

**TEXAS COMMISSION ON FIRE PROTECTION**  
**April 26, 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. Adoption of the commission meeting minutes of January 24, 2018 and January 25, 2018.**
- 4. Discussion and possible action regarding the appointment of new commission members to the Budget and Strategic Plan subcommittees.**
- 5. 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.**
- 6. 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).**
- 7. Discussion and possible action regarding report from commission representative to the Homeland Security Council.**
- 8. New matters from the commission, staff, or public which may be discussed in future commission meetings.**
- 9. Discussion and possible action on future meeting dates.**
- 10. Discussion and possible action on the appointment of a new member(s) to the fire fighter advisory committee.**
- 11. 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 37 TAC, Chapter 427, Training Facility Certification.**
    - 2. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 433, Driver Operator.**
    - 3. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 453, Hazardous Materials.**
    - 4. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification.**

5. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 437, Fees.
- 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. Reference lists for Hazardous Materials Incident Commander Curriculum
  - b. Reference lists for Hazardous Materials Technician Curriculum
12. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 433, Driver/Operator.
13. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 435, Fire Fighter Safety.
14. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 439, Examinations for Certifications.
15. Discussion and possible action regarding the addition of classes or courses to the A List and B List for higher levels of certification.
16. Discussion and possible action on request from Chief Danny Kistner regarding the appointment of an ad hoc committee on Health and Wellness.
17. 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.
18. 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.
19. Open session for further discussion and possible action regarding preceding agenda item.
20. 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. Adoption of the commission meeting minutes of January 24, 2018 and January 25, 2018.**



## TEXAS COMMISSION ON FIRE PROTECTION

Assistant Presiding Officer, Joseph Gonzalez, at 9:00 a.m. called the January 25, 2018 meeting of the Texas Commission on Fire Protection to order at 1701 N. Congress Avenue, Room 1-104, Austin, Texas.

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

Staff	Tim Rutland	Deborah Cowan	Andrew Lutostanski, Assistant Attorney General
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Guests	Thomas McMonigle John Overstreet Mary Lancton Paula Stubblefield Lyle Lombard Ken Kreger Arianna Hargrove Mike Wisko Cary R. Roccaforte Robert Havens	Chris Barron Leonard Chen Daniel Buford Pat English Betty Wilkes James Mallory Daniel DeYear Les Stephens Joe Ondrasek Randy Pearson	Harvey Cheshire Jason Collier Steve Keller Bill Pearson Thayer Smith Dave Lowe Ted Padgett Danny Kistner Rick Manley Pat McAuliff	R. Rhodes Ronald Tocci Skip Straus Derek Henry Nick Hickson Kelly Sadler Chris Watson Daryl Maretka Randy Mickelson Richard Bahena	Scott Ridling Glenn Deshields Darnell Rutledge Chris Kahl Ken Dobson Laurie Christensen Chris Willeford Donnie Normal Ricky Van
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| 1. Invocation<br>Presentation<br>Of Colors and<br>Pledge of<br>Allegiance | The invocation was given by Skip Straus with Emergency Ministries, the presentation of colors was performed by the Lufkin Fire Department and Assistant Presiding Officer Joseph Gonzalez led the Pledge of Allegiance. |
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| 2. Roll call | Commission Assistant Presiding Officer, Joseph Gonzalez called roll and a quorum was present. |
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| 3. Election of<br>Officers | A motion was made by John McMakin and seconded by Kelly Doster to elect Leonardo Perez as Secretary and for Joseph Gonzalez to remain the Assistant Presiding Officer. The motion carried. |
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| 4. Adoption of<br>Minutes | A motion to approve the minutes of October 26, 2017 commission meeting was made by Kelley Doster and seconded by J. P. Steelman. The motion carried. |
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| 5. Budget and<br>Strategic Plan<br>Subcommittee<br>Meeting/Reports | No action necessary. |
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| 6. Appointment<br>of members<br>Budget/Strategic<br>Plan Subcommittees | After discussion a motion was made to table this item until the April commission meeting. The motion carried. |
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| 7. Reports from<br>Interest<br>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, Texas Association of Fire Educators and the Center for Public Safety Excellence. |
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8. 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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9. 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 April meeting.
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10. New matters 37 TAC, Chapter 421, Standards For Certification
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11. Future meeting meeting dates The commission had previously set the following dates for its quarterly meetings:  
April 26<sup>th</sup>, 2018 Commission meeting  
July 11, 2018 (Workshop); July 12, 2018 Commission meeting  
October 25, 2018 Commission meeting  
A meeting was also scheduled for April 25, 2016 to interview applicants to fill a vacancy on the fire fighter advisory committee
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12. Appointment of Ad-Hoc committee to review fire fighter advisory committee applicants A motion was made by Mike Jones and seconded by Kelly Doster to appoint the following commissioners to the Ad-Hoc committee: Leonard Perez, Steve Tull, and Kelly Doster as well as Jim Reidy, Chairman of the fire fighter advisory committee to serve in an advisory capacity. The motion carried.
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13. Matters from Fire Fighter Advisory Committee
- A. 1. A motion to approve for final adoption the proposed amendments to 37 TAC, Chapter 451, §§451.303, 451.307, 451.403 and 451.407 as discussed was made by Tommy Anderson and seconded by Steve Tull. The motion carried.
  - 2. A motion to approve for final adoption new 37 TAC, Chapter 459, §§459.1, 459.3 and 459.5 as discussed was made by Steve Tull and seconded by Mike Jones. The motion carried.
  - 3. A motion to approve for final adoption proposed amendments to 37 TAC, Chapter 429, Subchapter A, §§429.1, 429.3, 429.5, 429.7, 429.9, 429.11, Subchapter B, §§429.201, 429.203, 429.205, 429.207, 429.209 and 429.211 with changes as discussed was made by John McMakin and seconded by Tivy Whitlock. The motion failed (6 for, 6 against).
  - B. A motion to approve the revised Fire Investigator Curriculum, reference list, outline and phase outline, revised reference lists for Fire Officer III and IV, new certification Fire and Life Safety Educator I overview, course instructor information, reference list and outline, revised reference lists for Hazardous Materials Awareness, Operations, Operations-Mission-Specific Competencies, Incident Commander and Basic Fire Inspector to be effective immediately was made by Tommy Anderson and seconded by Leonardo Perez. The motion carried.
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14. 37 TAC, Chapter 427 Training Facility Certification A motion was made by Steve Tull and seconded by Leonardo Perez to approve for publication amendments to 37 TAC, Chapter 427, §§427.1, 427.3, 427.5, 427.7, 427.9, 427.11, 427.18, 427.19, 427.201, 427.209, 427.301, 427.303, 427.305, 427.401, 427.403, 427.405, 427.407, 427.409, and 427.411 as discussed. The motion carried.

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15. 37 TAC, Chapter 433 Driver/Operator A motion was made by Steve Tull and seconded by Leonardo Perez to approve for publication 37 TAC, Chapter 433, new section §433.207 as discussed. The motion carried.
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16. 37 TAC, Chapter 453 Hazardous Materials A motion was made by Steve Tull and seconded by J. P. Steelman to approve for publication 37 TAC, Chapter 453, new section §453.207 as discussed. The motion carried.
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17. 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification A motion was made by J. P. Steelman and seconded by Steve Tull to approve for publication 37 TAC, Chapter 457, new section §457.7 as discussed. The motion carried.
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18. 37 TAC, Chapter 437 Fees A motion was made by Steve Tull and seconded by Tommy Anderson to approve for publication 37 TAC, Chapter 437, §437.13 to lower examination fees from \$85 to \$55 as discussed. The motion carried.
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19. Petition for Rulemaking 37 TAC Chapter 435 After discussion, a motion was made by Steve Tull and seconded by Mike Jones to proceed with changes to section §435.1 by forming an Ad-Hoc committee to gather information from all stakeholder groups regarding cleaning, storing and possible second set of personal protective equipment for firefighters in regulated departments and present a report to the commission at a later date. The motion carried.
- After further discussion, the following commissioners were appointed to the Ad-Hoc committee: Mike Jones-Chair, J. P. Steelman and Marla Sharma with the addition of individuals from the various stakeholder groups who are interested in serving.
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20. 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 regarding the agency's new database management system. He apologized for the issues occurring upon launching the new system and advised that Information Technology staff continues to work to fix the issues. He also reported that the part of the database system for individuals seeking certification is working and can apply online and get their certifications issued with no problems.
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21. Executive Session 551.074 Assistant Presiding Officer, Joseph Gonzalez did not call for Executive Session.
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22. Open Session No action taken.
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23. Adjournment A motion to adjourn was made by Tommy Anderson and seconded by Steve Tull. The motion carried.

