

TEXAS COMMISSION ON FIRE PROTECTION
January 17, 2019, 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 October 25, 2018.**
- 4. The Budget and Strategic Plan subcommittee may meet on January 17, 2019 during the commission meeting and provide a report for discussion and possible action relating to any recommendations developed by the subcommittee, including but not limited to, modifications to the agency operating budget and strategic plan.**
- 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. Discussion and possible action regarding report from the Health and Wellness Ad Hoc committee.**
- 9. Discussion and possible action on report from staff regarding cancer reporting.**
- 10. New matters from the commission, staff, or public which may be discussed in future commission meetings.**
- 11. Discussion and possible action on future meeting dates.**
- 12. Matters referred from the Fire Fighter Advisory Committee (FFAC), including, but not limited to:**

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 429, Minimum Standards For Fire Inspector Certification.**
 - 2. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 439, Examinations For Certification.**
 - 3. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 441, Continuing Education.**
 - 4. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 459, Minimum Standards For Fire and Life Safety Educator Certification.**

13. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 427, Training Facility Certification.
14. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 449, Head of a Fire Department.
15. Discussion and possible action on the review and evaluation by the Curriculum and Testing Committee regarding the International Code Council Inspector Certification Program.
16. 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.
17. 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.
18. Open session for further discussion and possible action regarding preceding agenda item.
19. 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 October 25, 2018.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer, Robert Moore, at 10:00 a.m. called the October 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	Joseph Gonzalez Leonardo Perez	Mike Jones Mala Sharma
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*absent entire meeting

**absent part of meeting

Staff	Tim Rutland Servando Sanchez	Deborah Cowan Grace Wilson	Sylvia Miller Andrew Lutostanski,	Paul Maldonado, Assistant Attorney General	Joyce Guinn
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Guests	John Overstreet Christopher Perez Thomas McMonigle Kyle Mills Russell Marshall David Branch Trent Herrod Jim Simmons	Christina Foley Jonathan Boyd Robert L. Smith Joe Ondrasek Jarrett Sheldon Dennis Chavez Laurie Christensen Brad Alley	Nick Hickson Leonard Chan Scott Kerwood Randy McGregor John Carlton Jim Reidy Glenn DeShields	James Mallinger Michael Richardson Ricky Ban Marcus Traxler Daniel DeYear J. Pete Laney Doug Boekor	Vince Abrigo Chris Barron Lee Glover Mike Wisko Deacon Tittel Sean Fay Brad Easley
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1. Invocation The invocation was given by Commissioner John McMakin, the presentation of colors was performed by the Austin Fire Department and Assistant Presiding Officer Joseph Gonzalez led the Pledge of Allegiance.

2. Roll call Commission Secretary, Lenny Perez called roll and a quorum was present.

3. Adoption of Minutes A motion to approve the minutes of July 11, 2018 and July 12, 2018 commission meeting was made by Steve Tull and seconded by J. P. Steelman. The motion carried.

4. Report from the Budget and Strategic Plan Subcommittee Nothing to report.

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

6. Report from Fire Advisory Board & TEEEX Commission Representative Juan Gloria was unable to attend. Presiding Officer, Robert Moore gave a brief update.

