion and possible action regarding proposed amendments to title 37 TAC, Chapter 429, Minimum Standards for Fire Inspector Certification.



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission
DATE: 01/25/2018

Agenda Item #: 13-#A-3

Agenda Title: Chapter 429, Fire Inspector

Action to be taken: Discussion and possible final adoption

Origin of Item: *staff & commission*

1. INTRODUCTION/PURPOSE

Proposed rule language for new Fire Inspector certification.

2. DESCRIPTION/ JUSTIFICATION

The proposed language creates new rules for Fire Inspector certification reflecting Fire Inspector I/II certification and Fire Inspector I/II/Plan Examiner I certification.

3. BUDGET IMPACT

No impact is anticipated.

4. TIMELINE CONSIDERATIONS

Propose for final adoption.

5. RECOMMENDATION

Recommend for final adoption.

6. REFERENCES

37 TAC, Chapter 429, Fire Inspector.

CHAPTER 429

FIRE INSPECTOR

SUBCHAPTER A

MINIMUM STANDARDS FOR FIRE INSPECTOR I/II CERTIFICATION

§429.1. Minimum Standards for Fire Inspector I/II Personnel.

- (a) Fire protection personnel of a governmental entity who are appointed to fire code enforcement duties at the Fire Inspector I/II level must be certified, at a minimum, as a Basic Fire Inspector I/II as specified in §429.3 of this title (relating to Minimum Standards for Basic Fire Inspector I/II Certification) within one year of initial appointment to such duties.
- (b) Prior to being appointed to fire code enforcement duties at the Fire Inspector I/II level, all personnel must complete the applicable commission approved Fire Inspector I/II training program and successfully pass the commission examination pertaining to that curriculum.
- (c) Individuals holding any level of fire inspector certification will be required to comply with all applicable continuing education requirements in Chapter 441 of this title (relating to Continuing Education).
- (d) Fire code enforcement is defined as the enforcement of laws, codes, and ordinances of the authority having jurisdiction pertaining to fire prevention.
- (e) Personnel certified as Fire Inspector I/II may only engage in fire code enforcement duties that are commensurate with the job performance requirements listed for Fire Inspector I or II in the current edition of NFPA 1031: Standard for Professional Qualifications for Fire Inspector and Plan Examiner, or its successor.
- (f) Individuals who were issued a Basic Fire Inspector certification prior to January 1, 2005, and who currently hold a basic certification or higher, are deemed to hold the same level of certification referenced in this subchapter.

§429.3. Minimum Standards for Basic Fire Inspector I/II Certification.

In order to be certified as a Basic Fire Inspector I/II, an individual must:

- (1) possess valid documentation as a Fire Inspector I and Fire Inspector II from either:
 - (A) the International Fire Service Accreditation Congress; or
 - (B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1 of this title (relating to Requirements—General); or
- (2) complete a commission approved Fire Inspector I/II training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Inspector I/II training program shall consist of one of the following:
 - (A) completion of the commission approved Fire Inspector I/II Curriculum, as specified in the commission's Certification Curriculum Manual; or
 - (B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the commission for evaluation and found to meet the minimum requirements in the commission approved Fire Inspector I/II Curriculum as specified in the commission's Certification Curriculum Manual; or

(C) documentation of the receipt of Fire Inspector I and Fire Inspector II certificates issued by the State Firemen's and Fire Marshals' Association of Texas that are deemed equivalent to a commission approved Fire Inspector I/II curriculum.

§429.5. Minimum Standards for Intermediate Fire Inspector I/II Certification.

(a) Applicants for Intermediate Fire Inspector I/II Certification must meet the following requirements:

(1) hold as a prerequisite Basic Fire Inspector I/II Certification as defined in §429.3 of this title (relating to Minimum Standards for Basic Fire Inspector I/II Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Inspector I/II Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§429.7. Minimum Standards for Advanced Fire Inspector I/II Certification.

(a) Applicants for Advanced Fire Inspector I/II Certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Fire Inspector I/II Certification as defined in §429.5 of this title (relating to Minimum Standards for Intermediate Fire Inspector I/II Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Inspector I/II Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§429.9. Minimum Standards for Master Fire Inspector I/II Certification.

(a) Applicants for Master Fire Inspector I/II Certification must complete the following requirements:

(1) hold as a prerequisite an Advanced Fire Inspector I/II Certification as defined in §429.7 of this title (relating to Minimum Standards for Advanced Fire Inspector I/II Certification); and

(2) acquire a minimum of 12 years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire Inspector I/II Certification.

§429.11. International Fire Service Accreditation Congress (IFSAC) Seal.

(a) Individuals who pass the applicable sections of the state examination may be granted IFSAC seals for Fire Inspector I and Fire Inspector II by making application to the commission for the IFSAC seals and paying the applicable fees, provided they meet the following provisions:

(1) To receive the Fire Inspector I IFSAC seal, the individual must:

(A) complete the Fire Inspector I section of a commission approved course; and

(B) pass the Fire Inspector I section of a commission examination.

(2) To receive the Fire Inspector II IFSAC seal, the individual must:

(A) complete the Fire Inspector II section of a commission approved course;

(B) document possession of a Fire Inspector I IFSAC seal; and

(C) pass the Fire Inspector II section of a commission examination.

(b) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

CHAPTER 429

FIRE INSPECTOR

SUBCHAPTER B

MINIMUM STANDARDS FOR FIRE INSPECTOR I/II/PLAN EXAMINER I CERTIFICATION

§429.201. Minimum Standards for Fire Inspector I/II/Plan Examiner I Personnel.

- (a) Fire protection personnel of a governmental entity who are appointed to fire code enforcement duties at the Fire Inspector I/II/Plan Examiner I level must be certified, at a minimum, as a Basic Fire Inspector I/II/Plan Examiner I as specified in §429.203 of this title (relating to Minimum Standards for Basic Fire Inspector I/II/Plan Examiner I Certification) within one year of initial appointment to such position.
- (b) Prior to being appointed to fire code enforcement duties at the Fire Inspector I/II/Plan Examiner I level, all personnel must complete the applicable commission approved fire inspection training program and successfully pass the commission examination pertaining to that curriculum.
- (c) Individuals holding any level of fire inspector certification shall be required to comply with all applicable continuing education requirements in Chapter 441 of this title (relating to Continuing Education).
- (d) Fire code enforcement is defined as the enforcement of laws, codes, and ordinances of the authority having jurisdiction pertaining to fire prevention.
- (e) Individuals other than the head of a department who supervise personnel in fire code enforcement duties, or manage fire code enforcement programs, must be certified as Fire Inspector I/II/Plan Examiner I, or hold any Fire Inspector certification issued prior to March 1, 2018.
- (f) After March 1, 2018, individuals wishing to satisfy the requirements for Head of a Prevention-Only Fire Department must hold Fire Inspector I/II/Plan Examiner I if fire code enforcement is one of the activities of the organization. Individuals already serving as Head of a Prevention Only Fire Department prior to this date are exempt.
- (g) Individuals who were issued a Basic Fire Inspector certification after January 1, 2005, and who currently hold basic certification or higher, are deemed to hold the same level of certification referenced in this subchapter.

§429.203. Minimum Standards for Basic Fire Inspector I/II/Plan Examiner I Certification.

In order to be certified as a Basic Fire Inspector I/II/Plan Examiner I, an individual must:

- (1) possess valid documentation as Fire Inspector I, Fire Inspector II, and Plan Examiner I from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1 of this title (relating to Requirements—General); or

- (2) complete a commission approved Fire Inspector I/II/Plan Examiner I program and successfully pass the commission examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved fire inspection training program shall consist of one or any combination of the following:

(A) completion of the commission approved Fire Inspector I/II/Plan Examiner I Curriculum, as specified in the commission's Certification Curriculum Manual; or

(B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the commission for evaluation and found to meet the minimum requirements in the commission approved Fire Inspector I/II/Plan Examiner I Curriculum as specified in the commission's Certification Curriculum Manual; or

(C) successful completion of the following college courses:

(i) Fire Protection Systems, three semester hours;

(ii) Fire Prevention Codes and Inspections, three semester hours;

(iii) Building Construction in the Fire Service or Building Codes and Construction, three semester hours;

(iv) Hazardous Materials I, II, or III, three semester hours (total semester hours, 12).

(D) documentation of the receipt of Fire Inspector I, Fire Inspector II, and Plan Examiner I certificates issued by the State Firemen's and Fire Marshals' Association of Texas that are deemed equivalent to a commission approved Fire Inspector I/II/Plan Examiner I curriculum.

§429.205. Minimum Standards for Intermediate Fire Inspector I/II/Plan Examiner I Certification.

(a) Applicants for Intermediate Fire Inspector I/II/Plan Examiner I Certification must meet the following requirements:

(1) hold as a prerequisite Basic Fire Inspector I/II/Plan Examiner I Certification as defined in §429.203 of this title (relating to Minimum Standards for Basic Fire Inspector I/II/Plan Examiner I Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Inspector I/II/Plan Examiner I Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§429.207. Minimum Standards for Advanced Fire Inspector I/II/Plan Examiner I Certification.

(a) Applicants for Advanced Fire Inspector I/II/Plan Examiner I Certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Fire Inspector I/II/Plan Examiner I Certification as defined in §429.205 of this title (relating to Minimum Standards for Intermediate Fire Inspector I/II/Plan Examiner I Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Inspector I/II/Plan Examiner I Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§429.209. Minimum Standards for Master Fire Inspector I/II/Plan Examiner I Certification.

(a) Applicants for Master Fire Inspector I/II/Plan Examiner I Certification must complete the following requirements:

(1) hold as a prerequisite an Advanced Fire Inspector I/II/Plan Examiner I Certification as defined in §429.207 of this title (relating to Minimum Standards for Advanced Fire Inspector I/II/Plan Examiner I Certification); and

(2) acquire a minimum of 12 years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire Inspector I/II/Plan Examiner I Certification.

§429.211. International Fire Service Accreditation Congress (IFSAC) Seal.

(a) Individuals who hold Fire Inspector certification issued prior to January 1, 2005, may apply to test for Plan Examiner I. Upon successful completion of the examination, an IFSAC seal for Plan Examiner I may be granted by making application to the commission for the IFSAC seal and paying the applicable fee.

(b) Individuals who pass the applicable section of the state examination may be granted IFSAC seals for Fire Inspector I, Fire Inspector II, and/or Plan Examiner I by making application to the commission for the IFSAC seals and paying the applicable fees, provided they meet the following provisions:

(1) To receive the Fire Inspector I IFSAC seal, the individual must:

(A) complete the Fire Inspector I section of a commission approved course; and

(B) pass the Fire Inspector I section of a commission examination.

(2) To receive the Fire Inspector II IFSAC seal, the individual must:

(A) complete the Fire Inspector II section of a commission approved course;

(B) document possession of a Fire Inspector I IFSAC seal; and

(C) pass the Fire Inspector II section of a commission examination.

(3) To receive the Plan Examiner I IFSAC seal, the individual must:

(A) complete the Plan Examiner I section of a commission approved course; and

(B) pass the Plan Examiner I section of a commission examination.

(c) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

From: Lombard, Lyle
Sent: Monday, January 08, 2018 4:23 PM
To: Tim Rutland <Tim.Rutland>
Subject: Upcoming Commission Meeting

Director Rutland,

I would like to take a few minutes of your time to express my thoughts about the Inspector certification debate that will likely be discussed at the upcoming meeting. This certification has been around for a number of years and the rule that any "inspection" must be completed by a certified Inspector has also been in place for a while. I feel that changing the current certification is a mistake. This curriculum has been active for a number of years and well proven. A person may be at the "company" level or not conduct plan reviews but the training is not wasted. I understand the desire for company inspections, but I feel the department needs to commit to the training standard to make it happen.

I hope to be in attendance of this commission meeting. If not, I wanted you to hear my position on this matter.

Thank you for your time,

Lyle Lombard
Fire Chief
Portland Fire Department



From: Kahl, Christopher
Sent: Tuesday, January 09, 2018 10:40 AM
To: Tim Rutland [Tim Rutland](#)
Subject: upcoming TCFP commission meeting

Tim,

I wanted to take a few minutes and express my concerns about shortening the Fire Inspector course or offering an abbreviated certification for the Fire Inspector certification and keeping the same name.

I don't feel an abbreviated or shortened Inspector course is needed. Many years back I took the Fire Inspector Course so I could have the knowledge of what our Fire Inspectors are looking for and so it would help me identify hazards for my crew. If a course is needed for company officers to do some type of inspection then maybe create a new certification. Have it follow something similar to how a building should be pre-planned along with the life safety issues a company officer and the fire crew could come across.

I feel that if we as the fire service start going down this road of making classes shorter/easier because people don't have the time to sit in a class for that long or can't pass the test then we will continue with other certifications also. Just because somebody doesn't want to sit in a class that long for the full Fire Inspector course or can't pass the test isn't a reason to make the changes. Something similar would be if a person goes to school and gets a bachelor degree in Civil Engineering. A few years later the Texas Board of Professional Engineers thinks they need more professional engineers(PE) and companies want to pay them less, so they bump the requirements down and make it an associate degree while keeping the same title.