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

- 5. 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.**

- 6. 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).**

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

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

**9. Discussion and possible action on future meeting dates.**

**10. Discussion and possible action on the appointment of a new member(s) to the fire fighter advisory committee.**

**11. 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 427, Training Facility Certification.**



***Texas Commission on Fire Protection***

***Agenda Item Summary***

**MEETING: Commission**

**DATE: 04/26/2018**

**Agenda Item #: 11 #A-1**

**Agenda Title: Chapter 427, Training Facility Certification**

**Action to be taken: Discussion and possible final adoption**

**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**

Propose for final adoption

**5. RECOMMENDATION**

Recommend final adoption

**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, ~~[i]~~ 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.

**11. 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 433, Driver Operator.**



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

**MEETING: Commission  
DATE: 04/26/2018**

**Agenda Item #: 11-#A-2**

**Agenda Title: Chapter 433, Driver Operator**

**Action to be taken: Discussion and possible final adoption**

***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**

Propose for final adoption

**5. RECOMMENDATION**

Recommend final adoption

**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.**

**11. 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 453, Hazardous Materials.**



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

**MEETING: Commission  
DATE: 04/26/2018**

**Agenda Item #: 11-#A-3**

**Agenda Title: Chapter 453, Hazardous Materials**

**Action to be taken: Discussion and possible final adoption**

***Origin of Item: staff & commission***

**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**

Propose final adoption

**5. RECOMMENDATION**

Recommend final adoption

**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.**

**11. 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:**

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



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

**MEETING: Commission  
DATE: 04/26/2018**

**Agenda Item #: 11-#A-4**  
**Agenda Title: Chapter 457, Minimum Standards for Incident Safety Officer Certification**

**Action to be taken: Discussion and possible final adoption**

***Origin of Item: staff & commission***

**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**

Propose final adoption

**5. RECOMMENDATION**

Recommend final adoption

**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.

#### **§457.7. 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.**

**11. 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:**

**5. Discussion and possible action regarding proposed amendments to title 37 TAC, Chapter 437, Fees.**



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

**MEETING: Commission  
DATE: 04/26/2018**

**Agenda Item #: 11-#A-5**

**Agenda Title: Chapter 437, Fees**

**Action to be taken: Discussion and possible final adoption**

**Origin of Item: staff & commission**

**1. INTRODUCTION/PURPOSE**

Discussion regarding fees charged by the agency.

**2. DESCRIPTION/ JUSTIFICATION**

This item is 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**

Propose final adoption

**5. RECOMMENDATION**

Recommend final adoption

**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](http://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 ~~\$95~~ **\$55** 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.

**11. 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. Reference list for Hazardous Materials Incident Commander Curriculum**
- b. Reference list for Hazardous Materials Technician Curriculum**

## REFERENCE LIST FOR THE HAZARDOUS MATERIALS INCIDENT COMMANDER CURRICULUM

This Reference List is provided as a general guide for both instructors and students to locate information pertaining to the specific objectives in the TCFP Curriculum. This list is **not** all-inclusive and does not in any way limit TCFP development and use of questions to test the objectives of the curriculum:

### Required References

#### Texts

*Certification Curriculum Manual*. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

*Code of Federal Regulations, Title 29 Part 1910.120, Appendix A*. United States. U.S. Department of Labor, Occupational Safety & Health Administration.  
[http://edocket.access.gpo.gov/cfr\\_2007/julqtr/pdf/29cfr1910.120.pdf](http://edocket.access.gpo.gov/cfr_2007/julqtr/pdf/29cfr1910.120.pdf)

*Emergency Response Guidebook*. United States. (Most current edition). Washington, DC: U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration.

~~*Fire Fighter's Handbook of Hazardous Materials*, Baker, Charles T., 7<sup>th</sup> edition. (2006). Sudbury, MA: Jones and Bartlett.~~ **(OUT OF PRINT, DIFFICULT TO ACQUIRE + EXPENSIVE)**

*Hazardous Materials Awareness and Operations, 2<sup>nd</sup> edition*. Schnepf, Rob (2016). Sudbury, MA: Jones & Bartlett.

*Hazardous Materials for First Responders, 5<sup>th</sup> edition* (2017). Stillwater, OK: Fire Protection Publications, Oklahoma State University.

*Hazardous Materials: Managing the Incident*. Chester Noll, G. G., Hildebrand, M. S., & Yvorra, J. G. (2005). MD: Red Hat Publishing Company, Inc.

*Hazardous Materials/Weapons of Mass Destruction Response Handbook, 5<sup>th</sup> edition*. Trebisacci, D. G. (2008). Quincy, MA: National Fire Protection Association.

*NFPA 472: Standard for Professional Competence of Responders to Hazardous Materials Incidents*. (2008 ed.). Quincy, MA: NFPA Publications. National Fire Protection Association

*NIOSH Pocket Guide to Chemical Hazards*. Cincinnati National Institute for Occupational Safety and Health. (Most current edition). OH: US Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health. <http://www.cdc.gov/niosh/npg/>

*Standards Manual for Fire Protection Personnel*. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

## Recommended References

The most current edition of the following publications and media are recommended (not required) supplemental material for program use.

### Texts

*Bretherick's Handbook of Reactive Chemical Hazards*. Urben, P. G., Pitt, M. J., & Bretherick, L. (2007). Amsterdam: Elsevier.

*Chlorine Emergencies: An Overview for First Responders*. Chlorine Institute. (2007). Arlington, VA: The Chlorine Institute.

*CHRIS: Chemical Hazards Response Information System*. United States. (1992). COMDTINST, M16465.11B. Washington, DC: U.S. Dept. of Transportation, U.S. Coast Guard.

*Dangerous Properties of Industrial and Consumer Chemicals*. Cheremisinoff, N. P., King, J. A., & Boyko, R. (1994). New York, NY: M. Dekker.

*Emergency Care for Hazardous Materials Exposure*. Currance, P., Bronstein, A. C., & Clements, B. (2005). St. Louis, MO: Mosby.

*Emergency Handling of Hazardous Materials in Surface Transportation*. Association of American Railroads. (2009). Washington, DC: Association of American Railroads.

*Fire Protection Guide to Hazardous Materials*. National Fire Protection Association. (2001). Quincy, MA: National Fire Protection Association.

*Hazardous Materials: Managing the Incident: Field Operations Guide*. Chester Bevelacqua, A. S., Hildebrand, M. S., & Noll, G. G. (2007). MD: Red Hat Publishing, Inc.

*Hawley's Condensed Chemical Dictionary*. Lewis, R. J., & Hawley, G. G. (2007). West Sussex, England: Wiley.

*Symbol Seeker: Hazard Identification Manual*. Burns, P. P. (2002). Preston, England: Symbol Seeker.

### Media

*Hazardous Materials Containment Series*. Action Training Systems. [4 Disc DVD Set]. Hazardous materials containment - series of 4 titles. Seattle, WA: Action Training Systems.

*Hazardous Materials: Managing the Incident DVD Series*. Massingham, G., Noll, G. G., Hildebrand, M. S., & Noll, G. G. (2005). [8 Disc DVD Set]. Edgartown, MA: Emergency Film Group.

## REFERENCE LIST FOR THE HAZARDOUS MATERIALS TECHNICIAN CURRICULUM

This Reference List is provided as a general guide for both instructors and students to locate information pertaining to the specific objectives in the TCFP Curriculum. This list is **not** all-inclusive and does not in any way limit TCFP development and use of questions to test the objectives of the curriculum:

### Required References

#### Texts

*Certification Curriculum Manual*. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

*Code of Federal Regulations, Title 29 Part 1910.120, Appendix A*. United States. U.S. Department of Labor, Occupational Safety & Health Administration.  
[http://edocket.access.gpo.gov/cfr\\_2007/julqtr/pdf/29cfr1910.120.pdf](http://edocket.access.gpo.gov/cfr_2007/julqtr/pdf/29cfr1910.120.pdf)

*Emergency Response Guidebook*. United States. (Most current edition). Washington, DC: U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration.