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7. Report from Homeland Security Representative Executive Director, Tim Rutland reported the last meeting was August 1, 2018 and he gave a brief overview of the meeting topics.
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8. New matters A motion to add Instructor reciprocity for Pro Board to the agenda for the January 2019 commission meeting with staff presenting a formulated document as to how that would move forward was made by Joseph Gonzalez and seconded by Steve Tull. The motion carried.
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9. Future meeting dates The meetings for 2019 were set as follows:
January 16th, workshop beginning at 2:00 p.m. and January 17th, beginning at 9:00 a.m.
April 25th commission meeting beginning at 10:00 a.m.
July 17th, workshop beginning at 2:00 p.m. and July 18th beginning at 9:00 a.m.
October 24th beginning at 10:00 a.m.
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10. Matters from Fire Fighter Advisory Committee 1. A motion to approve for final adoption the proposed amendments to 37 TAC, Chapter 449, §449.1, 449.3, 449.201 and 449.203 with changes as discussed was made by Steve Tull and seconded by Leonardo Perez. The motion carried.
2. A motion to approve for final adoption proposed amendments to 37 TAC, Chapter 455, §455.5 was made by Steve Tull and seconded by Kelly Doster. The motion carried.
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11. 37 TAC, Chapter 429, Fire Inspector and Plan Examiner A motion to approve for publication new 37 TAC, Chapter 429, Fire Inspector and Plan Examiner with changes as discussed with a mandatory Plan Examiner was made by Tommy Anderson and seconded by Joseph Gonzalez. The motion carried.
After further discussion, a motion was made by Joseph Gonzalez and seconded by Steve Tull to establish March 1, 2019 as the effective date of the new rule as discussed. The motion carried.
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12. 37 TAC, Chapter 439, Examinations For Certification A motion to approve for publication amendments to 37 TAC, Chapter 439, §439.1, and §439.19 as discussed was made by Steve Tull and seconded by Leonardo Perez. The motion carried.
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13. 37 TAC, Chapter 441 Continuing Education A motion to approve for publication amendments to 37 TAC, Chapter 441, new §441.25 as discussed was made by Steve Tull and seconded by Leonardo Perez. The motion carried.
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14. 37 TAC, Chapter 459 Fire & Life Safety Educator Certification A motion to approve for publication new 37 TAC, Chapter 459, §§459.1, 459.3, 459.5, 459.201, 459.203, and 459.205 as discussed was made by Steve Tull and seconded by J. P. Steelman. The motion carried.
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- 15. Higher Levels of Certification A motion to approve the new classes or courses to the A & B Lists for Higher Levels of Certification as discussed was made by Tommy Anderson and seconded by J. P. Steelman. The motion carried.
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- 16. International Code Council Request A motion to table for further review and evaluation was made by Leonard Perez and seconded by Kelly Doster. The motion carried.
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- 17. Injury Reporting Presiding Officer, Robert Moore called for closed session at 11:10 a.m. per Texas Government Code, Section 551.071 Consultation with Attorney; Closed Meeting.

Presiding Officer, Robert Moore called for open session at 11:27 a.m. with no action being taken in closed session.
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- 18. Fire Fighter Advisory Committee Appointment After discussion, Vince Abrigo from McAllen Fire Department was appointed to the committee.
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- 19. Matters from Executive Director a. Tim Rutland, Executive Director reported no informal conferences had occurred since the last commission meeting.

b. Mr. Rutland provided commissioners information regarding agency division functions.
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- 20. Executive Session 551.074(1) Presiding Officer, Robert Moore did not call for Executive Session.
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- 21. Open Session No action necessary.
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- 22. Adjournment A motion to adjourn was made by Kelly Doster and seconded by Leonardo Perez. The motion carried.

Robert Moore, Presiding Officer

- 4. The Budget and Strategic Plan subcommittee may meet on January 17, 2019 during the commission meeting and provide a report for discussion and possible action relating to any recommendations developed by the subcommittee, including but not limited to, modifications to the agency operating budget and strategic plan.**

Texas Commission on Fire Protection
Fiscal Year 2019 - Operating Budget
12/1/2018