I appreciate your time on this subject, I am sure you have been bombarded from both sides of this discussion. I am planning on coming up to the meeting mostly because I am on the ad-hoc committee for Fire and Life Safety Educator and I'm curious if it will go through as is.

Thank you and have a good day.

Chris Kahl
TEEX US&R Rescue Specialist (2016-30)
Captain
Portland Fire Department
595 Buddy Ganem Drive
Portland, Texas 78374

Williamson County Emergency Services District #3



Hutto Fire Rescue
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Hutto, TX 78634
Phone (512) 759-2616 FAX (512) 846-1946
www.huttofirerescue.org

“YOUR HOMETOWN FIRE DEPARTMENT”

January 10, 2018

EMAILED

Honorable Commissioners
Texas Commission on Fire Protection
PO Box 2286
Austin, TX 78768-2286

RE: *Fire Inspector Certification*

Dear Commissioners:

Again I am asking you to split the Texas Commission on Fire Protection (TCFP) *Fire Inspector Certification* into two different certifications. The first would be TCFP Fire Inspector I and the second would be TCFP Fire Inspector II/Plans Examiner. This split would follow the intent of the 2014 edition of the National Fire Protection Association (NFPA) 1031 standard aligning the Fire Inspector I certification with individuals assigned to fire suppression duties while reserving the Fire Inspector II/Plans Examiner for individuals that are assigned to fire inspection/prevention bureau duties.

You approved a separate certification at your April 2017 meeting following much debate and work. In turn you sent language to the Fire Advisory Board for final review, who then recommended additional certification prerequisites for a company level fire inspector certification. However, in your July 2017 meeting, after additional debate, you reversed your previous position and voted, with one opposing, to keep the Basic Fire Inspector certification as is. And now it appears that the Fire Fighter Advisory Committee is not in favor of making any changes to this certification. So please allow me again to espouse the virtues of these two different certifications.

As you know, NFPA 1031 describes a Fire Inspector I as an individual that "...conducts basic fire inspections and applies codes and standards". As noted in A.4.1 of NFPA 1031 (2014 edition):

The intent of the [NFPA 1031 Technical] committee is that individuals at the Fire Inspector I level perform basic fire safety inspections. Individuals at this level can include fire fighters who are normally assigned to fire suppression or other individuals whose primary job responsibilities are not fire inspection.

These tasks fall in line with the job of a Company Officer who conducts company inspections while still riding on a fire apparatus. These individuals are out in the field within their community on a daily basis interacting with businesses. This TCFP Fire Inspector I will not be interpreting codes or conducting plans reviews, rather they will be implementing what has been adopted by the Authority Having Jurisdiction (AHJ). They will actually be applying the adopted code throughout their community. They may for example use some type of preprinted fire inspection form which outlines those items they should be looking for to assure code compliance. These TCFP Fire Inspector I's will be the first line of defense to identify hazards in existing businesses for many Texas communities.

Fire is Everyone's Fight™

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NFPA 1031 then goes on to describe a Fire Inspector II as an individual that "...conducts most types of inspections and interprets applicable codes and standards". As noted in A.5.1 of NFPA 1031 (2014 edition):

The intent of the [NFPA 1031 Technical] committee is that individuals at the Fire Inspector II level perform fire safety inspections with moderate technical challenges. This level can include Fire Inspector I individuals who through experience and formal continuing education have achieved the prerequisite knowledge and skills noted and graduates of degree programs in associated fields who can demonstrate the prerequisite knowledge and skills noted. Formal continuing education is essential to maintaining the skill level of a Fire Inspector II and to continue an individual's advancement to the more skilled Fire Inspector III level.

As you are also aware, "interpret" means to explain the meaning of something. It will be the job of the TCFP Fire Inspector II/Plans Examiner to analyze and determine how to apply the AHJ's adopted code. This is the job that an individual does in a fire prevention bureau, not the person who is assigned to an engine company or a truck company that is conducting a basic fire inspection. This TCFP Fire Inspector II/Plans Examiner for example will be working with new business making sure that they have the correct type of fire extinguishers, have the correct occupancy classification, have a correctly installed fire sprinkler system and/or fire detection system, have the correct number of exits and exit signs, and have other life safety items as required by the code.

As it currently stands the TCFP certification for Fire Inspector, is more in line with NFPA 1031 Fire Inspector III level. According to NFPA 1031 a Fire Inspector III "...performs all type of fire inspections, plans review duties, and resolves complex code-related issues". As noted in A.6.1 of NFPA 1031 (2014 edition):

The intent of the [NFPA 1031 Technical] committee is that individuals at the Fire Inspector III level perform fire safety inspections with advanced technical challenges. This level can include Fire Inspector II individuals who through experience and formal education have achieved the prerequisite knowledge and skills noted and graduates of degree programs in a technical field who can demonstrate the prerequisite knowledge and skills noted. Continuing education in formal programs is essential to maintaining the skill level of a Fire Inspector III.

While it is important for a TCFP fire inspector to have the knowledge, skills, and abilities to properly apply, interpret, analyze, and enforce the AHJ's adopted fire code, there are several ways that this can be accomplished. Splitting the TCFP Fire Inspector into two different certifications is one of those ways. Currently the TCFP Fire Inspector program requires that the Fire Inspector I, Fire Inspector II, and Plans Examiner must all be passed to achieve a TCFP Fire Inspector certification. If the TCFP wants to have just one level of fire inspector in Texas, then why is the Fire Inspector III certification not required as well as the Plans Examiner II certification? While I am not promoting adding additional levels of certification, I am asking you to look at the different ways the fire inspector certification can be approached for all Texas communities.

Commissioners I am asking again for the TCFP Fire Inspector certification to be split into two levels: Fire Inspector I and Fire Inspector II/Plans Examiner. You are the final say on this certification, not the Fire Fighter Advisory Committee. As always, I stand and remain committed to serve in whatever capacity I am requested by the Texas Commission on Fire Protection. Thank you for your time.

Yours in the Fire Service,



Scott D. Kerwood, PhD, CFO, EFO, CEMSO, FM, CFPS, FSCEO, FIFireE, CEM, TEM
Fire Chief

Cc: Tim Rutland, Executive Director

13. Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:

B. Report from the Curriculum and Testing Committee with discussion and possible action on recommendations regarding possible changes to the Certification Curriculum Manual as follows:

- a. Revised Fire Investigator Curriculum, reference list, outline and phase outline**
- b. Revised reference lists for Fire Officer III and Fire Officer IV**
- c. New certification: Fire and Life Safety Educator I, overview, course instructor information, reference list and outline**
- d. Revised reference lists for Hazardous Materials Awareness, Hazardous Materials Operations, Hazardous Materials Operations – Mission-Specific Competencies, Hazardous Materials Incident Commander, and Basic Fire Inspector**

14. Discussion and possible action regarding proposed amendments to title 37 TAC, Chapter 427, Training Facility Certification.



Texas Commission on Fire Protection

Agenda Item Summary

MEETING: Commission

DATE: 01/25/2018

Agenda Item #: 14

Agenda Title: Chapter 427, Training Facility Certification

Action to be taken: Discussion and possible action on rule proposal

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The changes are recommended by staff to update and clarify language and to reflect new procedures for curricula development.

2. DESCRIPTION/ JUSTIFICATION

The recommended changes are pursuant to a periodic rule review program required by the state.

3. BUDGET IMPACT

No impact is anticipated.

4. TIMELINE CONSIDERATIONS

Proposal for publication.

5. RECOMMENDATION

Recommend publication to allow for public comment.

6. REFERENCES

37 TAC, Chapter 427, Training Facility Certification.

CHAPTER 427

TRAINING FACILITY CERTIFICATION

SUBCHAPTER A

ON-SITE CERTIFIED TRAINING PROVIDER

§427.1 Minimum Standards for Certified Training Facilities for Fire Protection Personnel.

- (a) An on-site training facility must be certified by the commission in each discipline ~~[with a commission approved curriculum]~~ for which the facility provides ~~[accredited]~~ training for fire protection personnel certification. An on-site training facility is where instructors and students are in immediate proximity and where content is instructed primarily in classrooms, at demonstration projects, in fire simulation structures, on fire apparatus, or at training sites in the field under direct supervision of the training facility instructors.
- (b) A certified on-site training facility may be approved to instruct in any one or all of the **disciplines for which** fire protection personnel **certification is available** ~~[curricula]~~. ~~[Minimum requirements for each curriculum must be met to receive certification].~~
- (c) Minimum requirements for certification as a certified on-site training facility shall include facilities, apparatus, equipment, reference materials, standard operating procedures, instructors, and records to support a quality education and training program. The resources must provide for classroom instruction, demonstrations, and practical exercises for the trainees to develop the knowledge and skills required for fire protection personnel certification.
- (d) The on-site facilities and training shall be performance oriented, when required. Practical performance training with maximum participation by trainees shall be an integral part of the training program. The evaluation process ~~[for each phase of training]~~ will emphasize ~~[as required,]~~ performance testing to determine if the trainee has acquired the knowledge and skills to achieve the required level of competency ~~[as]~~required by the respective **training program** ~~[curriculum]~~.
- (e) It must be clearly understood that the minimum standard for training facilities is applicable only as the title implies and does not address the additional training facility resources which are required for the continuing in-service training essential to the development and maintenance of a well-coordinated and effective fire service organization.
- (f) An organization ~~[, installation, or facility]~~ must submit **an** ~~[a written]~~ application for certification as **an** ~~[a certified]~~ on-site training facility to the commission. **The** ~~[Such]~~ application will include descriptions, ~~[and]~~ addresses of physical facilities **and an** ~~[together with]~~ inventory of apparatus, equipment, and reference material to be utilized in conducting the **training** ~~[basic curriculum as specified by the commission]~~. It is not required that the equipment be owned by, permanently assigned to, nor kept at a training facility, but must be readily available for instructional purposes. **In such a case, the** ~~[A-]~~ training facility must submit a letter of commitment **from the provider of the resources** with the original training facility certification application authorizing the use of resources not controlled by the training facility ~~[from the provider of said resources]~~. A copy of the letters of commitment must be maintained on-site and ~~[be]~~ available for review. Photographs of resources annotated to reflect their identity **may be required as part of** ~~[must be included with]~~ the application. When **submitting** ~~[seeking]~~ training approvals, the facility shall certify that the resources are provided in accordance with this chapter.
- (g) The **chief training officer** ~~[academy coordinator-]~~ will:
- (1) attest to the fact that the training meets the competencies in the applicable commission curriculum and/or NFPA Standards; and
 - (2) submit a testing schedule for all required academy skills.

§427.3 Facilities.

The following minimum resources, applicable to the **discipline** ~~[curricula]~~, are required for **an** ~~[certification as a certified-]~~ on-site training facility. These **resources** ~~[facilities-]~~ may be combined or separated utilizing

one or more structures. ~~[In either event the facilities must be available and used by the instructor and trainees.]~~

- (1) A training tower equivalent to two or more stories in height. The term "training tower" as used in these standards is a structure suitable for training in the practical application of required ladder, rescue, hose and rope skills training.
- (2) A facility for classroom instruction and testing shall have seating capacity for anticipated trainees. The facility must be conducive for an effective learning environment including environmental comfort for instructors and students, physical requirements needed for good seeing and hearing, adequate lighting, and free of outside distractions.
- (3) An area for practical application of principles and procedures of fire fighting, hose loading, pumper operation, to include friction loss, nozzle reaction, fire stream patterns, and GPM discharge utilizing various layouts for hand lines and/or master stream appliances.
- (4) An enclosed area or room for use in practical training with self-contained breathing apparatus. This may be a smoke and fire room or enclosed area which can be charged with smoke-producing devices to provide a realistic training environment.
- (5) A structure suitable for interior live fire training **as required by** ~~[and meeting the requirements of the basic curriculum pertaining to]~~the particular discipline(s) ~~[which the training facility is approved to teach, shall be available for use by the instructors to teach interior live fire training].~~
- (6) Facilities to conduct exterior live fire training as required by ~~[the basic curriculum pertaining to]~~the particular discipline(s) ~~[which the training facility is approved to teach, shall be available for use by the instructors to teach exterior live fire training].~~
- (7) If performance or driving skills are part of the **training program** ~~[curriculum]~~, suitable area(s) for practicing required skills, demonstration of skills, and performance testing ~~[must be available].~~

§427.5 Apparatus.