*Hazardous Materials: Managing the Incident*. 4<sup>th</sup> Edition. Noll, G. G., Hildebrand, M. S., Schnepf, R. & Rudner, G.D. (2014). Burlington, MA: Jones and Bartlett.

Hazardous Materials Technician, 1<sup>st</sup> Edition. (2013) Stillwater, OK: International Fire Service Training Association.

*Hazardous Materials/Weapons of Mass Destruction Response Handbook*, 6<sup>th</sup>/2013 edition. McGowan, T. (2012). Quincy, MA: National Fire Protection Association.

*NFPA 472: Standard for Professional Competence of Responders to Hazardous Materials Incidents*. (2013 ed.). Quincy, MA: NFPA Publications. National Fire Protection Association

*NIOSH Pocket Guide to Chemical Hazards*. National Institute for Occupational Safety and Health. (Most current edition). Cincinnati, OH: US Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health.

*Standards Manual for Fire Protection Personnel*. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

### Recommended References

The most current edition of the following publications and media are recommended (not required) supplemental material for program use.

#### Texts

*Bretherick's Handbook of Reactive Chemical Hazards*. Urben, P. G., Pitt, M. J., & Bretherick, L. (2007). Amsterdam: Elsevier.

*Field Guide to Tank Cars*. Bureau of Explosives. (2010). Pueblo, Colorado: Association of American Railroads.

~~*Fire Fighter's Handbook of Hazardous Materials, 7<sup>th</sup> edition*. Baker, Charles T., (2006). Sudsbury, MA: Jones and Bartlett. (OUT OF PRINT, DIFFICULT TO ACQUIRE + EXPENSIVE)~~

*Fire Protection Guide to Hazardous Materials*. National Fire Protection Association. (2010 edition). Quincy, MA: National Fire Protection Association.

*Hawley's Condensed Chemical Dictionary*. Lewis, R. J., & Hawley, G. G. (2007). West Sussex, England: Wiley.

*Hazardous Materials: Managing the Incident: Field Operations Guide*. Bevelacqua, A. 2<sup>nd</sup> Edition (2013). MD: Jones and Bartlett Publishing.

*Hazardous Materials Technician*. Weber, Chris (2013). Upper Saddle River, NJ: Pearson Education, Inc.

### Media

*Chlorine Emergencies: An Overview for First Responders*. Chlorine Institute. (2007). Arlington, VA: The Chlorine Institute.

*Hazardous Materials Containment Series*. Action Training Systems. [4 Disc DVD Set] Hazardous materials containment - series of 4 titles. Seattle, WA: Action Training Systems.

*Hazardous Materials: Managing the Incident DVD Series*. Massingham, G., Noll, G. G., Hildebrand, M. S., & Noll, G. G. (2005). [8 Disc DVD Set] Edgartown, MA: Emergency Film Group.

*How to Use the Chlorine Institute Emergency Kit "A" for 100 lb. and 150 lb. Chlorine Cylinders*. Chlorine Institute. (Sept. 2013). New York, NY: The Chlorine Institute. [DVD + pamphlet]

*How to Use the Chlorine Institute Emergency Kit "B" for Chlorine Ton Containers*. New Chlorine Institute. (Dec. 2013). York, NY: The Chlorine Institute. [DVD + pamphlet]

*How to Use the Chlorine Institute Emergency Kit "C" for Chlorine Tank Cars and Tank Trucks*. Chlorine Institute. (Feb. 2014). New York, NY: The Chlorine Institute. [DVD + pamphlet]

*Intermodal Containers*. Noll, G. G., Hildebrand, M. S., & Donahue, M. L. (2002). [DVD] Edgartown, MA: Emergency Film Group.

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**12. 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: 04/26/2018**

**Agenda Item #: 12**

**Agenda Title: Chapter 433, Driver/Operator**

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

***Origin of Item: Staff***

### **1. INTRODUCTION/PURPOSE**

This is to delete language allowing personnel to challenge the commission examination for Driver/Operator-Aerial during the first year the certification was being offered.

### **2. DESCRIPTION/ JUSTIFICATION**

The allowance above will expire on May 18, 2018. Final adoption of the deleted language will occur in the July commission meeting.

### **3. BUDGET IMPACT**

No impact is anticipated.

### **4. TIMELINE CONSIDERATIONS**

Propose 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.

**13. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 435, Fire Fighter Safety.**



## Texas Commission on Fire Protection Agenda Item Summary

**MEETING: Commission**  
**DATE: 04/26/2018**

**Agenda Item #:** 13

**Agenda Title:** Chapter 435, Fire Fighter Safety

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

**Origin of Item:** *Staff and committee*

### 1. INTRODUCTION/PURPOSE

Consideration of proposed language regarding care/maintenance of protective clothing for fire protection personnel.

### 2. DESCRIPTION/ JUSTIFICATION

The proposed language expands the requirements for departments to provide clean protective clothing to on-duty fire protection personnel, including the development of a standard operating procedure for the provision.

### 3. BUDGET IMPACT

No impact to TCFP is anticipated. The budget impact to local fire departments is undetermined.

### 4. TIMELINE CONSIDERATIONS

Propose for publication to the Texas Register for public comment

### 5. RECOMMENDATION

Recommendation from ad hoc committee to publish the proposed rules. No recommendation from staff.

### 6. REFERENCES

37 TAC, Chapter 435, Fire Fighter Safety

## CHAPTER 435

### FIRE FIGHTER SAFETY

#### §435.1. Protective Clothing.

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;
- (2) ensure that all protective clothing which are 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
- (3) maintain, ~~and~~ provide ~~to~~~~[upon request by]~~ the commission, **and comply with** 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. **The standard operating procedure must include, but shall not be limited to:**
  - (a) a requirement that each fire fighter perform a routine inspection of his or her protective clothing after each use;**
  - (b) a requirement that an advanced inspection be performed on each set of protective clothing by the manufacturer, a manufacturer trained organization, a verified organization, a verified independent service provider, or a member of the department trained by the manufacturer or a verified independent service provider at a minimum of every 12 months, or whenever routine inspections indicate that a problem could exist;**
  - (c) a requirement that the fire department provide a means for cleaning and decontaminating protective clothing;**
  - (d) a requirement that routine cleaning of protective clothing be performed by fire fighters any time a routine inspection reveals soiling or contamination that can be remedied by spot cleaning; and**
  - (e) a requirement that advanced cleaning performed on each set of protective clothing by the manufacturer, a manufacturer trained organization, a verified organization, a verified independent service provider, or a member of the department trained by the manufacturer or a verified independent service provider at the time of advanced inspection if not subjected to advanced cleaning in the preceding 12 months, or whenever an inspection reveals soiling or contamination that cannot be remedied by spot cleaning.**
- (4) 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.

### **§435.3. Self-Contained Breathing Apparatus.**

The employing entity shall:

- (1) purchase, provide, and maintain a complete self-contained breathing apparatus for each on-duty fire protection personnel who engage in operations where IDLH atmospheres may be encountered, where the atmosphere is unknown or would be exposed to hazardous atmospheres from fire or other emergencies or where the potential for such exposure exists;
- (2) ensure that all self-contained breathing apparatus used by fire protection personnel complies with the minimum standards of the National Fire Protection Association identified in NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters;
  - (A) the National Fire Protection Association standard applicable to a self-contained breathing apparatus is the standard in effect at the time the entity contracts for new, rebuilt, or used self-contained breathing apparatus;
  - (B) an entity may continue to use a self-contained breathing apparatus in use or contracted for before a change in the National Fire Protection Association standard, unless the commission determines that the continued use of the self-contained breathing apparatus constitutes an undue risk to the wearer, in which case the commission shall order that the use be discontinued and shall set an appropriate date for compliance with the revised standard;
- (3) develop an air quality program that complies with the most recent edition of the NFPA 1989 Standard on Breathing Air Quality for Emergency Services Respiratory Protection;
- (4) maintain and supply upon request by the commission, records and reports documenting compliance with commission requirements concerning self-contained breathing apparatus and breathing air. Records of all tests shall be made and the records shall be retained for a period of no less than three years;
- (5) maintain and provide upon request by the commission, a departmental standard operating procedure regarding the use of self-contained breathing apparatus; and
- (6) maintain and provide upon request by the commission, a department standard operating procedure regarding the selection, care, and maintenance of self-contained breathing apparatus that complies with the most recent edition of the NFPA 1852 Standard on Selection, Care, and Maintenance of Open-Circuit Self-Contained Breathing Apparatus (SCBA).