- (a) Certified on-site training facility--approved for basic **structure** ~~[structural]~~ fire protection personnel certification training.
 - (1) A pumper apparatus fully equipped as required by the basic fire suppression curriculum ~~[shall be readily available for use by the instructors for instructional purposes].~~
 - (2) Ladders or a ladder truck as required by the basic fire suppression curriculum ~~[shall be readily available for use by the instructors for instructional purposes].~~
- (b) Certified on-site training facility--approved for basic aircraft rescue fire fighting personnel certification training. Fire apparatus that is equipped to perform aircraft operations as required by the basic aircraft fire protection curriculum ~~[must be readily available for use by the instructors for instructional purposes].~~
- (c) Certified on-site training facility--approved for Driver/Operator ~~[Pumper]~~ certification training.
 - (1) Driver/Operator-Pumper--** A ~~[piece of]~~ fire apparatus with a permanently mounted fire pump that has a rated discharge capacity of 750 gpm (2850 L/min) or greater as defined in NFPA 1901, Standard for Automotive Fire Apparatus.
 - (2) Driver/Operator-Aerial--** A fire apparatus with a permanently mounted, power-operated elevating device such as a ladder, ladder platform, telescoping platform, or articulating platform, with an elevating water delivery system.
- ~~{(d) Certified on-site training facility approved for hazardous materials technician certification training must have access to props and/or simulators, protective suits and monitoring equipment required for skills training and testing.}~~

§427.7 Protective Clothing.

~~All~~~~Each and every set of~~ protective clothing, including proximity clothing, that will be used during the course of instruction for a commission approved fire protection personnel **training program** ~~[curriculum]~~ shall comply with §435.1 of this title (relating to Protective Clothing). This rule applies whether the protective clothing is provided by the academy or the trainee.

- (1) Protective clothing and elements no longer ~~[in]~~**used** by ~~[use to]~~ the organization for emergency operations ~~[service, but are not contaminated, defective, or damaged,]~~ may be used for training that does not involve live fire training, provided such clothing and elements **are not contaminated, defective, or damaged, and** are appropriately marked to be easily recognized.
- (2) Protective clothing used for aircraft rescue, live fire training, shall be suitable for the type of fire the student is being trained for and shall be determined by the chief training officer of the training facility.

§427.9 Equipment.

The following minimum equipment, applicable to the **discipline**~~[curricula]~~ ~~the training facility is certified to teach,~~ is required for ~~an~~ ~~[certification as a certified]~~ on-site training facility. ~~[The equipment must be available for use by the certified training facility.]~~

- (1) If instruction in the use of self-contained breathing apparatus is a part of the **training**~~[curriculum being taught]~~, then self-contained breathing apparatus in sufficient numbers shall be provided to enable each trainee to wear the equipment for at least the life of one breathing air tank during the training. If ~~[during the course of the training,]~~ a trainee will be subjected to a hazardous atmosphere or where the atmosphere is unknown, the trainee shall be provided with a self-contained breathing apparatus. (Note: All self-contained breathing apparatus used by a certified training facility and the air used in self-contained breathing apparatus must comply with §435.3 of this title (relating to Self-Contained Breathing Apparatus)). This rule applies whether the self-contained breathing apparatus is provided by the academy or the trainee. All students, instructors, safety personnel, and other personnel participating in any evolution or operation of fire suppression during the live fire training shall breathe from an SCBA air supply whenever operating under one or more of the following conditions:
 - (A) in any atmosphere that is oxygen deficient or contaminated by products of combustion, or both;
 - (B) in any atmosphere that is suspected of being oxygen deficient or contaminated by products of combustion, or both;
 - (C) in any atmosphere that can become oxygen deficient or contaminated, or both; and/or
 - (D) below ground level;
- (2) standard classroom equipment to include chalkboard **or white board**, speaker rostrum, supportive instructional aids available to include audio-visual projection equipment. The use of cutaways, models, flip charts, and other visual aids are recommended to enhance effectiveness of the instruction ~~[-Note: The instructor needs to ensure all necessary equipment for is available for trainees to use regarding the basic performance skills as identified in appropriate curriculum and to comply with §427.15 of this title (relating to Testing Procedures)];~~ and
- (3) other equipment, which may include training simulators, ~~[and mock]~~ training aids, **clothing** and tools required by the applicable **training program**~~[curriculum]~~. **The training facility must ensure that all equipment necessary for practice of performance skills identified in the commission's Curriculum Manual or Curriculum Skills Manual is available for use by trainees.**

§427.11 Reference Material.

A reference library is required. The library must contain the publications required to conduct research and develop lesson plans covering the material required in the applicable **training program**~~[curriculum]~~. The reference library material must be readily and easily accessible to students and instructors.

§427.13 Records.

(a) Training records shall be maintained by the onsite training facility that reflect:

- (1) who was trained, subject, instructor, and date of instruction. (Note: Individual records are required rather than class records); and
- (2) individual trainee test scores to include performance testing.

(b) All training records must be maintained by the onsite training facility for a minimum of three years or in accordance with the requirement of the Texas State Library and Archives Commission, State and Local Records Management Division, whichever is greater.

§427.18 Live Fire Training Evolutions.

The most current edition of NFPA 1403, Standard on Live Fire Training Evolutions, shall be used as a guide when developing standard operating procedures for conducting live fire training. The following requirements shall apply for all **live fire training evolutions** [~~Live Fire Training Evolutions~~] conducted during basic certification training of fire protection personnel.

(1) Prior to being permitted to participate in **live fire training evolutions** [~~Live Fire Training Evolutions~~], the student shall have received training to meet the performance requirements for Fire **Fighter** [~~Fighting~~] I in NFPA 1001, Standard for Fire Fighter Professional Qualifications, related to the following subjects:

- (A) safety;
- (B) fire behavior;
- (C) portable extinguishers;
- (D) personal protective equipment to include SCBA;
- (E) ladders;
- (F) fire hose, appliances, and streams;
- (G) overhaul;
- (H) water supply;
- (I) ventilation;
- (J) forcible entry; and
- (K) building construction.

(2) The on-site lead instructor will ensure that the water supply rate and duration for each [~~individual~~] **live fire training evolution** [~~Live Fire Training Evolution~~] is adequate to control and extinguish the training fire. **The lead instructor will also ensure that the resources** [~~the supplies~~] necessary for backup lines to protect personnel[,] and [~~any water needed to protect~~] exposed property **are available and deployed**.

(3) The on-site lead instructor will ensure that the buildings or props being utilized for live fire training are in a condition that would not pose an undue safety risk.

(4) A safety officer shall be appointed for all **live fire training evolutions** [~~Live Fire Training Evolutions~~]. The safety officer shall have the authority, regardless of rank, to intervene and control any aspect of the operations when, in his or her judgment, a potential or actual danger, accident, or unsafe condition exists. The safety officer shall not be assigned other duties that interfere with safety responsibilities. The safety officer shall not be a student.

- (5) No person(s) shall play the role of a victim inside the building.
- (6) The participating student-to-instructor ratio shall not be greater than five to one.
- (7) Prior to the ignition of any fire, instructors shall ensure that all personal protective clothing and/or self-contained breathing apparatus are NFPA compliant and being worn in the proper manner.
- (8) Prior to conducting any live fire training, a pre-burn briefing session shall be conducted. All participants shall be required to conduct a walk-through of the structure in order to have a knowledge of, and familiarity with, the layout of the building and to be able to facilitate any necessary evacuation of the building.
- (9) A standard operating procedure shall be developed and utilized for **live fire training evolutions** [~~Live Fire Training Evolutions~~]. The standard operating procedure shall include, but not be limited to:
 - (A) a Personal Alert Safety System (PASS). A PASS device shall be provided for **each student** [~~all students~~] and instructors [~~instructors~~] participating in live fire training and shall meet the requirements in §435.9 of this title (relating to PASS devices). This applies whether the PASS device is provided by the academy or the trainee;
 - (B) a Personnel Accountability System that complies with §435.13 of this title [~~shall be utilized~~];
 - (C) an Incident Management System;
 - (D) use of personal protective clothing and self-contained breathing apparatus;
 - (E) an evacuation signal and procedure; and pre-burn, burn and post-burn procedures.

§427.19 General Information.

- (a) All [~~Texas~~] certified training facilities shall meet these minimum requirements. **Training** [~~No training~~] credit will **not** be recognized from a [~~Texas~~] training facility that has not been certified by the **commission** [~~Commission~~], unless the program has been **deemed** [~~approved by the Commission as being~~] equivalent. The **commission** [~~Commission~~] shall take action on an application for certification of a training facility within 30 days from receipt.
- (b) Certified training facilities shall conduct all training in a controlled and safe manner so that trainees are not subjected to unnecessary risks. Texas Government Code, §419.032(c) provides that fire protection personnel must complete a **commission approved** [~~Commission approved~~] training course in fire suppression before being assigned to fire suppression duties. **Certified** [~~In addition, certified~~] training facilities [~~, whether operated by a fire department or other governmental or private training facility,~~] shall not put trainees at risk by requiring or allowing a trainee to perform the duties of fire protection personnel at actual uncontrolled emergency situations such as, but not limited to, structure fires, aircraft fires, wildland fires, hazardous materials incidents or dangerous rescue situations.
- (c) A certified training facility may transport trainees to the site of an actual emergency for training purposes only if the following requirements are strictly adhered to:
 - (1) the trainees are kept in a group under the direct supervision of qualified instructors to maintain accountability and ensure their safety;
 - (2) the trainees are kept outside of the emergency operations area; and
 - (3) the trainees' activities are restricted to observation only and trainees are not allowed to participate in emergency operations.
- (d) Certified training facilities are subject to inspection by the **commission** [~~Commission~~] at any time during regular business hours.
- (e) In order to retain the certification as a certified training facility, schools desiring to make substantial changes in the facility or other conditions under which the school was approved shall coordinate such plans with the **commission** [~~Commission~~].

- (f) The **commission** [~~Commission~~] shall be notified, in writing, within 14 days of any change from the original status under which the certification was issued.
- (g) The **commission** [~~Commission~~] may revoke, suspend, [~~and/or~~] probate, **refuse to renew, or otherwise limit** the certification of a training facility when the **commission** [~~Commission~~] determines that the training facility:
- (1) fails to provide the quality of training for which the facility was approved; or
 - (2) fails to comply with **commission** [~~Commission~~] rules and/or these minimum standards; or
 - (3) fails to submit required reports in a timely manner or submits false reports to the **commission** [~~Commission~~]; or
 - (4) fails to meet at least a 70-percent student pass rate on the [~~state~~] certification examination per course.

CHAPTER 427

TRAINING FACILITY CERTIFICATION

SUBCHAPTER B

DISTANCE TRAINING PROVIDER

§427.201 Minimum Standards for Distance Training Provider.

- (a) The following definition is applicable to this subchapter only. Approved distance training is defined as fire training where instructors and students are primarily in different locations and content is instructed primarily using the internet or an intranet. **Courses** ~~[and courses]~~ must **be interactive** ~~[contain some level of interactivity]~~. Distance training that serves as nothing more than electronic text is not acceptable. Online courses must provide the opportunity for the student to interact or ask questions via e-mail, chat rooms or some other method of communication. Other computer-mediated methods of instruction may be used to enhance instruction; however, the primary delivery method must be through the internet or an intranet.
- (b) A distance training provider must seek certification as a training facility in each discipline **for which** it intends to **conduct certification training for fire protection personnel** ~~[instruct]~~.
- (c) In order to become a **commission approved** ~~[Commission-approved]~~ distance training provider ~~[,]~~ the provider must submit a completed ~~[Commission]~~ training facility application with supporting documentation and fees. **The** ~~[Such]~~ application will include descriptions and addresses of where the distance training provider will have their course delivery and materials. A distance training provider must provide documentation of its ability to meet all minimum requirements for each discipline for which it seeks certification. The documentation must also identify how students and instructors will access resources **required to complete the training** ~~[as identified in the curriculum]~~.
- (d) A distance training provider that applies for certification as a training facility in a discipline that includes skills training shall comply with Subchapter A of this chapter concerning minimum standards, facilities, apparatus, protective clothing, equipment, and live fire training utilized to teach and test the required skills.

§427.203 Records.

- (a) Training records shall be maintained by the distance training provider that reflect:
- (1) Who was trained, subject, instructor, and date of instruction. (Note: Individual records are required rather than class records);
 - (2) Individual trainee test scores to include performance testing; and
 - (3) Evidence to substantiate the test scores received by each trainee to include performance testing. Such records will include materials (completed tests and/or answer sheets, other documents, video or audio recording, etc.), and will provide identification of the examinee, identification of the evaluating field examiner, and the observer as defined in Chapter 439 of this title (relating to Examinations for Certification).
- (b) All distance training provider records must be maintained by the distance training provider for commission review for a minimum of three years or in accordance with the requirement of the Texas State Library and Archives Commission, State and Local Records Management Division, whichever is greater.
- (c) A master copy of tests will be maintained for review by commission representatives. The certified distance training provider shall maintain copies of all tests for a minimum of three years.

§427.209 General Information.

- (a) All distance training providers shall meet these minimum requirements. Training [~~No training~~] credit will **not** be recognized from a distance training provider that has not been certified by the commission [~~Commission~~]. The **commission** [~~Commission~~] shall take action on an application for certification of a distance training provider [~~/training facility provider~~] within 30 days from receipt.
- (b) Distance training providers conducting on-site **activities** [~~programs~~] shall ensure that all training is conducted in a controlled and safe manner so that trainees are not subjected to unnecessary risks. **Certified** [~~In addition, certified~~] training facilities shall not put trainees at risk by requiring or allowing a trainee to perform the duties of fire protection personnel at actual uncontrolled emergency situations such as, but not limited to, structure fires, aircraft fires, wildland fires, hazardous materials incidents or dangerous rescue situations.
- (c) A distance training provider may transport trainees to the site of an actual emergency for training purposes, only if the following requirements are strictly adhered to:
- (1) the trainees are kept in a group under the direct supervision of qualified instructors to maintain accountability and ensure their safety;
 - (2) the trainees are kept outside of the emergency operations area; and
 - (3) the trainees' activities are restricted to observation only and trainees are not allowed to participate in emergency operations.
- (d) Distance training providers are subject to inspection by the **commission** [~~Commission~~] at any time during regular business hours. Distance training providers shall provide the **commission** [~~Commission~~] with access to the training facility to monitor the course in progress.
- (e) The **commission** [~~Commission~~] shall be notified, in writing, within 14 days of any change from the original status under which the certification was issued.
- (f) The **commission** [~~Commission~~] may revoke, suspend, [~~and/or~~] probate, **refuse to renew, or otherwise limit** the certification of a **distance training provider** when the **commission** [~~Commission~~] determines that the [~~distance training~~] provider:
- (1) fails to provide the quality of training and education for which the provider was approved; or
 - (2) fails to comply with **commission** [~~Commission~~] rules and/or these minimum standards; or
 - (3) fails to submit required reports in a timely manner or submits false reports to the **commission** [~~Commission~~]; or
 - (4) per course, fails to meet at least a 70-percent student pass rate on the [~~state~~] certification examination.

CHAPTER 427

TRAINING FACILITY CERTIFICATION

SUBCHAPTER C

TRAINING PROGRAMS FOR ON-SITE AND DISTANCE TRAINING PROVIDERS

§427.301 General Provisions for Training Programs--On-Site and Distance Training Providers.

- (a) Training programs that are intended to satisfy the requirements for fire protection personnel certification [~~for each curriculum~~] must meet the objectives and competencies in that discipline [~~curriculum~~].
- (b) A system for evaluating the comprehension of the trainee, including periodic and comprehensive written tests, is required. If performance skills are part of the applicable curriculum, performance testing shall be done in accordance with §439.11 of this title (relating to Commission-Designated Performance Skill Evaluations).

§427.303 Training Approval Process for On-Site and Distance Training Providers.

- (a) When seeking training approvals, a training provider [~~whether on-site or distance~~] shall certify that it has provided the resources described in §427.1 [~~§427.1(f)~~] of this title (relating to Minimum Standards for Certified Training Facilities for Fire Protection Personnel).
- (b) All training for certification must be approved by the commission. A training provider must submit [~~to the commission~~] training prior approval information at least 10 days prior to the proposed start date of the training.
- (c) Approved courses are subject to audit by commission staff at any time. Any deviation from the information submitted in an original course approval [~~approved start and end date of the class, periodic, and final test schedule, field examiners or the substitution of one instructor for another (this does not apply to an instructor already approved for the course)~~] must be reported to the commission at least one day prior to the change taking place, unless the training provider is unable to do so because of unforeseen circumstances, within three business days of the deviation. All deviations must be approved by the commission.

§427.305 Procedures for Testing Conducted by On-Site and Distance Training Providers.

- (a) The requirements and provisions in this section apply to procedures for periodic and final testing conducted by training providers. For procedures regarding [~~state~~] examinations for certification [~~Commission examinations~~] that occur after a training program is completed, see Chapter 439 of this title (relating to Examinations for Certification).
- (b) Periodic and comprehensive final tests shall be given by the training provider in addition to the commission [~~Commission~~] examination required in Chapter 439 of this title.
- (c) Periodic tests shall be administered at the ratio of one test per 50 hours of recommended training, or portion thereof. An average score of 70% must be achieved on all required periodic tests.
- (d) In addition to periodic tests, a comprehensive final test must be administered. The final test must be conducted in a proctored setting. For purposes of this section, a proctor can be an approved TCFP Field Examiner, or a member or testing center of an educational institution. A passing score of 70% must be achieved.
- (e) If a course is taught in phases, a comprehensive exam for each phase shall be administered upon completion of each phase and a passing score of 70% must be achieved.

§427.307 On-Site and Distance Training Provider Staff Requirements.

- (a) The chief training officer of a training facility, as a minimum, must possess Fire Service Instructor III certification.
- (b) All training instructors (except guest instructors) must possess fire instructor certification. The instructor(s) must be certified in the applicable discipline or be approved by the commission to instruct in the applicable subject.
- (c) The lead instructor, as a minimum, shall possess a Fire Service Instructor II certification and must be certified by the commission in the applicable discipline, except as stated in subsections (h)(2) and (i)(2) of this section.
- (d) Guest instructors are not required to be certified as instructors.
- (e) In order to teach fire officer certification courses, an individual who does not meet the requirements of subsection (a) or (c) of this section, shall possess a minimum of a bachelor's degree in management or its equivalent.
- (f) In order to teach an instructor certification training course for Fire Service Instructor I, an individual must hold one of the following three qualifications:
 - (1) ~~A~~ ~~Hold a~~ Fire Service Instructor II **certification** or higher; or
 - (2) A Bachelor's degree with the following:
 - (A) as a minimum, a minor in education; and
 - (B) three years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 200 class hours; or
 - (3) An **associate** ~~[Associate's]~~ degree with the following:
 - (A) twelve semester hours of education instructional courses; and
 - (B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.
- (g) In order to teach an instructor certification training course for Fire Service Instructor II or III, an individual must hold one of the following three qualifications:
 - (1) ~~A~~ ~~Hold a~~ Fire Service Instructor III **certification**; or
 - (2) A Bachelor's degree with the following:
 - (A) as a minimum, a minor in education; and
 - (B) three years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 200 class hours; or
 - (3) An **associate** ~~[Associate's]~~ degree with the following:
 - (A) twelve semester hours of education instructional courses; and
 - (B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.
- (h) In order to teach a certification course for Basic Wildland Fire Protection:

(1) The unit instructor must hold Intermediate Wildland Fire Protection certification or be approved by the commission to instruct a Basic Wildland course and hold:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current National Wildfire Coordinating Group (NWCG) Field Manager's Course Guide (901-1) or current Texas Intrastate Fire Mutual Aid System (TIFMAS) guidelines for this level of course.

(2) The lead instructor must hold NWCG or TIFMAS Single Resource Boss qualification and hold:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current NWCG Field Manager's Course Guide (901-1) or current TIFMAS guidelines for this level of course.

(i) In order to teach a certification course for Intermediate Wildland Fire Protection:

(1) The unit instructor must hold an Intermediate Wildland Fire Protection certification or be approved by the commission to instruct an Intermediate Wildland course and hold:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current NWCG Field Manager's Course Guide (901-1) or current TIFMAS guidelines for this level of course.

(2) The lead instructor must hold NWCG or TIFMAS Single Resource Boss qualification and:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current NWCG Field Manager's Course Guide (901-1) or current TIFMAS guidelines for this level of course.

CHAPTER 427

TRAINING FACILITY CERTIFICATION

SUBCHAPTER D

CERTIFIED TRAINING FACILITIES

§427.401 General Provisions for Training Facilities Not Owned by the State of Texas or Operated by a Political Subdivision of the State of Texas.

- (a) The provisions in this subchapter apply only to certified training facilities that are not owned or operated by the State of Texas or a political subdivision of the State of Texas.
- (b) Training facilities seeking certification under this subchapter must comply with all the provisions of this chapter and must also meet and comply with all **commission** [~~Commission~~] rules.
- (c) Training facilities seeking certification under this subchapter must apply for training facility certification in each discipline **for which** they **intend to conduct certification training for fire protection personnel** [~~wish to teach~~].
- (d) In order to become a **commission approved** [~~Commission approved~~] training facility under this subchapter, ~~the~~ provider must submit a completed **commission** [~~Commission~~] training facility application for certification with supporting documentation and fees. Supporting documentation will consist of:
 - (1) descriptions, photos and addresses of where the provider will have their course delivery and materials;
 - (2) documentation of how the provider will meet all the minimum requirements for each discipline for which it seeks certification;
 - (3) complete and correct financial statements, as specified in this subchapter, demonstrating the facility is financially stable and capable of fulfilling its commitments for training;
 - (4) statement of ownership which identifies the owners, stockholders, partners, representatives, management, trustees, board members;
 - (5) documentation showing registration with the Texas Secretary of State as a business.

§427.403 Financial Standards.

- (a) Definitions Relating to Financial Requirements.
 - (1) Balance Sheet--A statement of financial position or statement of condition, showing the status of assets, liabilities and owner equity for a defined period i.e., monthly, quarterly, etc.
 - (2) Current ratio--ability to pay current obligations from current assets.
 - (3) Generally Accepted Accounting Principles (GAAP)--Conventions, rules and procedures that define accepted accounting practices to include both broad guidelines as well as detailed procedures.
 - (4) Generally Accepted Auditing Standards (GAAS)--Conventions, rules and procedures that define accepted audit practices.
 - (5) Stockholders Equity (net worth)--amount by which assets exceed liabilities.
 - (6) Sworn statement--A notarized statement including the following language: "I swear or affirm that the information in these statements is true and correct to the best of my knowledge."

- (7) Unearned income (tuition) affidavit--A statement of income received but not yet earned during the current or most recent fiscal year. This is usually shown as a liability on a balance sheet, assuming it will be credited to income within the normal accounting cycle.
- (b) The balance sheet required in this subchapter shall reflect the following:
- (1) positive equity or net worth balance;
 - (2) unearned tuition as a current liability;
 - (3) a current ratio of at least one-to-one; (current assets divided by current liabilities) and
 - (4) stockholder's equity or net worth exceeding the amount shown for goodwill, if applicable, under assets in the balance sheet.
- (c) Compilations shall be accompanied by the owner's sworn statement **that all submitted documents are true and correct to the best of the owner's knowledge.**
- (d) All financial statements shall identify the name, license number, and licensing state of the accountant associated with the statements and be in accordance with GAAP.
- (e) A school that maintains a financial responsibility composite score that meets the general standards established in federal regulations by the U.S. Department of Education for postsecondary institutions participating in student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, shall be considered to have met the financial standards of this subchapter.
- (f) A school that qualifies under an alternative standard but not the general standard of these federal regulations will not be considered to have met the financial standards of this subchapter unless the school meets the other requirements stated in this subchapter.
- (g) Requirements for Original Approvals.
- (1) The owner shall furnish the **commission** [~~Commission~~] with the following:
 - (A) a school owned by a sole proprietor must submit a reviewed personal balance sheet stating the disclosure of payments for the next five years to meet debt agreements as required by GAAP; or
 - (B) all other ownership structures must submit an audited balance sheet consistent with GAAP and GAAS and certified by an accountant.
 - (2) The facility shall submit a balance sheet, a list of the expected school-related expenses for the first three months of operation of the school; a sworn statement signed by the owner affirming the availability of sufficient cash to cover projected expenses at the date of the certification. Projected expenses may include the following:
 - (A) employee salaries, listed by position title, including withholding and unemployment taxes, and other related expenses;
 - (B) lease or rent payments for listed equipment;
 - (C) lease or rent payments for facilities;
 - (D) accounting, legal and other specifically identified professional fees;
 - (E) an estimate of expenses such as advertising, travel, textbooks, office and classroom supplies, printing, telephone, utilities, taxes;
 - (F) a projection of the gross amount of tuition and fees to be collected during each of the first two years of operation; and

- (G) such other evidence as may be deemed appropriate by the **commission** [~~Commission~~] to establish financial stability.
- (h) Prior to a change in ownership of a facility, the purchaser shall furnish the **commission** [~~Commission~~] a current balance sheet meeting the requirements outlined in this subchapter for original approvals, excluding the sufficient cash requirement for initial expenses. The purchaser shall furnish any other evidence deemed appropriate by the **commission** [~~Commission~~] to establish financial stability.
- (i) The deletion or addition of any person that would be considered an owner is considered a change in facility ownership. The facility must notify the **commission** [~~Commission~~] of the change in ownership within 14 days of the transaction.
- (j) The **commission** [~~Commission~~] may require submission of a full application for approval of a change in ownership.
- (k) Management agreements must be disclosed to the **commission** [~~Commission~~]. Parties to a management agreement shall be of good reputation and character.
- (l) The deletion, addition or moving of a facility will be reported to the **commission** [~~Commission~~] 14 days prior to the transaction.
- (m) If the **commission** [~~Commission~~] determines that the deletion, addition or moving of a facility presents an unreasonable transportation hardship which would prevent a student from completing the training at the new location, the school shall provide a full refund of all monies paid and a release from all obligations to the student.
- (n) The **commission** [~~Commission~~] shall be notified in writing of any legal action to which the facility, any of its owners, representatives or management employees is a party.
- (o) The notification shall be within 14 days after the action is known to be filed or the facility, owner, representative or management employee is served.
- (p) The facility shall include, with the required notice, a file-marked copy of the petition, complaint, or other legal instrument, including copies of any judgments.
- (q) If the **commission** [~~Commission~~] determines that reasonable cause exists to question the validity of any financial information submitted, or the financial stability of the facility, the **commission** [~~Commission~~] may require at the facility's expense:
- (1) an audit of the facility that has been certified by an accountant; or
 - (2) The owner must furnish any other evidence deemed appropriate by the **commission** [~~Commission~~] to establish financial stability.
- (r) The entity certified under this subchapter shall maintain, in a permanent format that is acceptable and readily accessible to the **commission** [~~Commission~~], a record of any funds received from, or on behalf of, the student. The entity shall clearly identify the payer, the type of funding, and the reason for the charges. These records shall be posted and kept current.
- (s) An entity certified under this subchapter shall issue written receipts of any charges or payments to the student and maintain such records for review upon request by the **commission** [~~Commission~~]. Each separately charged item shall be clearly itemized on the student-signed receipt.
- (t) An entity certified under this subchapter shall develop and maintain a cancellation and refund policy.
- (u) The student shall be entitled to a full refund of all monies paid to the facility if classes or courses are cancelled by the facility.
- (v) **For classes** [~~Classes~~] or courses cancelled by the student, refund policies will be based on a prorated basis or percentage of the class or program completed by the student.