### **§435.5. Commission Recommendations.**

The commission recommends that all employing entities use as a guide the following publications:

- (1) NFPA 1403 "Live Fire Training Evolutions";
- (2) NFPA 1500 "Fire Department Occupational Safety and Health Program;"
- (3) IAFF/IAFC - "Fire Service Joint Labor Management Wellness-Fitness Initiative."

### **§435.7. Fire Department Staffing Studies.**

- (a) Section 419.022(a)(4) Texas Government Code provides that the commission may on request, assist in performing staffing studies of fire departments. Staffing studies must take into consideration all the objectives and missions of the fire department. Many staffing studies have been developed that can be used to assist in evaluating the needs of a fire department.

- (b) A city should ultimately decide on the level of fire protection it is willing to provide to its citizens. The city and fire department should, as a minimum, address the needs of prevention, investigation and suppression as outlined in the appropriate National Fire Protection Association Standards. That decision should be based on facts, the safety of its citizens, and the safety of the fire fighters providing that protection.
- (c) The commission will assist by maintaining information pertinent to fire department staffing. The information shall be maintained in the Ernest A. Emerson Fire Protection Resource Library at the commission. Copies shall be made available, free of charge, to anyone requesting such information to the extent permitted by copyright laws.

**§435.9. Personal Alert Safety System (PASS).**

The employing entity shall:

- (1) purchase, provide, and maintain a PASS device for each on duty fire protection personnel who engage in operations where IDLH atmospheres may be encountered, or where the atmosphere is unknown, or where hazardous conditions from fire or other emergencies exist, or where the potential for such exposure exists;
- (2) ensure that all PASS devices used by fire protection personnel comply with the minimum standards of the National Fire Protection Association identified in NFPA 1982, Standard on Personal Alert Safety Systems (PASS) for Fire Fighters:
  - (A) the National Fire Protection Association standard applicable to a PASS device is the standard in effect at the time the entity contracts for new, rebuilt, or used PASS devices;
  - (B) an entity may continue to use a PASS device that meets the requirements of an earlier edition of NFPA 1982, unless the commission determines that the continued use of the PASS device constitutes an undue risk to the wearer, in which case the commission shall order that the use be discontinued and shall set an appropriate date for compliance with the revised standard;
- (3) ensure that the PASS device assigned to an individual user be inspected at the beginning of each duty period and before each use.
- (4) maintain and provide upon request by the commission, a departmental standard operating procedure regarding the proper use, selection, care and maintenance of PASS devices.

**§435.11. Incident Management System (IMS).**

- (a) The fire department shall develop, maintain and use an incident management system.
- (b) The incident management system shall:
  - (1) include a written operating procedure for the management of emergency incidents;
  - (2) require that the IMS be used at all emergency incidents;
  - (3) require operations to be conducted in a manner that recognizes hazards and assists in the prevention of accidents and injuries;
  - (4) require that all fire protection personnel be trained in the use of the IMS; and
  - (5) require that the IMS be applied to all drills, exercises and all other situations that involve hazards similar to those encountered at an actual emergency.

- (c) The IMS shall meet the requirements of the applicable sections of the NFPA 1561, Standard on Fire Department Incident Management System.
- (d) The commission recommends departments follow the National Incident Management System (NIMS) when developing their incident management system.

**§435.13. Personnel Accountability System.**

- (a) The fire department shall develop, maintain and use a personnel accountability system that provides for a rapid accounting of all personnel at an emergency incident.
- (b) The accountability system shall:
  - (1) require all fire protection personnel be trained in the use of the accountability system;
  - (2) require that the fire protection personnel accountability system be used at all incidents;
  - (3) require that all fire protection personnel operating at an emergency incident to actively participate in the personnel accountability system; and
  - (4) require that the incident commander be responsible for the overall personnel accountability system for the incident.
- (c) The fire department shall be responsible for developing the system components required to make the personnel accountability system effective.
- (d) The personnel accountability system shall meet the minimum standards required by the National Fire Protection Association 1561, Standard on Fire Department Incident Management System. If the standard is revised, the fire department shall have one (1) year from the effective date of the new standard to comply.

**435.15. Operating At Emergency Incidents.**

- (a) The fire department shall develop, maintain and use a standard operating procedure for fire protection personnel operating at emergency incidents.
- (b) The standard operating procedure shall:
  - (1) specify an adequate number of personnel to safely conduct emergency scene operations;
  - (2) limit operations to those that can be safely performed by personnel at the scene;
  - (3) require all personnel to be trained in and use the standard operating procedures; and
  - (4) comply with §435.17 (Procedures for Interior Structural Fire Fighting).
- (c) The fire department may use standards established by the National Fire Protection Association for fire protection personnel operating at an emergency incident.

**§435.17. Procedures for Interior Structural Fire Fighting (2-In /2-Out Rule).**

- (a) The fire department shall develop written procedures that comply with the Occupational Safety and Health Administration's Final Rule, 29 CFR Section 1910.134(g)(4) by requiring:

- (1) a team of at least four fire protection personnel must be assembled before an interior fire attack can be made when the fire has progressed beyond the incipient stage;
  - (2) at least two fire protection personnel to enter the IDLH atmosphere and remain in visual or voice (not radio) contact with each other;
    - (A) Visual means that the fire protection personnel must be close enough to see each other.
    - (B) Voice means that the fire protection personnel of the entry team must be close enough to speak to one another without the use of radios.
  - (3) at least two fire protection personnel remain located outside the IDLH atmosphere to perform rescue of the fire protection personnel inside the IDLH atmosphere;
  - (4) all fire protection personnel engaged in interior structural fire fighting use self-contained breathing apparatus and be clothed in a complete set of protective clothing as identified in Chapter 435;
  - (5) all fire protection personnel located outside the IDLH atmosphere be equipped with appropriate retrieval equipment where retrieval equipment would contribute to the rescue of the fire protection personnel that have entered the IDLH atmosphere;
  - (6) one of the outside fire protection personnel must actively monitor the status of the inside fire protection personnel and not be assigned other duties. The second outside fire protection personnel may be assigned to an additional role, including, but not limited to, incident commander, safety officer, driver-operator, command technician or aide, or fire fighter/EMS personnel, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any fire protection personnel working at the scene;
  - (7) the fire protection personnel outside the IDLH atmosphere must remain in communication (including, but not limited to, radio) with the fire protection personnel in the IDLH atmosphere. Use of a signal line (rope) as a communications instrument for interior fire fighting is not permitted by the commission. This does not preclude the use of rescue guide ropes (guide line or lifeline or by what ever name they may be called) used during structural searches; and
  - (8) each outside fire protection personnel must have a complete set of protective clothing and self-contained breathing apparatus, as identified in Chapter 435, immediately accessible for use if the need for rescue activities inside the IDLH atmosphere is necessary.
- (b) The fire department shall comply with the 2-in/2-out rule as described in this section except in an imminent life-threatening situation when immediate action could prevent the loss of life or serious injury before the team of four fire protection personnel are assembled.

#### **§435.19. Enforcement of Commission Rules.**

- (a) The commission shall enforce all commission rules at any time, including, but not limited to, commission investigations, fire department inspections, or upon receiving a written complaint from an identified person or entity of an alleged infraction of a commission rule.
- (b) The commission shall not provide prior notification of an inspection to a fire department.
- (c) Upon receipt of a signed complaint alleging a violation of a commission rule, the commission shall have 30 days to initiate an investigation and report back to the complainant its progress.
- (d) Upon substantiating the validity of a written complaint, the commission shall follow the procedures outlined in Texas Government Code, Chapter 419, §419.011(b) and (c).

**§435.21. Fire Service Joint Labor Management Wellness-Fitness Initiative.**

- (a) A fire department shall assess the wellness and fitness needs of the personnel in the department. The procedure used to make this assessment shall be written and made available for Commission inspection.
- (b) A fire department shall develop and maintain a standard operating procedure to address those needs.
- (c) The approach to the fitness needs of the department shall be based on the local assessment and local resources.
- (d) The standard operating procedure shall be made available to the Commission for inspection.