(w) An entity certified under this subchapter shall comply with Chapter **437** [~~437.3 concerning~~] **of this title (relating to Fees)** [~~certification and renewal fees~~].

(x) Upon application for renewal, an entity certified under this subchapter will provide a balance sheet with a sworn statement.

§427.405 Policy Regarding Complaints.

(a) Complaints. The entity shall:

- (1) Submit a written grievance procedure designed to resolve disputes between current and former students and the school for **commission** [~~Commission~~] approval;
- (2) Provide a copy of the grievance procedure to each student and maintain proof of such delivery;
- (3) Maintain records regarding grievance filings and resolutions; and
- (4) Diligently work to resolve all complaints at the local school level.

(b) Investigations.

- (1) The **commission** [~~Commission~~] may investigate a complaint about an entity and may determine the extent of investigation needed by considering various factors, such as:
 - (A) the seriousness of the alleged violation;
 - (B) the source of the complaint;
 - (C) the school's history of compliance and complaints;
 - (D) the timeliness of the complaint; and
 - (E) any other reasonable matter deemed appropriate.
- (2) The **commission** [~~Commission~~] may require documentation or other evidence of the violation before initiating a complaint investigation.

§427.407 School Responsibilities Regarding Instructors.

- (a) The facility **chief training officer** [~~Chief Training Officer~~] (CTO) shall ensure that there are an appropriate number of instructors.
- (b) The facility CTO shall ensure that instructors are qualified to instruct in the subjects they are teaching or assisting.
- (c) The facility CTO shall ensure continuity of instruction and that instructors provide students with a quality education.
- (d) The facility CTO shall formally evaluate each instructor in writing at least annually and shall make the evaluations available for review by the **commission** [~~Commission~~].
- (e) The facility CTO shall ensure that students are allowed the opportunity to formally evaluate each instructor in writing and make the evaluations available for review by the **commission** [~~Commission~~].

§427.409 Advertising.

(a) General Information for Advertising.

- (1) A school shall not make deceptive statements in attempting to enroll students.
- (2) The **commission** [~~Commission~~] may require a school to furnish proof [~~to the Commission~~] of any of its advertising claims.

(b) Advertisement Method.

- (1) A school may advertise for prospective students under "instruction," "education," "training," or a similarly titled classification.
- (2) No school advertisements shall use the word "wanted," "help wanted," or "trainee," either in the headline or the body of the advertisement, nor shall any advertisement indicate, in any manner, that the school has or knows of employment of any nature available to prospective students; only "placement assistance," if offered, may be advertised.
- (3) A school shall not use terms to describe the significance of the approval that specify or connote greater approval. Terms that schools may not use to connote greater approval by the **commission** [~~Commission~~] include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended." A school shall not use the words "guarantee," "guaranteed," or "free" unless approved in writing by the **commission** [~~Commission~~].
- (4) Any advertisement that includes a reference to awarding of credit hours shall include the statement, "limited transferability." Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised, but any limitations shall be included in the advertisement.

(c) Advertisement Content.

- (1) Advertisement content shall include, and clearly indicate, the full and correct name of the school and its address, including city, as they appear on the certificate of approval.
- (2) Advertisements shall not include:
 - (A) statements that the school or its programs are accredited unless the accreditation is that of an agency recognized by the United States Department of Education;
 - (B) statements that the school or its courses of instruction have been approved unless the approval can be substantiated by an appropriate certificate of approval issued by an agency of the state or federal government;
 - (C) statements that represent the school as an employment agency under the same name, or a confusingly similar name, or at the same location of the school; or
 - (D) statements as being **commission approved** [~~Commission approved~~] or IFSAC approved in order to solicit students prior to receiving actual **commission** [~~Commission~~] approval. Any such activity by the school, prior to the **commission's** [~~Commission's~~] approval of the training course, shall constitute misrepresentation by the training facility and shall entitle each student in the course to a full refund of all monies paid and a release from all obligations to the student["].
- (3) A school holding a franchise to offer specialized programs or subjects not available to other schools shall not advertise such programs in such a manner as to diminish the value and scope of programs offered by other schools not holding such a franchise. Advertising of special subjects or programs offered under a franchise shall be limited to the subject or programs offered.
- (4) a school shall not use endorsements, commendations, or recommendations by students in favor of a school except with the consent of the student and without any offer of financial or other material compensation. Endorsements shall bear the legal or professional name of the student.
- (5) a school shall not use a photograph, cut, engraving, illustration or graphic in advertising in such a manner as to:
 - (A) convey a false impression of size, importance, or location of the school, equipment, or facilities associated with the school, or
 - (B) circumvent any of the requirements of this subchapter regarding written or oral statements.

(6) Every advertisement must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.

(d) Financial Incentives. Advertisements shall not:

- (1) state that students shall be guaranteed employment while enrolled in the school;
- (2) state that employment shall be guaranteed for students after graduation; or
- (3) misrepresent opportunities for employment upon completion of any program; or
- (4) contain dollar amounts as representative or indicative of the earning potential of graduates unless those dollar amounts have been published by the United States Department of Labor. This provision shall not be construed as prohibiting the school from providing earning potential to the student individually on the student's receipt of enrollment policies or other such **commission approved** ~~[Commission-approved]~~ document.

(e) Advertisements for student tuition loans shall:

- (1) contain the language "financial aid available, if qualified";
- (2) appear in type no larger than the font used for the name of the school and in similar color and style; and
- (3) does not preclude disclosure of the school's eligibility under the various state and federal loan programs.

(f) Advertisement Monitoring.

- (1) The **commission** ~~[Commission]~~ may order corrective action to counteract the effect of advertising in violation of the Act or rules, including:
 - (A) retraction by the school of such advertising claims published in the same manner as the claims themselves; and
 - (B) cancellation of telephone numbers without an automatic forwarding message.
- (2) As corrective action for violations of the Act or rules, the **commission** ~~[Commission]~~ may require schools to submit all advertisements to the **commission** ~~[Commission]~~ for pre-approval at least 30 days before proposed submission of the advertisements to the advertising medium.
- (3) Nothing in these guidelines shall prohibit release of information to students as required by a state or federal agency.

§427.411 Cancellations or Suspensions.

- (a) If an approved course of instruction is discontinued for any reason, the **commission** ~~[Commission]~~ shall be notified within 72 **business** hours (9 days) of discontinuance and furnished with the names and addresses of any students who were prevented from completion of the course of instruction due to discontinuance. Should the school fail to make arrangements satisfactory to the students and the **commission** ~~[Commission]~~ for the completion of the course of instruction, the full amount of all tuition and fees paid by the students are then due and refundable. Any course of instruction discontinued will be removed from the list of approved courses of instruction.
- (b) The **commission** ~~[Commission]~~ may suspend enrollments in a particular course of instruction at any time the **commission** ~~[Commission]~~ finds cause. For purposes of this subsection, cause includes, but is not limited to:
 - (1) inadequate instruction;
 - (2) unapproved or inadequate curriculum;
 - (3) inadequate equipment; or

(4) inadequate facilities.

(c) If a school begins teaching a course of instruction or revised course of instruction that has not been approved by the **commission**~~[-Commission]~~, the **commission** ~~[Commission-]~~ may require the school to refund to the enrolled students all or a portion of the tuition fees.

§427.413 Liabilities.

(a) Curriculum and Testing.

(1) The school shall be able to provide license agreements with the publisher of any curriculum used. The school may not reproduce the curriculum, or any part thereof, without describing the purpose or having the written consent by said publisher.

(2) The school shall be able to provide a valid purchase receipt or license agreement of any published test banks, or any part thereof, used in the evaluation process of any course taught.

(b) Equipment and Facilities.

(1) The school shall be able to provide written agreements for the use of any equipment not owned by the school, but used during the instruction of any student. The agreement shall dictate the terms, liability, fees, and availability of maintenance records of such equipment.

(2) The school shall be able to provide written agreements of the use of any facilities or area, not otherwise public, but used during the instruction of any student. The agreement shall dictate the terms, liability, and fees of such facilities or area.

(c) Insurance Coverage. The school shall be able to provide a general liability policy issued by a company licensed to do business in the State of Texas.

15. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 433, Driver/Operator.



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 01/25/2018

Agenda Item #: 15

Agenda Title: Chapter 433, Driver/Operator

Action to be taken: Discussion and possible action on rule proposal

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The changes add a subsection to the chapter to reflect rules for obtaining IFSAC seals.

2. DESCRIPTION/ JUSTIFICATION

The commission obtained approval to issue IFSAC seals for this discipline thus the need to add the subsection to the rules.

3. BUDGET IMPACT

No impact is anticipated.

4. TIMELINE CONSIDERATIONS

Proposal for publication to Texas Register for public comment.

5. RECOMMENDATION

Recommend publication.

6. REFERENCES

37 TAC, Chapter 433, Driver/Operator.

CHAPTER 433

DRIVER/OEPRATOR

SUBCHAPTER B

MINIMUM STANDARDS FOR DRIVER/OPERATOR-AERIAL APPARATUS

§433.201. Driver/Operator-Aerial Apparatus Certification.

- (a) A Driver/Operator-Aerial Apparatus is defined as an individual who operates an aerial apparatus safely and in accordance with all state and local laws; safely and correctly maneuvers, positions, stabilizes, and operates an aerial apparatus and device; and effectively deploys and operates an elevated master stream from a water source. Other responsibilities include routine apparatus testing, maintenance, inspections, and servicing functions.
- (b) Individuals holding Driver/Operator-Pumper certification are eligible to take the commission examination for Driver Operator-Aerial Apparatus upon documentation to the commission that the individual has completed Driver Operator-Aerial Apparatus training that meets the minimum requirements of the NFPA 1002 or provide documentation of proficiency in the operation of an aerial apparatus from a department with an in service aerial apparatus. This section will expire on May 18, 2018.

§433.203. Minimum Standards for Driver/Operator-Aerial Apparatus Certification.

- (a) In order to obtain Driver/Operator-Aerial Apparatus certification, the individual must:
 - (1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and
 - (2) possess valid documentation as a Driver/Operator-Aerial Apparatus from either:
 - (A) the International Fire Service Accreditation Congress; or
 - (B) The National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2014 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in 439.1 of this title (relating to Requirements-General); or
 - (3) complete a commission approved Driver/Operator-Aerial Apparatus training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved driver/operator-aerial apparatus training program must consist of one of the following:
 - (A) completion of an in-state driver/Operator-Aerial Apparatus program meeting the requirements of the applicable NFPA standard and conducted by a commission certified training provider, that was submitted and approved through the commission's training prior approval system; or
 - (B) completion of an out-of-state training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard; or
 - (C) completion of a military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.
- (b) Out-of-State or military training programs submitted to the commission for the purpose of determining equivalency will be considered equivalent if the training addresses all job performance requirements of the applicable NFPA standard.

§433.205. Examination Requirements.

- (a) Examination requirements in Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Driver/Operator-Aerial Apparatus certification.

(b) Individuals will be permitted to take the commission examination for Driver/Operator-Aerial Apparatus by documenting, as a minimum, completion of the NFPA 1001 Fire Fighter I training, and completing a commission approved Driver/Operator-Aerial Apparatus training program.

§433.207. International Fire Service Accreditation Congress (IFSAC) Seal.

(a) Individuals holding a current commission Driver/Operator-Aerial certification received prior to May 31, 2018 and documenting an NFPA 1001 Fire Fighter I IFSAC seal may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Driver/Operator-Aerial by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on May 31, 2019.

(b) Individuals completing a commission approved Driver/Operator-Aerial program; documenting an NFPA 1001 Fire Fighter I IFSAC seal and passing the applicable state examination, may be granted an IFSAC seal for Driver/Operator-Aerial by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.

16. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 453, Hazardous Materials.



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 01/25/2018

Agenda Item #: 16

Agenda Title: Chapter 453, Hazardous Materials

Action to be taken: Discussion and possible action on rule proposal

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The changes add a subsection to the chapter to reflect rules for obtaining IFSAC seals.

2. DESCRIPTION/ JUSTIFICATION

The commission obtained approval to issue IFSAC seals for this discipline thus the need to add the subsection to the rules.

3. BUDGET IMPACT

No impact is anticipated.

4. TIMELINE CONSIDERATIONS

Proposal for publication to Texas Register for public comment.

5. RECOMMENDATION

Recommend publication.

6. REFERENCES

37 TAC, Chapter 453, Hazardous Materials.

CHAPTER 453

HAZARDOUS MATERIALS

SUBCHAPTER B

MINIMUM STANDARDS FOR HAZARDOUS MATERIALS INCIDENT COMMANDER

§453.201. Hazardous Materials Incident Commander Certification.

The Hazardous Materials Incident Commander is defined as that person responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources.

§453.203. Minimum Standards for Hazardous Materials Incident Commander.

In order to be certified as Hazardous Materials Incident Commander an individual must:

- (1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and
- (2) possess valid documentation as a Hazardous Materials Incident Commander from either:
 - (A) the International Fire Service Accreditation Congress; or
 - (B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements—General); or
- (3) complete a commission approved Hazardous Materials Incident Commander training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Hazardous Materials Incident Commander program must consist of one of the following:
 - (A) completion of an in-state Hazardous Materials Incident Commander training program that meets the requirements of the applicable NFPA standard, is conducted by a commission certified training provider and approved through the commission's training prior approval system; or
 - (B) completion of an out-of-state and/or military training program that has been submitted to the commission for evaluation and found to meet or exceed the NFPA standard for Hazardous Materials Incident Commander.

§453.205. Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive a Hazardous Materials Incident Commander certification.
- (b) Individuals will be permitted to take the commission examination for Hazardous Materials Incident Commander by documenting completion of NFPA 472 Awareness and Operations level training and completing a commission approved Hazardous Materials Incident Commander training program.

§453.207. International Fire Service Accreditation Congress (IFSAC) Seal.

(a) Individuals holding a current commission Hazardous Materials Incident Commander certification received prior to May 31, 2018 may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Hazardous Materials Incident Commander by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must also document the required prerequisite IFSAC seals listed in subsection (b) of this section. This subsection (a) will expire on May 31, 2019.

(b) Individuals completing a commission approved Hazardous Materials Incident Commander program and documenting the following IFSAC seals:

(1) Hazardous Materials Awareness Level Personnel; and

(2) Hazardous Materials Operations Level Responders, including the Mission-Specific Competencies for Personal Protective Equipment and Product Control under the current edition; or

(3) NFPA 472 Hazardous Materials Operations prior to the 2008 edition; and

(4) upon passing the applicable state examination, may be granted an IFSAC seal for Hazardous Materials Incident Commander by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.

17. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification.



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 01/25/2018

Agenda Item #: 17

Agenda Title: Chapter 457, Minimum Standards for Incident Safety Officer Certification

Action to be taken: Discussion and possible action on rule proposal

Origin of Item: Staff and committee

1. INTRODUCTION/PURPOSE

The changes add a subsection to the chapter to reflect rules for obtaining IFSAC seals.

2. DESCRIPTION/ JUSTIFICATION

The commission obtained approval to issue IFSAC seals for this discipline thus the need to add the subsection to the rules.

3. BUDGET IMPACT

No impact is anticipated.

4. TIMELINE CONSIDERATIONS

Proposal for publication to Texas Register for public comment.

5. RECOMMENDATION

Recommend publication.

6. REFERENCES

37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification.

CHAPTER 457

MINIMUM STANDARDS FOR INCIDENT SAFETY OFFICER CERTIFICATION

§457.1. Incident Safety Officer Certification.

- (a) An Incident Safety Officer is defined as a member of the command staff responsible for monitoring and assessing safety hazards or unsafe situations and for developing measures for ensuring personnel safety at an incident.
- (b) All individuals holding an Incident Safety Officer certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).
- (c) All Safety Officer certifications issued by the commission and referenced in this chapter are voluntary.

§457.3. Minimum Standards for Incident Safety Officer Certification.

In order to be certified as an Incident Safety Officer an individual must:

- (1) hold commission certification as Fire Officer I and;
- (2) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as an Incident Safety Officer; or
- (3) complete a commission approved Incident Safety Officer program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Incident Safety Officer program must consist of one of the following:
 - (A) completion of an in-state Incident Safety Officer program meeting the requirements of the applicable NFPA standard and conducted by a commission certified training provider, that was submitted and approved through the commission's training prior approval system; or
 - (B) completion of an out-of-state, educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.

§457.5. Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive an Incident Safety Officer certification, unless otherwise specified in this chapter.
- (b) Individuals will be permitted to take the commission examination for Incident Safety Officer certification by documenting Fire Officer I certification through the commission or the equivalent IFSAC seal, and completing a commission approved Incident Safety Officer training program.

§457.207. International Fire Service Accreditation Congress (IFSAC) Seal.

- (a) Individuals holding a current commission Incident Safety Officer certification received prior to May 31, 2018 and documenting Fire Fighter II, Instructor I and Fire Officer I seals may be granted an International Fire Service Accreditation Congress (IFSAC) seal as an Incident Safety Officer by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on May 31, 2019.**
- (b) Individuals completing a commission approved Incident Safety Officer program; documenting Fire Fighter II, Instructor I and Fire Officer I seals and passing the applicable state examination, may be granted an IFSAC seal for Incident Safety Officer by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.**

18. Discussion and possible action regarding 37 TAC, Chapter 437, Fees, including but not limited to testing, certification and renewal fees charged by the commission.



***Texas Commission on Fire Protection
Agenda Item Summary***

**MEETING: Commission
DATE: 01/25/2018**

Agenda Item #: 18
Agenda Title: Chapter 437, Fees
Action to be taken: Discussion and possible action
Origin of Item: Staff

1. INTRODUCTION/PURPOSE

Discussion regarding fees charged by the agency.

2. DESCRIPTION/ JUSTIFICATION

This item calls for discussion and possible action regarding fee amounts charged by the agency in light of revenue generation during the previous budget cycle; trends in volume of testing and certification issuance; and current requirements of Chapter 419, Texas Government Code.

3. BUDGET IMPACT

Undetermined.

4. TIMELINE CONSIDERATIONS

Discussion at this time. Rule language revisions possible depending upon decisions by board.

5. RECOMMENDATION

Review information for possible action.

6. REFERENCES

37 TAC, Chapter 437, Fees.

CHAPTER 437

FEES

§437.1 Purpose and Scope.

- (a) The purpose of this chapter is to set forth requirements governing the fees charged by the commission as prescribed by Texas Government Code, Chapter 419, §419.025 and §419.026, and commission rule.
- (b) This chapter shall govern all proceedings before and dealing with the commission concerning fees. Hearings and appellate proceedings regarding these fees shall be governed by this chapter where applicable and by the rules of the practice and procedure of the commission and the Administrative Procedure Act and Texas Register Act, Chapter 2001, of the Texas Government Code.
- (c) If a fee submitted in the form of a check is returned for insufficient funds the certification, seal or test for which the fee was collected will be invalidated.
- (d) Additional fees, such as those charged for exam administration or criminal background checks, may be charged to applicants and regulated entities by service providers other than the commission. The commission does not charge and will not collect these additional fees. Payment of the additional fees shall be made via a separately established agreement between the individual or regulated entity and the applicable service providers.

§437.3 Certification Application Processing Fees.

- (a) A non-refundable application processing fee of \$85 is required for each certificate issued by the commission. If a certificate is issued within the time provided in §401.125 of this title (relating to Processing Periods), the fee will be applied to the certification. If the certificate is denied, the applicant must pay a new certification application processing fee to file a new application.
- (b) The regulated employing entity shall be responsible for all certification application processing fees required as a condition of appointment.
- (c) Nothing in this section shall prohibit an individual from paying a certification application processing fee for any certificate which he or she is qualified to hold, providing the certificate is not required as a condition of appointment (see subsection (b) of this section concerning certification fees).
- (d) A facility that provides training for any discipline for which the commission has established a curriculum must be certified by the commission. The training facility will be charged a separate certification application processing fee for each discipline or level of discipline for which application is made.
- (e) The certification application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.
- (f) The certification application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.

§437.5 Renewal Fees.

- (a) A non-refundable annual renewal fee of \$75 shall be assessed for each certified individual and certified training facility. If an individual or certified training facility holds more than one certificate, the commission may collect only one renewal fee of \$75, which will renew all certificates held by the individual or certified training facility.
- (b) A regulated employing entity shall pay the renewal fee for each individual who is required to possess certification as a condition of employment.

- (c) If a person re-enters the fire service whose certificate(s) has been expired for less than one year, the regulated entity must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fees, the certificates previously held by the individual, for which he or she continues to qualify, will be renewed.
- (d) If a person wishes to renew a certificate(s) which has been expired less than one year and the individual is not employed by a regulated employing entity as defined in subsection (b) of this section, the individual must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fee(s), the certificate(s) previously held by the individual, for whom he or she continues to qualify, will be renewed.
- (e) Nothing in this section shall prohibit an individual from paying a renewal fee for any certificate which he or she is qualified to hold providing the certificate is not required as a condition of employment.
- (f) Certification renewal information will be sent to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal information will be sent to certified training facilities at least 60 days prior to February 1 of each calendar year.
- (g) If renewal payment is submitted by mail, all certification renewal fees must be submitted with the renewal invoice to the commission.
- (h) All certification renewal fees must be paid on or before the last day of the certification period (see subsection (i) of this section) to avoid additional fee(s).
- (i) The certification period shall be a period not to exceed one year. The certification period for employees of regulated employing entities, and individuals holding certification is November 1 to October 31. The certification period of certified training facilities is February 1 to January 31.
- (j) All certification renewal fees received from one to 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$37.50 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.
- (k) All certification renewal fees received more than 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$75 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.
- (l) In addition to any non-refundable late fee(s) assessed for certification renewal, the commission may hold an informal conference to determine if any further action(s) is to be taken.
- (m) An individual or entity may petition the commission for a waiver of the late fees required by this section if the person's certificate expired because of the individual or regulated employing entity's good faith clerical error, or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action.
 - (1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.
 - (2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order restoring the applicant to employment.
- (n) An individual, who is a military service member, or returning from activation to military service, must notify the commission in writing if the individual wishes to renew an expired certification. Provided other qualifications for renewal are met, the individual will have any normally associated late fees waived and will be required to pay a renewal fee of \$75.

§437.7 Standards Manual and Certification Curriculum Manual Fees.

- (a) Current versions of the Standards Manual for Fire Protection Personnel and Certification Curriculum Manual are available on the commission's website.

- (b) The commission does not provide printed copies of the manuals. A printed copy of the commission's standards may be obtained from Thomson West, 610 Opperman Drive, Eagan, MN 55123, by requesting "Title 37, Public Safety and Corrections" of the Texas Administrative Code. The web address for Thomson West is www.west.thomson.com.

§437.11 Copying Fees.

- (a) All photographic reproduction of records or documents in the files of the commission and prepared on standard office machines will be furnished for a fee.
- (b) A fee will be charged for address and telephone number lists of fire service agencies.
- (c) A fee will be charged for mailing peel-off labels of fire service agencies.

§437.13 Processing Fees for Test Application.

- (a) A non-refundable application processing fee of \$85 shall be charged for each examination.
- (b) A non-refundable application processing fee of \$35 shall be charged for each sectional examination.
- (c) Fees will be paid in advance with the application or the certified training provider may be invoiced or billed if previous arrangements have been approved by the commission in writing via mail, e-mail or fax.
 - (1) Any payment postmarked from 61 to 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee of one half the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.
 - (2) Any payment postmarked more than 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee in an amount equal to the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.
- (d) The test application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.
- (e) The test application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.

§437.15 International Fire Service Accreditation Congress (IFSAC) Seal Fees.

A non-refundable \$15 fee shall be charged for each IFSAC seal issued by the commission.

§437.17 Records Review Fees.

- (a) A non-refundable fee of \$75 shall be charged for each training records review conducted by the commission for the purpose of determining equivalency to the appropriate commission training program or to establish eligibility to test. Applicants submitting training records for review shall receive a written analysis from the commission.
- (b) The fee provided for in this section shall not apply to an individual who holds an advanced or Fire Fighter II certificate from the State Firemen's and Fire Marshals' Association of Texas.

§437.19. Early Review Fees.

A non-refundable fee of \$75 will be charged for each early review conducted by the commission for the purpose of determining the eligibility of a person to be certified by the commission based upon a review of their criminal history.