**§435.23. Fire Fighter Injuries.**

- (a) A fire department shall report all Texas Workers' Compensation Commission reportable injuries that occur to on-duty regulated fire protection personnel on the Commission form.
- (b) Minor injuries are those injuries that do not result in the fire fighter missing more than one duty period or does not involve the failure of personal protective equipment. Minor injuries shall be reported within 30 business days of the injury event.
- (c) Major injuries are those that require the fire fighter to miss more than one duty period. Major injuries shall be reported within five business days of the injury event.
- (d) Investigatable injuries are those resulting from the malfunction of personal protective equipment, failure of personal protective equipment to protect the fire fighter from injury, or injuries sustained from failure to comply with any provision of Commission mandated department SOPs. Investigatable injuries shall be reported within five business days of the injury event.
- (e) The regulated entity shall secure any personal protective equipment involved in a fire fighter injury and shall be made available to the Commission for inspection.

**§435.25. Courage to be Safe So Everyone Goes Home Program.**

- (a) In an effort to improve firefighter safety in the State of Texas, all regulated entities will ensure that the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program be completed as part of the continuing education required for certified fire protection personnel by. Individuals will be credited with four hours of continuing education credit for completing this program.
- (b) All fire protection personnel will be required to complete the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program training within one year following appointment to a fire department if the individual has not previously completed the program.
- (c) Departments will report the completion of training through the commission's web based reporting system.
- (d) Failure to complete the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program before the required deadlines will be considered a violation of continuing education rules found in Chapter 441 of this title (relating to Continuing Education).

### **§435.27. Live Fire Training Structure 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 Structure Evolutions conducted.

- (1) The officer in charge or instructor will ensure that the water supply rate and duration for each individual Live Fire Training Structure Evolution is adequate to control and extinguish the training fire, the supplies necessary for backup lines to protect personnel, and any water needed to protect exposed property.
- (2) The instructor-in-charge shall assign the following personnel:
  - (A) One instructor to each functional crew, which shall not exceed five students.
  - (B) One instructor to each backup line.
  - (C) Additional personnel to backup lines to provide mobility.
  - (D) One additional instructor for each additional functional assignment.
- (3) The officer in charge or 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 Structure Evolutions. The safety officer shall have the authority, regardless of rank, to alter, suspend or 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.
- (5) No person(s) shall play the role of a victim inside the building.
- (6) 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.
- (7) 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.
- (8) A standard operating procedure shall be developed and utilized for Live Fire Training Structure 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 all participating in live fire training and shall meet the requirements in §435.9 of this title (relating to Personal Alert Safety System (PASS));
  - (B) a Personnel Accountability System that complies with §435.13 of this title (relating to Personnel Accountability System) 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

(F) pre-burn, burn and post-burn procedures.

**§435.29. Federal Highway Administration Traffic Incident Management Program.**

- (a) In an effort to improve firefighter safety in the State of Texas, all regulated entities will ensure that the Federal Highway Administration Traffic Incident Management program or an equivalent course that is approved by the commission be completed as part of the continuing education required for certified fire protection personnel by December 1, 2020. Individuals will be credited with four hours of continuing education credit for completing this program.
- (b) All regulated fire protection personnel must complete the Federal Highway Administration Traffic Incident Management program or an equivalent course that is approved by the commission prior to December 1, 2020.
- (c) All fire protection personnel appointed after December 1, 2020 will be required to complete the Federal Highway Administration Traffic Incident Management program training or an equivalent course that is approved by the commission within one year of appointment to a fire department.
- (d) Departments will report the completion of training through the commission's web based reporting system.
- (e) Failure to complete the Federal Highway Administration Traffic Incident Management program or an equivalent course that is approved by the commission before the required deadline will be considered a violation of continuing education rules found in Chapter 441 of this title (relating to Continuing Education).

**14. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 439, Examinations for Certification.**



## Texas Commission on Fire Protection Agenda Item Summary

**MEETING: Commission**  
**DATE: 04/26/2018**

**Agenda Item #:** 14

**Agenda Title:** Chapter 439, Examinations for Certification

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

**Origin of Item:** *Staff and committee*

### 1. INTRODUCTION/PURPOSE

Various rule amendments pursuant to review of Chapter 439

### 2. DESCRIPTION/ JUSTIFICATION

Some of the changes update language in the chapter to be more in line with the current system and practices. Some language was added to address issues encountered by testing staff, or during inspections of training programs by compliance personnel.

### 3. BUDGET IMPACT

No impact is anticipated

### 4. TIMELINE CONSIDERATIONS

Propose for publication to Texas Register for public comment

### 5. RECOMMENDATION

Recommend publication

### 6. REFERENCES

37 TAC, Chapter 439, Examinations for Certification

## CHAPTER 439

### EXAMINATIONS FOR CERTIFICATION

#### SUBCHAPTER A

#### EXAMINATIONS FOR ON-SITE DELIVERY TRAINING

##### **§439.1. Requirements—General.**

- (a) The administration of examinations for certification, including performance skill evaluations, shall be conducted in compliance with commission rules and; as applicable, with:
  - (1) International Fire Service Accreditation Congress (IFSAAC) regulations; or
  - (2) National Board on Fire Service Professional Qualifications (Pro Board) regulations for examinations administered by the Texas A&M Engineering Extension Service. Only Pro Board examinations administered by the Texas A&M Engineering Extension Service will be accepted by the commission for certification. In order for a Pro Board document to be accepted for certification, it must:
    - (A) List the commission issued course approval number for which the examination was conducted;
    - (B) Indicate that the examination was conducted in English; and
    - (C) List any special accommodations provided to the examinee. The commission may not issue a certificate for an examination conducted under special accommodations other than those specified in §439.13 of this title (relating to Special Accommodations for Testing).
- (b) It is incumbent upon commission staff, committee members, training officers and field examiners to maintain the integrity of the state certification examination process (or portion thereof) for which they are responsible.
- (c) The commission shall reserve the authority to conduct an annual review of Pro Board examinations, procedures, test banks, and facilities utilized by the Texas A&M Engineering Extension Service. The commission may also conduct a review at any time for cause and as deemed necessary to ensure the integrity of the certification examination process.
- (d) Exams will be based on the job performance requirements and knowledge and skill components of the applicable NFPA standard for that discipline, if a standard exists and has been adopted by the commission. If a standard does not exist or has not been adopted by the commission, the exam will be based on curricula as currently adopted in the commission's Certification Curriculum Manual.
- (e) Commission examinations that receive a passing grade shall expire two years from the date of the examination.
- (f) An examination for Basic Structure Fire Protection shall consist of four sections: Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness Level, and Hazardous Materials Operations Level including the Mission-Specific Competencies for Personal Protective Equipment and Product Control. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.
- (g) An examination for Basic Fire Inspector shall consist of three sections: Inspector I, Inspector II, and Plan Examiner I. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.

- (h) An examination for Basic Structure Fire Protection and Intermediate Wildland Fire Protection shall consist of five sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, First Responder Operations, and Intermediate Wildland Fire Protection. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.
- (i) All other state examinations consist of only one section.
- (j) The individual who fails to pass a commission examination for state certification will be given one additional opportunity to pass the examination or section(s) thereof. This opportunity must be exercised within 180 days after the date of the first failure. An examinee who fails to pass the examination within the required time may not sit for the same examination again until the examinee has re-qualified by repeating the curriculum applicable to that examination.
- (k) An individual may obtain a new certificate in a discipline which was previously held by passing a commission proficiency examination.
- (l) If an individual who has never held certification in a discipline defined in §421.5 of this title (relating to Definitions), seeks certification in that discipline, the individual shall complete all certification requirements.
- (m) If an individual completes a commission approved training program, or a program that has been evaluated and deemed equivalent to a certification curriculum approved by the commission, such as an out-of-state or military training program or a training program administered by the State Firemen's and Fire Marshals' Association of Texas, the individual may use only one of the following examination processes for certification:
- (1) pass a commission examination; or
  - (2) submit documentation of the successful completion of the Pro Board examination process administered by the Texas A&M Engineering Extension Service; and
  - (3) meet any other certification requirements in order to become eligible for certification as fire protection personnel.
- (4) An individual cannot use a combination of the two examination processes in this subsection from a single commission approved class for certification. An individual who chooses to submit to the commission examination process may not utilize the other process toward certification.
- (n) An individual or entity may petition the commission for a waiver of the examination required by this section if the person's certificate expired because of the individual's or 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. All required renewal fees including applicable late fees and all required continuing education must be submitted before the waiver request may be considered.
- (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, ruling or agreement restoring the applicant to employment.