**2016/2017 Biennium
Revenue Comparison by Month
Fiscal Year 2017**

	FY 2016 Revenue Collected			FY 2017 Revenue Collected		
Sep-15	\$	364,244.50	8.4%	Sep-16	\$	512,662.50 12.1%
Oct-15	\$	2,101,922.50	48.4%	Oct-16	\$	1,735,537.50 41.1%
Nov-15	\$	468,924.50	10.8%	Nov-16	\$	496,200.00 11.8%
Dec-15	\$	176,771.42	4.1%	Dec-16	\$	166,610.55 3.9%
Jan-16	\$	195,365.00	4.5%	Jan-17	\$	215,867.50 5.1%
Feb-16	\$	133,982.50	3.1%	Feb-17	\$	146,006.84 3.5%
Mar-16	\$	170,968.95	3.9%	Mar-17	\$	145,667.50 3.5%
Apr-16	\$	143,935.00	3.3%	Apr-17	\$	163,340.00 3.9%
May-16	\$	145,920.00	3.4%	May-17	\$	160,460.00 3.8%
Jun-16	\$	158,035.00	3.6%	Jun-17	\$	201,070.30 4.8%
Jul-16	\$	140,855.85	3.2%	Jul-17	\$	111,656.37 2.6%
Aug-16	\$	138,570.00	3.2%	Aug-17	\$	166,175.00 3.9%
Totals	\$	4,339,495.22	100.0%	\$	4,221,254.06	100.0%

Actual Revenue Collected \$ 8,560,749

Required Revenue for Biennium (FY16 & 17):

* Annual GR & Appropriated Receipts	\$	3,965,384
** GAA Other Direct & Indirect	\$	1,733,375
Budget Rider	\$	1,500,000
Subtotal	\$	7,198,759
5% Contingency	\$	359,938
Total Reqd	\$	7,558,697

Amount Over or (Under) Required Revenue \$ 1,002,052

Collected	113.26%	Percentage of Revenue Collected
As of Date	10/17/2017	

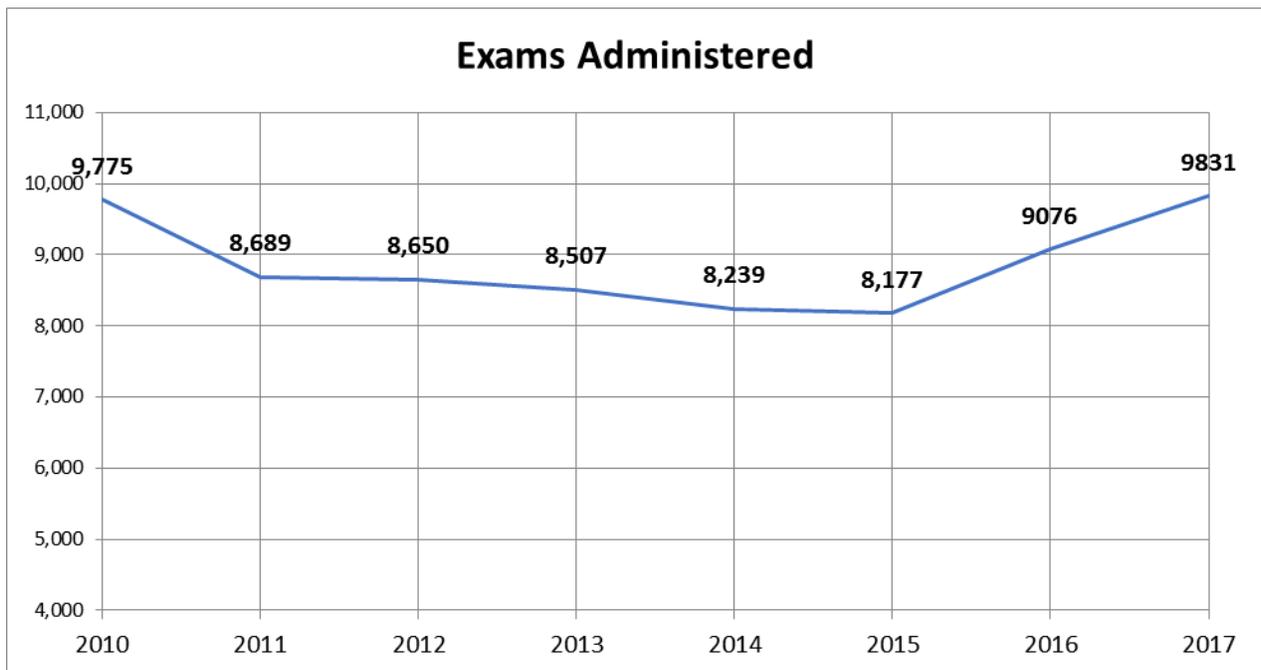
Notes:

* Amount change to include Appropriated Receipts which has not been included in prior Revenue Comparisons.

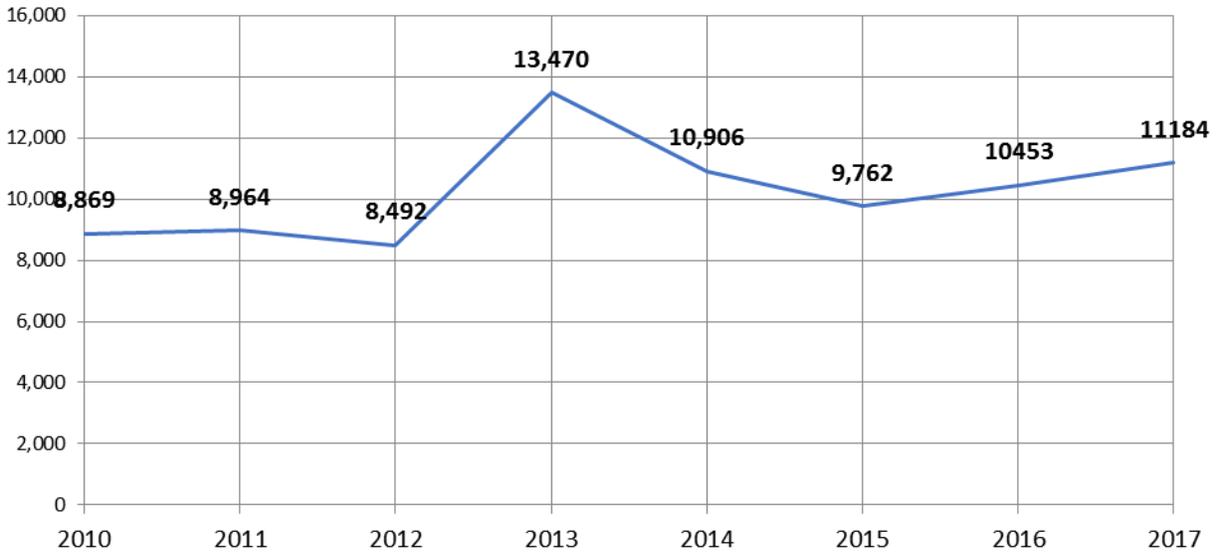
** Amount to reflect the GAA's Other Direct & Indirect Costs, not the TCFP projected amount used in prior Revenue Comparisons.

Trends by Year: Fiscal Years 2010 to 2017

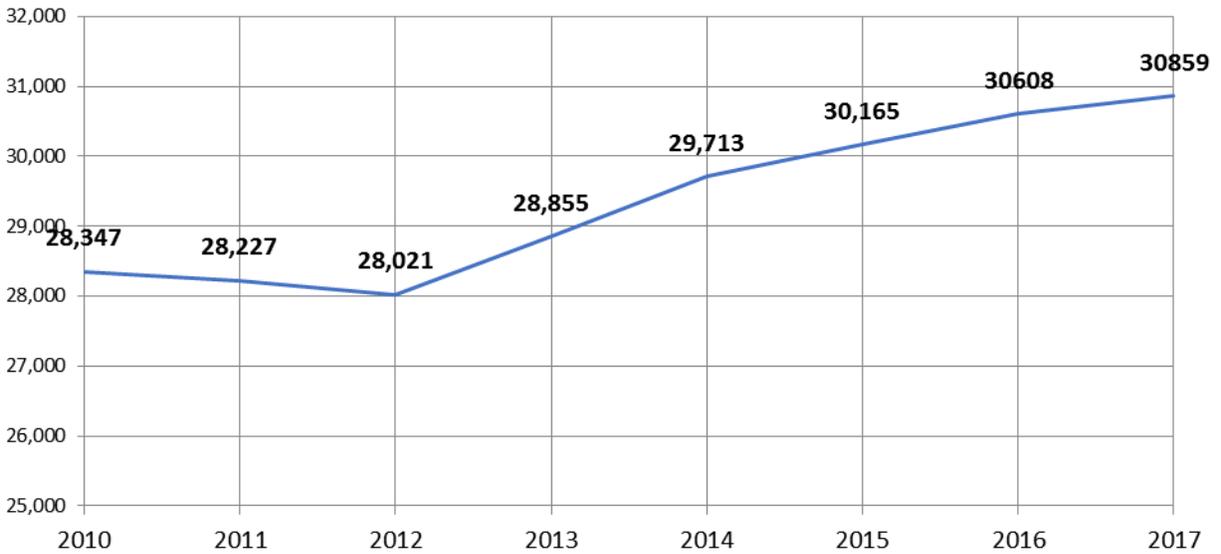
FISCAL YEAR:	2010	2011	2012	2013	2014	2015	2016	2017
TESTS ADMIN	9,775	8,689	8,650	8,507	8,239	8,177	9076	9831
CERTS ISSUED	8,869	8,964	8,492	13,470	10,906	9,762	10453	11184
RENEWALS (individuals)	28,347	28,227	28,021	28,855	29,713	30,165	30608	30859
TOTAL of	46,991	46,000	45,163	50,832	48,858	48,104	50137	51874
Tests Administered Certs Issued Persons Renewed								
CERTIFIED	29,346	29,727	30,530	30,812	31,690	31,980	31759	32128
TRNG FAC'S	231	239	247	225	248	262	260	266



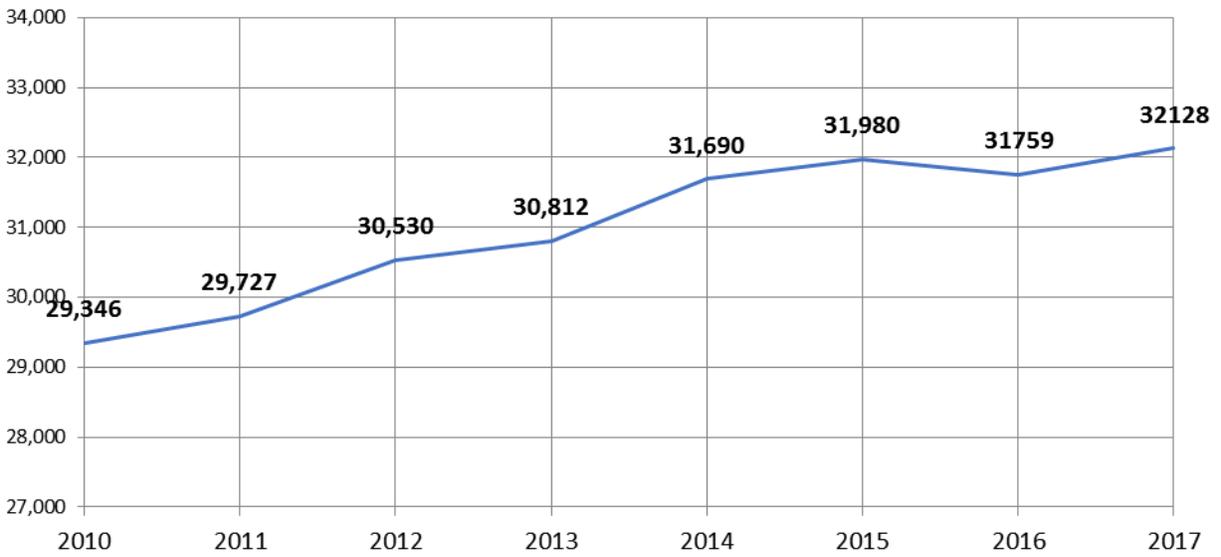
Certificates Issued



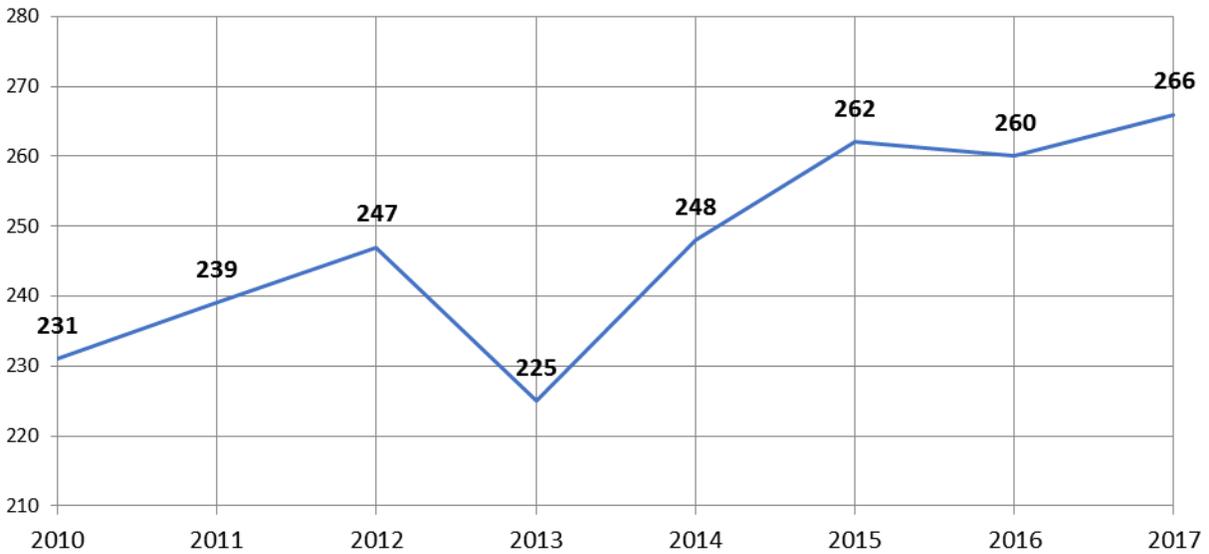
Renewals (Personnel)



Certified Persons



Certified Training Facilities



Sec. 419.026. FEES FOR CERTIFICATES. (a) The commission shall set and collect a fee for each certificate that the commission issues or renews under this subchapter, except that if a person holds more than one certificate the commission may collect only one fee each year for the renewal of those certificates. The commission by rule shall set the amount of the fee under this subsection in an amount designed to recover the commission's costs in connection with issuing certificates under this subchapter, including the cost to the commission of obtaining fingerprint-based criminal history record information under Section [419.0325](#). The employing agency or entity shall pay the fee in the manner prescribed by commission rule. The certificate must be renewed annually.