### **§439.3. Definitions.**

The following words and terms, when used in this chapter, have the following definitions unless the context clearly indicates otherwise.

- (1) Certificate of Completion--A statement by the provider of training certifying that an individual has successfully completed a commission-approved certification curriculum or phase program for a particular discipline, including having been evaluated by field examiners on performance skills identified by the commission. The certificate of completion qualifies an individual to take an original certification examination. The certificate expires two years from the date of completion. If an individual does not take the certification examination prior to the expiration of the certificate of completion, he or she must again complete the curriculum in order to obtain a new certificate of completion.
- (2) Curriculum--The competencies established by the commission as a minimum requirement for certification in a particular discipline.
- (3) Designee--An entity or individual approved by commission staff to administer commission certification examinations and/or performance skills in accordance with this chapter.
- (4) Eligibility--A determination of whether or not an individual has met the requirements set by the commission and would therefore be allowed to take a commission examination.
- (5) Endorsement of eligibility--A statement testifying to the fact that an individual has met all requirements specified by the commission and is qualified to take a commission examination. An endorsement of eligibility will be issued by a member of the commission staff.
- (6) Examination--A state test which an examinee must pass as one of the requirements for certification.
- (7) Examinee--An individual who has met the commission requirements and therefore qualifies to take the commission examination.
- (8) Field examiner--An individual authorized to evaluate performance skills in commission approved curricula. The field examiner must possess a Fire Instructor Certification or other instructor qualification as allowed by §427.307(h) and (i) of this title (relating to On-Site and Distance Training Provider Staff Requirements) for Wildland courses only, complete the on-line commission field examiner course, and sign an agreement to comply with the commission's testing procedures. The field examiner must be approved by the commission to instruct all subject areas identified in the curriculum that he or she will be evaluating. The field examiner must repeat the examiner course every two years and submit a new Letter of Intent.
- (9) Lead Examiner--A member of the commission staff or a designee who has been assigned by the commission to administer a commission examination.
- (10) Letter of Intent--A statement, signed by an individual applying to the commission for field examiner status, that he or she is familiar with the commission's examination procedures, and agrees to abide by the policies and guidelines as set out in Chapter 439 of this title (relating to Examinations for Certification).
- (11) Sectional examination—A test that covers one section of a multiple section examination.

### **§439.5. Procedures.**

- (a) Procedures for conducting examinations are determined by the commission.

- (b) All application processing fees due to the commission must be paid in a timely manner. Late payments shall be assessed a late fee in accordance with §437.13 of this title (relating to Processing Fees for Test Application).
- (c) Each examination must be administered by a lead examiner.
- (d) The lead examiner must:
  - (1) ensure that the tests remain secure and that the examination is conducted under conditions warranting honest results;
  - (2) monitor the examination while in progress;
  - (3) control entrance to and exit from the test site;
  - (4) assign or re-assign seating; and
  - (5) bar admission to or dismiss any examinee who fails to comply with any of the applicable provisions of this chapter.
- (e) All official grading and notification must come from the commission or its designee. The preliminary test results shall be made available within seven (7) business days after completion of the examination.

**§439.7. Eligibility.**

- (a) An examination may not be taken by an individual who currently holds an active certificate from the commission in the discipline to which the examination pertains, unless required by the commission in a disciplinary matter, or test scores have expired and the individual is testing for IFSAC seals.
- (b) An individual who passes an examination and is not certified in that discipline, will not be allowed to test again if the original examination grade is still active, unless required by the commission in a disciplinary matter.
- (c) In order to qualify for a commission examination, the examinee must:
  - (1) meet or exceed the minimum requirements set by the commission as a prerequisite for the specified examination;
  - (2) submit a test application [~~with documentation showing completion of a commission approved curriculum and~~, **meet** any other prerequisite requirements, **and submit** [~~along with~~] the appropriate application processing fee(s).
  - (3) receive from the commission an "Endorsement of Eligibility" letter and provide this letter to the lead examiner.
  - (4) bring to the test site, and display upon request, **a current and valid** government issued identification which contains the name and photograph of the examinee;
  - (5) report on time to the proper location; and
  - (6) comply with all the written and verbal instructions of the lead examiner.
- (d) No examinee shall be permitted to:

- (1) violate any of the fraud provisions of this section;
  - (2) disrupt the examination;
  - (3) bring into the examination site any books, notes, or other written materials related to the content of the examination;
  - (4) refer to, use, or possess any such written material at the examination site;
  - (5) give or receive answers or communicate in any manner with another examinee during the examination;
  - (6) communicate at any time or in any way, the contents of an examination to another person for the purpose of assisting or preparing a person to take the examination;
  - (7) steal, copy, or reproduce any part of the examination;
  - (8) engage in any deceptive or fraudulent act either during an examination or to gain admission to it;
  - (9) solicit, encourage, direct, assist, or aid another person to violate any provision of this section; or
  - (10) bring into the examination site any electronic devices.
- (e) No person shall be permitted to sit for any commission examination who has an outstanding debt owed to the commission.

**§439.9. Grading.**

- (a) If performance skills are required as a part of the examination, the examinee must demonstrate performance skill objectives in a manner consistent with performance skill evaluation forms provided by the Commission. The evaluation format for a particular performance skill will determine the requirements for passage of the skill. Each performance skill evaluation form will require successful completion of one of the following formats:
- (1) all mandatory tasks; or
  - (2) an accumulation of points to obtain a passing score **as indicated on the skill sheet** ~~of at least 70%~~; or
  - (3) a combination of both paragraphs (1) and (2) of this subsection.
- (b) The minimum passing score on each **written** examination or section thereof shall be 70%. This means that 70% of the total possible active questions must be answered correctly. The commission may, at its discretion, invalidate any question.
- (c) If the commission invalidates an examination score for any reason, it may also, at the discretion of the commission, require a retest to obtain a substitute valid test score.

**§439.11. Commission-Designated Performance Skill Evaluations.**

- (a) The commission-designated performance evaluations are randomly selected from each subject area within the applicable curriculum containing actual skill evaluations. This applies only for curricula in which performance standards have been developed.

- (b) ~~The~~ **The** training provider shall test the commission designated performance skills for competency. The skill evaluations may only take place after all training on the identified subject area has been completed. The date(s), time(s) and location(s) for the commission designated skill evaluations must be submitted on the commission designated skill schedule contained within the Training Prior Approval system. The commission must be notified immediately of any deviation from the submitted commission designated skill schedule. All skills must be evaluated by a commission approved field examiner. **The individual who served as the instructor of a particular subject may not evaluate the performance skill for that subject.**
- (c) In order to qualify for the commission certification examination, the student must successfully complete and pass all designated skill evaluations. The student may be allowed two attempts to complete each skill. A second failure during the evaluation process will require remedial training in the failed skill area with a certified instructor before being allowed a third attempt. A third failure shall require that the student repeat the entire certification curriculum.
- (d) If performance skill evaluations are not conducted for a student during the course of instruction, they must be conducted within ninety days (90) following the end date of the course. **In a case such as this the training provider must also obtain a new set of commission designated skills for which to evaluate the student; the provider may not use the same set of skills provided during the original course of instruction.** If performance skill evaluations are not conducted within the ninety day (90) period, the student must repeat the course. The ninety (90) day period may be extended for students who were unable to complete their performance skill evaluations due to injury, illness, military commitment, or other situation beyond their control.
- (e) The training facility must maintain records (electronic or paper) of skills testing on each examinee. **Test results must be recorded and saved on the applicable performance skill sheets provided in the commission Curriculum Skills Manual, and must include all information called for on the skill sheet.** ~~The records must reflect the results of the evaluation of skills, the dates the evaluation of skills took place, and the names of the field examiners who conducted the evaluations.~~
- (f) For certification disciplines in which an IDLH environment may exist, all skill testing participants shall have available for use NFPA compliant PPE and SCBA as defined in §435.1 of this title (relating to Protective Clothing) and §435.3 of this title (relating to Self-Contained Breathing Apparatus).