(b) The commission shall set and collect a fee for each examination given to fire protection personnel for basic certification under this subchapter. The amount of the fee may not exceed the cost of preparing, printing, administering, and grading the examination.

(c) The commission may revoke, refuse to issue, or refuse to renew the certificate of fire protection personnel for failure to pay a fee required under Subsection (a).

(d) The commission shall send the fees authorized by Subsection (a) and Section [419.033\(b\)](#) to the comptroller. The comptroller shall deposit a portion of the fees collected into a special account in the general revenue fund dedicated for use by the commission. In any state fiscal biennium, the comptroller may not deposit into the account fees in an amount that exceeds the amount appropriated to the commission for that biennium, less any other amount appropriated to the commission from a source other than the fees. The account is exempt from the application of Section [403.095](#). The comptroller shall deposit the remainder of the fees in the general revenue fund.

Criteria used to determine cost per exam for a given year

TESTING SECTION:

- 100% of staff salaries, including longevity, retirement, insurance
- Travel costs to conduct exams
- Consumable supplies used by Testing Section, and for testing purposes
- Paper and copying costs: 85% of agency total
- Other operating costs: Freight/delivery fees, computer maintenance/repair, etc.

COMPLIANCE SECTION:

- 20% of compliance officer salaries (for testing activities only)
- Travel costs directly related to testing activities

TEST BANK DEVELOPMENT AND MAINTENANCE:

- 40% of salaries (other portion goes to curriculum dev/maint)
- IFSAC accreditation: Annual fee, participation at conference

AGENCY LIBRARY:

- 20% of librarian salary
- Resources and reference material: 20% of agency total

SUPPORT SERVICES:

- 20% of Financial Services salaries
- 20% of Human Resources salaries
- 20% of Information Resources salaries

Costs for Conducting Exams
Cost Per Exam FY2017

Testing Section:	Cost for Calculation	Total Cost
Salaries: five employees incl. longevity, retirement, insurance	249,628.73	
Travel	2,944.21	
Testing costs per object code 25% - Items given the 4999 coding and get distributed to Mgmt versus each department -Insurance, Maintenance Repair, Contract Services, Telecommunication, SORM minus paper cost (different line item)	9,272.37	37,089.47
Consumables - pens, sticky Notes, batteries, calendars	6,664.40	
Xerox costs: 85% of agency total	4,295.98	5,054.09
Copy paper: 85% of agency total	1,637.10	1,926.00
Other operating costs, ERS Insurance Payment, Freight, Delivery, maintenance & Repair on Computers	14,057.33	
Compliance Section (Testing Activities):		
20% of Compliance Officer salaries	63,746.81	318,734.04
Travel costs directly related to testing	15,446.27	
Support Services:		
20% of Financial Services salaries	41,611.32	208,056.59
20% of Human Resources salaries	16,252.89	81,264.44
20% of I.T. salaries	29,811.27	149,056.37
Curricula and Test Bank Maintenance:		
40% of two Curriculum Specialist salaries	40,903.71	102,259.28
Cost for IFSAC compliance: Annual fee, travel to conference	4,213.13	
Library:		
20% of librarian salary	10,030.93	53,400.08
20% of costs for resource and reference material	1,202.07	6,010.34
TOTAL:	\$ 511,718.51	
Exams FY17	9832	
Cost per Exam	\$ 52.05	

**Commission on Fire Protection
Fee Structure Examples for 2018-19 Budget Cycle**

Number of transactions per year estimated

Required in 2018-19 budget cycle to cover agency appropriation + 5% contingency: \$7,522,461

Type of Transaction: Estimated Number per Year:	Renewals 31,000	Certifications 11,000	Exams 10,000		
	X	X	X		
CURRENT FEE AMOUNTS:	\$75	\$85	\$85	Annual Revenue	BIANNUAL REVENUE
TOTALS:	\$2,325,000	\$935,000	\$850,000	\$4,110,000	\$8,220,000
Equal Across-the-Board Reductions	\$75	\$75	\$75	3,900,000	7,800,000
	\$70	\$70	\$70	3,640,000	7,280,000
	\$65	\$65	\$65	3,380,000	6,760,000
Renewal Fee Reduced - Others Unchanged	\$70	\$85	\$85	3,955,000	7,910,000
	\$65	\$85	\$85	3,800,000	7,600,000
	\$60	\$85	\$85	3,645,000	7,290,000
Certification Fee Reduced - Others Unchanged	\$75	\$75	\$85	4,000,000	8,000,000
	\$75	\$70	\$85	3,945,000	7,890,000
	\$75	\$65	\$85	3,890,000	7,780,000
	\$75	\$60	\$85	3,835,000	7,670,000
	\$75	\$55	\$85	3,780,000	7,560,000
	\$75	\$50	\$85	3,725,000	7,450,000
Testing Fee Reduced - Others Unchanged	\$75	\$85	\$75	4,010,000	8,020,000
	\$75	\$85	\$70	3,960,000	7,920,000
	\$75	\$85	\$65	3,910,000	7,820,000
	\$75	\$85	\$60	3,860,000	7,720,000
	\$75	\$85	\$55	3,810,000	7,620,000
	\$75	\$85	\$50	3,760,000	7,520,000
Cert and Testing Fees Reduced Renewal Unchanged	\$75	\$75	\$75	3,900,000	7,800,000
	\$75	\$70	\$70	3,795,000	7,590,000
	\$75	\$65	\$65	3,690,000	7,380,000

19. Discussion and possible action on the petition for rulemaking filed by the Texas State Association of Fire Fighters requesting changes to Rule 435.1 (37 Tex. Admin. Code §435.1). Possible actions the Commission may take include but are not limited to denying the petition for rulemaking or initiating a rulemaking proceeding concerning Rule 435.1.



TEXAS STATE ASSOCIATION OF FIRE FIGHTERS

November 28, 2017

Robert Moore
Presiding Officer
Texas Commission on Fire Protection
1701 North Congress, Suite 105
Austin, Texas 78701

Dear Chairman Moore:

Please find attached a petition for an amendment of existing rule and supporting documents from The Texas State Association of Fire Fighters. Our organization consists of over 18,000 professional fire fighters from across the State. Please contact me if you have any questions.

Thank you for your time and your service to the State of Texas.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Deshields".

Glenn Deshields
Legislative Director
Texas State Association of Fire Fighters
gdeshields@tsaff.org
512-947-1349

CC: Tim Rutland, Executive Director, Texas Commission on Fire Protection

PETITION FOR AMENDMENT OF AN EXISTING RULE

TO THE HONORABLE TEXAS COMMISSION ON FIRE PROTECTION:

The Texas State Association of Fire Fighters files this petition to request that the Commission amend its Rule 435.1, 37 TEX. ADMIN. CODE § 435.1. In support, the Association respectfully shows as follows:

I. THE ENTITY ON BEHALF OF WHOM THE PETITION IS FILED

1. This petition is filed on behalf of the Texas State Association of Fire Fighters, which is Texas's only professional, career fire fighters organization, representing over 18,000 fire fighter members and 169 affiliate locals. One of the Association's most important purposes is to promote as safe and healthy a working environment for fire fighters and emergency medical or rescue workers as is possible. The Association's address is 627 Radam Lane, Austin Texas 78745.

II. THE EXISTING RULE THAT IS PROPOSED TO BE AMENDED

2. The Association requests that Rule 435.1, 37 TEX. ADMIN. CODE § 435.1, be amended.

III. THE EXACT WORDING OF THE AMENDED PROPOSED RULE

3. The Association requests that the Commission amend Rule 435.1 to read as follows:

"A regulated fire department shall:

(1) purchase, provide, and maintain a complete set of protective clothing for all fire protection personnel who would be exposed to hazardous conditions from fire or other emergencies or where the potential for such exposure exists. A complete set of protective

clothing shall consist of garments including bunker coats, bunker pants, boots, gloves, helmets, and protective hoods, worn by fire protection personnel in the course of performing fire-fighting operations. By January 1, 2023, each regulated department shall purchase, provide, and maintain two complete sets of protective clothing, not including boots or helmets, for all fire protection personnel who would be exposed to hazardous conditions from fire or other emergencies or where the potential for such exposure exists;

(2) ensure that each set of protective clothing is regularly stored at the fire station or other location from which the individual is dispatched so that it is accessible for use.

(23) ensure that all protective clothing which is used by fire protection personnel assigned to fire suppression duties comply with the minimum standards of the National Fire Protection Association suitable for the tasks the individual is expected to perform. The National Fire Protection Association standard applicable to protective clothing is the standard in effect at the time the entity contracts for new, rebuilt, or used protective clothing; and

(34) maintain and provide upon request by the commission, a departmental standard operating procedure regarding the use, selection, care, and maintenance of protective clothing which complies with NFPA 1851, Standard on Selection, Care, and Maintenance of Structural Fire Fighting Protective Ensembles.

(45) To ensure that protective clothing for fire protection personnel continues to be suitable for assigned tasks, risk assessments conducted in accordance with NFPA 1851 shall be reviewed and revised as needed, but in any case not more than five years following the date of the last risk assessment.”

IV. THE PROPOSED EFFECTIVE DATE

4. The Association proposes that the amended Rule 435.1 be made effective on January 1, 2018.

V. THE JUSTIFICATION FOR THE PROPOSED ACTION

5. Many regulated fire departments currently have two complete sets of protective clothing for each fire fighter, but many departments store one set of clothing per fire fighter offsite, robbing the protective clothing of all usefulness. With only one set of protective clothing on-site, more situations arise where fire fighters must use the protective clothing at fire sites on multiple occasions without the clothing being cleaned. The use of soiled protective clothing creates a number of hazards.

6. The presence of soot and other products of burning on protective clothing can cause the surface of the protective gear to be less heat reflective; make the gear more difficult for fellow fire fighters on-scene to see; and increase conductivity, which in turn increases the risk for electrical shock when coming into contact with live wires.

7. In addition, the many carcinogenic materials, toxins, and communicable disease agents that fire fighters come into contact with can be transmitted on the protective clothing and the soot that accumulates on it. Those hazardous materials can then be ingested, inhaled, or absorbed by touch by fire fighters.

8. Having an accessible additional set of protective clothing would reduce these hazards to fire fighters by increasing the use of clean, effective protective clothing.

VI. CONCLUSION

For the reasons stated above, the Texas State Association of Fire Fighters requests that

the Executive Director of the Commission direct that this Petition be placed on the next agenda for discussion by the Commission or the fire fighter advisory committee with subject matter jurisdiction.

Respectfully submitted,



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707 W. 34th Street
Austin, Texas 78705
(512) 474-6200
Fax: (512) 474-7896

**ATTORNEY FOR PETITIONER, TEXAS
STATE ASSOCIATION OF FIRE FIGHTERS**

20. Discussion and possible action on matters from the Executive Director.

A. Decisions of the Executive Director in contested cases and consent orders.

20. Discussion and possible action on matters from the Executive Director.

B. Status of division functions.

21. Executive session pursuant to Texas Government Code, Section 551.074(1), for the discussion of personnel matters regarding the appointment, employment, compensation, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director, and the appointment, employment, reassignment, or duties of personnel acting on an interim basis in this position

22. Open session for further discussion and possible action regarding preceding agenda item.

23. Adjourn meeting.