#### **§439.13. Special Accommodations for Testing.**

- (a) Special accommodation testing is for those individuals that have a documented disability which may hamper their success on a Texas Commission on Fire Protection written examination. Some accommodations that can be allowed are:
- (1) A testing room to oneself (examinee is allowed to read the questions out loud to him or herself). To accommodate the request the examinee will have to test in the Commission's Austin headquarters location or any location deemed appropriate by the Commission.
  - (2) The test to be split in two with up to an hour break in between (no access to the first half of the examination will be allowed during or after the break). To accommodate the request the examinee will have to test in the commission's Austin headquarters location or any location deemed appropriate by the Commission.
  - (3) The questions to be printed in a larger font (approximately 7% larger).
  - (4) The test to be copied on off-white paper (i.e., cream colored).
  - (5) The use of highlighters or a highlighter sheet.

- (6) Any requests that changes the condition of the examination or the examination process.
- (b) If the applicant is seeking a special accommodation test, the applicant must submit written documentation of the disability and a written statement as to which of the allowable accommodations is being requested. The applicant may ask for accommodations not listed above. The request will be reviewed and the applicant will receive a written response regarding the Commission's position on the request.

**§439.19. Number of Test Questions.**

- (a) Each examination may have two types of questions: pilot and active. Pilot questions are new questions placed on the examination for statistical purposes only. These questions do not count against an examinee if answered incorrectly.
- (b) The number of questions on an examination, sectional examination, or retest will be based upon the specific examination, or number of recommended hours for a particular curriculum or section as shown in the table below. Any pilot questions added to an examination, sectional examination, or retest will be in addition to the number of exam questions.

Figure: 37 TAC §439.19(b)

Examination	Section	Number of Exam Questions	Maximum Possible Number of Pilot Questions	Time Allowed
Basic Structure FP	Hazardous Materials Awareness	25		
	Hazardous Materials Operations	25		
	Firefighter I	100		
	Firefighter II	75		
	TOTAL	225	25	4.5 Hours
Basic Fire Inspector	Inspector I	50		
	Inspector II	50		
	Plan Examiner I	50		
	TOTAL	150	25	3.0 Hours
Basic Structure FP/ Intermediate Wildland FP	Hazardous Materials Awareness	25		
	Hazardous Materials Operations	25		
	Firefighter I	100		
	Firefighter II	75		
	Intermediate Wildland FP	25		
	TOTAL	250	25	5.0 Hours
<b>FOR ALL OTHER EXAMINATIONS, SECTIONAL EXAMINATIONS, AND RETESTS</b>				
	Recommended Hours	Number of Exam Questions	Maximum Possible Number of Pilot Questions	Time Allowed
IF THE RECOMMENDED HOURS FOR THE CURRICULUM OR SECTION IS:	Less than 30	25	5	30 Minutes
	31 to 100	50	5	1.0 Hour
	101 to 200	75	10	1.5 Hours
	201 to 300	100	15	2.0 Hours
	301 to 400	125	20	2.5 Hours
	401 or More	150	25	3.0 Hours

## CHAPTER 439

### EXAMINATIONS FOR CERTIFICATION

#### SUBCHAPTER B

### EXAMINATIONS FOR DISTANCE TRAINING

#### **§439.201. Requirements—General.**

The examination requirements for those completing distance training shall be the same as those in Subchapter A of this chapter, except as noted in this subchapter.

#### **§439.205. Performance Skill Evaluation.**

If the performance skill portion of a state exam is to be evaluated by an approved field examiner who will not observe the completion of the skill while in the immediate physical presence of the examinee, a letter of assurance from the candidate's training officer or fire chief is required stating that the fire department assures the integrity of the evaluation procedure. If the candidate is not a member of a fire department, then a certified fire instructor, fire chief, or training officer may provide a letter of assurance that meets the requirements of this section. The provider of distance training is required to keep a record of this assurance and provide it to the commission upon request.

**15. Discussion and possible action regarding the addition of classes or courses to the A List and B List for higher levels of certification.**

**Proposed Additions to A & B List**

<b>A List Course:</b>	<b>Course #</b>	<b>Provider</b>	<b>Length</b>
Fire & Life Safety Educator I	N/A	TCFP approved	48 hours
Managing Officers: Motivation And Productivity (Online)	M0299	NFA	40 hours
Hot Topics Research in Fire & Life Safety (Online)	M0566	NFA	48 hours

<b>B List Course:</b>	<b>Course #</b>	<b>Provider</b>	<b>Length</b>
Challenges for the Future I: Community, Political Landscape, and Workforce M0562 (Online)	M0562	NFA	4 hours
Challenges for the Future II: Technology (Online)	M0563	NFA	4 hours
Challenges for the Future III: Health Care & EMS (Online)	M0564	NFA	4 hours
Traffic Incident Management Courses	N/A	Various	4 hours

**16. Discussion and possible action on request from Chief Danny Kistner regarding the appointment of an ad hoc committee on Health and Wellness.**

OFFICE OF THE FIRE CHIEF



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March 12, 2018

Commissioner Robert Moore  
Presiding Officer  
Texas Commission on Fire Protection  
PO Box 2286  
Austin, TX 78768-2286

*FE: Future agenda items*

Commissioner Moore,

Respectfully, I am requesting to appear before the Commission to present and ask for consideration of appointing a separate Health and Wellness Committee as the Commission is authorized to do under Section 419.008 (f) of the Government Code.

Currently, and with the exception of the Injury Reporting Program ad hoc and the Curriculum and Testing Committee, the Fire Advisory Board is the sole entity charged with providing recommendation to the Commission on a broad range of fire service related issues.

As testimony in the past several Commission meetings can attest, firefighter health and wellness is a significant topic for discussion now and into the future. A separate Committee evaluating only firefighter health and wellness issues provides for a targeted group to identify and evaluate emerging issues that may be impacted by existing or future regulation.

Such a group may provide clarity to emerging issues such as contamination of PPE, exposure to environmental hazards in the workplace and on the fireground, firefighter physicals and health monitoring, physical conditioning and cardiovascular health, and others.

Both the Texas Fire Chief's Association and the State Fireman and Fire Marshal's Association have committees assigned to these topics and provide recommendation for best practice, as does the International Association of Fire Chief's.

I am proud of what we have in Texas with the Texas Commission on Fire Protection and hope we can make this addition to keep pace with a developing industry.

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read "Danny Kistner".

Danny Kistner

**17. Discussion and possible action on matters from the Executive Director.**

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

**17. Discussion and possible action on matters from the Executive Director.**

**B. Status of division functions.**

# Commission Report, 2<sup>nd</sup> Quarter FY2018

## Overview and Executive Office

The second quarter of FY2018 brought an extremely busy and challenging time for the agency.

The initial launch of the agency's new data management system occurred on January 2<sup>nd</sup>. The system was new in every respect: the database; the programming; and the user interface. Although the database and overlying programming functioned as intended, numerous problems cropped up with the user interface. Unfortunately, most of the problems experienced were by fire department administrators and individuals outside the agency.

Actions were initiated immediately in an attempt to fix the problems that were occurring. However, the problems were determined to be so extensive that the decision was made to quickly build another interface for users outside the agency. This interface was launched in a basic form in mid-February, and it immediately functioned better than the first. Enhancements and improvements continue to be made to the program as problems are identified or the agency receives improvement feedback from users.

Both testing and certification issuance remained at high levels for the quarter. Testing volume continued at an all-time high. Certificate issuance also saw a steady increase continuing from 2015. Both testing for, and issuance of the recently-adopted Driver/Operator – Aerial certification increased significantly during the quarter. The overall pass rate for exams continues to be impacted as a result of the rule requirements (adopted 1/1/2017) calling for examinees to pass all sections of the Structural FP and Fire Inspector exams to qualify for state certification. However, it does appear that training facilities are making the necessary adjustments to their programs in order to improve their own pass rates. Currently the planned launch date for online delivery of state certification exams is May 1<sup>st</sup>. The initial launch will occur with a limited number of disciplines, slowly expanding to a full offering as the program demonstrates success, and work on remaining test banks is completed.

Staff continued with its general review of all agency rules began during the quarter, as required by the Secretary of State. The review is required to ensure that agency rules remain valid and up-to-date. Staff will bring recommended rule changes to the commission as needed.

Meetings, other activities of the Executive Office for the quarter:

- December 11: Annual TIFMAS stakeholders meeting, TDEM offices
- December 12: Texas Fire Chief's Association north regional meeting, Rowlett
- February 23-28: Annual Fire Chief's Conference, Austin
- February 28: Meeting regarding fire fighter career ending injuries

## Commission Quarterly Report

### Training Approval and Testing Section

- **Test Administration, Training Approvals, Record Reviews, and Training Audits Statistics – 2nd Quarter, FY 2018**
  - Test Administration – 2779 exams were administrated during this quarter with a pass rate of 85.21%.
  - Training Approvals – Total of 577 training approvals were submitted with start dates during this quarter in the commission’s Training Facility Management System.
  - Record Reviews – Thirty-one (31) record reviews for equivalency were conducted. One hundred nine (109) Qual #s was issued in the Training Facility Management System.
  - Training and Skill Testing Audits – No online training audits were conducted during the 2<sup>nd</sup> quarter due to the launch of new data system.
- **Activities for the Next Quarter**
  - Continue to work with IT staff resolve any remaining issues encountered with test scheduling procedures, payment processes, and web-based testing. The online application and payment process is now available.
  - Continue to assist training providers with resolving issues created with the launch of the new system.

## Certification, Renewal and Curriculum 2nd Quarter Report, FY 2018

### Certification/Renewal

- 1266 IFSAC seals issued
- 238 training facilities renewed
- 32,381 total active professional certifications

### Curriculum Development

December 2017 – February 2018

#### Meetings

Dec. 4-5: Fire and Life Safety Educator ad hoc committee

Dec. 14: Firefighter Advisory committee

Jan. 24-25: Curriculum & Testing committee

Jan 25: Commission meeting

#### Meetings Detail

- **FLSE ad hoc committee**  
Final review of all performance skills for level I certification – ready for publication in skills manual.  
Finished the level I test bank and began creating the level II test bank.
- **Firefighter Advisory committee**  
Revised Fire Investigator curriculum, reference list, outline and phase outline  
Revised reference lists for Fire Officer III and IV  
New certification: Fire and Life Safety Educator I (all curriculum manual docs)  
Revised hazmat reference lists (Aw, Ops, Ops-Mission Specific, IC and Basic Fire Inspector)
- **Curriculum & Testing committee**  
[Here](#) is a link to the agenda, if you would like more info on items that were discussed.
- **Commission meeting**  
Same items as FF Advisory committee

#### Test Development and Test Bank Maintenance

- David continues to work with the IT staff on the new on-line testing platform.
- Created 155 monthly certification exams.
- Continued regular review of test questions as required.
- Fire and Life Safety Educator (Level I) test bank was completed.

#### Test Development and Test Bank Maintenance

- David continues to work with the IT staff in developing the new on-line testing platform.
- Created 148 monthly certification exams.
- Continued regular review of test questions as required.
- David continued writing new test questions for many of the disciplines in order to strengthen our new (TCFP-developed) test banks. This is in preparation for our IFSAC review/audit which is scheduled to take place June 2018.
- Completed the ISO, D/O-Aerial and Hazmat IC on-line test banks
- Continued to work on creating (with the help of committees) the following new test banks for on-line testing:
  - All Hazmat disciplines (Aw, Ops, Mission-Specific, Tech)
  - Basic Wildland
  - Firefighter I

**Compliance Report**  
**2<sup>nd</sup> Quarter-Fiscal Year 2018**  
**December 2017 – February 2018**

- Compliance Inspector Tim Gardner representing and coordinating with the compliance team's skills and training programs audit activity attended the Curriculum and Testing Committee meeting on January 24:
  - Asked if structural protective clothing ensemble was acceptable for the level C option issued for Skill #1 – PPE: Donning, working in, doffing PPE in the Hazmat Operations Mission Specific Skill. They said yes it was ok to use Structural PPE with SCBA for the Level C option instead of a splash resistant coverall with an air purifying respirator, but they wanted the wrist and ankle interfaces taped.
  - The committee discussed potentially removing Hazmat Awareness and Hazmat Operations curriculums from within the Basic Structural curriculum because of the high failure rate in those sections. A separate TPA for the Hazmat sections would be issued and tested separately. No decisions were made.
  - They talked about some of the problems they have seen by the removal of the required hours for some of the certification courses, especially for the online courses. They feel the objective based system may not be providing the knowledge needed to pass TCFP tests.
  - David Alexander gave a report to the committee about the progress of online testing. He said the Inspector II, Fire Office I – IV, and Instructor I – III tests are ready to go as soon as the problems with FIDO are fixed. The committee members were disappointed that the new FIDO system has made it more difficult for a Training Coordinator to manage group testing (that is the payment for multiple individuals in an academy, applying for the test, and scheduling a group at a testing center, etc.) that is designed more the individual to do in their personal FIDO account.
  - A representative from a swift water training center in Austin was given some time in the meeting to describe their facility and course offerings. Also, curious as to the status related to TCFP adoption of NFPA 1006 – the Technical Rescue Standard.
- Compliance Inspector Tim Gardner was in Webb County to conduct a routine biennial compliance inspection when he happened upon a grand opening ceremony for new fire station for the Webb County Fire Department. The ceremony included the County Judge and other speakers. Tim Gardner was recognized by the participants as a representative of the Texas Commission on Fire Protection attending the grand opening ceremony.
- The Compliance Officers tested and exercised the Compliance Inspections modules under development for the new FARM launch and worked with Programmer Derrell Beasley to make improvement changes before the January launch. The team continued to work with Derrell after launch to make adjustments and changes so that new FARM functionality enabled the Compliance activities to continue uninterrupted to the greatest extent possible.
- Compliance Manager Paul Maldonado attended the Texas's Fire Organizations Consortium meeting hosted at the State Operations Center. A large group of Texas fire

service stakeholders received updates from the Texas Forest Service related to TIFMAS grants and qualifications, Hurricane Harvey after action report and TIFMAS Business Manual revisions. The Texas Fire Chiefs Association expressed the idea that a consensus of the stakeholders believe that Texas needs a State Fire Agency that addresses all response elements and everyone recognized all stakeholders need to work together to develop a common message for state legislators.

- Compliance Inspector Fred Green attended the North-East Region Texas Fire Chief's Association Meeting on January 31 where he provided updates on:
  - Inspector certification
  - Texas State Association of FF rule recommendation to the commission related to requiring departments to furnish 2 sets of bunker gear for each fire fighter because of the dangers of contamination and exposure related to cancer.
  - The commissioners created an ad hoc committee to study the issue and consider the proposed rule to require departments to issue each FF 2 sets of bunker gear.
  - There were other items on the agenda including lowering the testing fee from \$85 to \$55. After publication, the commission will decide if it wants to approve the proposal for final adoption at the April commission meeting.
- The Compliance Inspector team from all regions including Austin office personnel Amanda Ramos and Cliff Grant helped to complete the on-site Houston Fire Department biennial inspection in February that was coordinated by Region 2 Compliance Officer Ernie Null. Ernie is working with HFD to complete the inspection by making sure that identified violations are corrected as required by TCFP rules.
- Compliance Team members participated in Skype meetings in January and February to discuss issues affecting the compliance officers including, New FARM / FIDO problems, prioritized changes and improvements to the new FARM module, rule revisions, accessories to regulated PPE elements, HOD requirements, air cylinder DOT requalification requirements, painting helmets and the effect on NFPA requirements, SCBA masks with TIC mounted and the effect on NFPA requirements, Bourke Face Shields and when these are compliant with NFPA requirements and other issues related to biennial compliance inspections.
- Compliance Manager Paul Maldonado attended portions of the Texas Fire Chiefs Association conference during January in Austin, including cancer updates presented by Chief Robert Fite, San Antonio Fire Department LODD report presented by Fire Marshal Chris Connealy and SAFD Chief Hood, and the case study of Andy Anderson's career ending injury.
- Compliance Officer Ernie Null met with Tim Rutland and offered to help improve the TCFP Standards, by reviewing them and proposing the removing of certain ambiguities and proposing changing certain language that may prohibit him from having a clear interpretation and enforcement capability of a rule or rules. Ernie sent a draft of his

“live fire” training rule change recommendations to Tim which included the consideration of adopting NFPA 1403. Tim is holding Ernie’s recommendations until the Compliance Team meetings in July to discuss the impact of implementing the recommendations.

- Compliance Manager Paul Maldonado reviewed and commented on State Fire Marshal draft LODD reports as submitted by Lt. Brian Fine.

**18. 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**

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

**20. Adjourn meeting.**