Summary	Goals:	FY19 Budget	FY19 Expended	Balance	Remaining
	Education, Information and Assistance	112,008.00	28,002.00	84,006.00	
	Fire Department Standards	942,952.56	247,388.98	695,563.58	
	Indirect Administration	628,938.00	146,884.60	482,053.40	
1001 - Salaries & Wages:		1,683,898.56	421,372.86	1,262,525.70	75%
	Education, Information and Assistance	1,680.00	480.00	1,200.00	
	Fire Department Standards	37,932.00	6,873.00	32,059.00	
	Indirect Administration	24,460.00	1,880.00	22,780.00	
1002 - Other Personnel Costs		64,072.00	8,013.00	56,059.00	87%
	Education, Information and Assistance	100.00	0.00	100.00	
	Fire Department Standards	1,000.00	0.00	1,000.00	
	Indirect Administration	2,800.00	0.00	2,800.00	
2001 - Professional Fees and Services:		3,900.00	0.00	3,900.00	100%
	Education, Information and Assistance	495.00	82.27	412.73	
	Fire Department Standards	4,000.00	845.23	3,354.77	
	Indirect Administration	3,000.00	282.84	2,717.16	
2003 - Consumable Supplies:		7,495.00	990.34	6,504.66	87%
	Education, Information and Assistance	10.00	0.00	10.00	
	Fire Department Standards	3,260.00	306.78	2,953.22	
	Indirect Administration	40.00	0.00	40.00	
2004 - Utilities:		3,310.00	305.78	3,004.22	91%
	Education, Information and Assistance	4,425.00	0.00	4,425.00	
	Fire Department Standards	56,518.33	11,710.08	44,808.25	
	Indirect Administration	18,630.10	1,880.38	17,239.71	
2005 - Travel:		79,573.43	13,100.45	66,472.98	84%
	Education, Information and Assistance	10.00	1.80	8.40	
	Fire Department Standards	90.00	20.82	69.18	
	Indirect Administration	325.00	88.82	255.38	
2006 - Rent - Building (storage):		425.00	92.04	332.96	78%
	Education, Information and Assistance	290.32	38.83	250.39	
	Fire Department Standards	2,903.23	618.88	2,384.27	
	Indirect Administration	1,306.45	238.63	1,066.92	
2007 - Rent - Machine and Other:		4,500.00	798.42	3,701.58	82%
	Education, Information and Assistance	5,972.09	747.87	5,224.12	
	Fire Department Standards	53,812.86	10,328.80	43,483.06	
	Indirect Administration	31,443.35	7,088.18	24,345.19	
2009 - Other Operating Expense:		91,228.30	18,175.93	73,052.37	80%
	Education, Information and Assistance	0.00	0.00	0.00	
	Fire Department Standards	17,500.00	4,688.77	12,933.23	
	Indirect Administration	0.00	0.00	0.00	
4000 - Grants:		17,500.00	4,688.77	12,933.23	74%
	TOTAL - ALL EXPENDITURES		467,415.59		
	APPROVED APPROPRIATION	1,955,902.00		1,488,486.73	76%

Fiscal Year 2019 - Operating Budget 13008
12/1/2018

Appr. 3008

PCA

4001

2 - FTEs

Goal A: Education, Info and Assistance

	Library	Total	%
			Remaining
Salaries and Wages:			
7002- Salaries	28,002.00	28,002.00	
	Budget:	112,008.00	112,008.00
	Expended:	28,002.00	28,002.00
1001 - Balance Salaries & Wages:	84,006.00	84,006.00	75%
Other Personnel Costs:			
7022- Longevity Pay	460.00	460.00	
	Budget:	1,680.00	1,680.00
	Expended:	460.00	460.00
1002 - Balance Other Personnel Costs	1,220.00	1,220.00	73%
Professional Fees and Services:			
	Budget:	100.00	100.00
	Expended:	0.00	0.00
2001 - Balance Professional Fees and Services:	100.00	100.00	100%
Consumables:			
7300- Consumables	82.27	82.27	
	Budget:	495.00	495.00
	Expended:	82.27	82.27
2003 - Balance Consumable Supplies:	412.73	412.73	83%
Utilities:			
	Budget:	10.00	10.00
	Expended:	0.00	0.00
2004 - Balance Utilities:	10.00	10.00	100%
Travel:			
	Budget:	4,425.00	4,425.00
	Expended:	0.00	0.00
2005 - Balance Travel:	4,425.00	4,425.00	100%
Rent:			
7470- Rent Space - storage	1.60	1.60	
	Budget:	10.00	10.00
	Expended:	1.60	1.60
2006 - Balance Rent - Building (storage):	8.40	8.40	84%
Rent - Machine and Other:			
7406- Rental - Furnishings & Equipment (copier)	39.93	39.93	
	Budget:	290.32	290.32
	Expended:	39.93	39.93
2007 - Balance Rent - Machine and Other:	250.39	250.39	86%

Fiscal Year 2019 - Operating Budget 13008
12/1/2018

Appr. 3008

PCA

4001

2 - FTEs

Goal A: Education, Info and Assistance

	<u>Library</u>	<u>Total</u>	<u>% Remaining</u>
Other Operating Expense:			
7040- ERS-Retirement Contribution	140.01	140.01	
7042- ERS Insurance Payment	280.02	280.02	
7291- Postage & Postal Services	75.00	75.00	
7299- Purchased Contracted Services	26.10	26.10	
7334- Furnishings & Equipment -Expensed	3.00	3.00	
7380- Computer Software - Expensed	19.95	19.95	
7947- Workers Compensation Transfer (SORM)	81.47	81.47	
7961- STS Transfers-Telecommunications (TexAn)	63.76	63.76	
7962- Capitol Complex (CCTS)	58.66	58.66	
Budget:	5,972.09	5,972.09	
Expended:	747.97	747.97	
2009 - Balance Other Operating Expense:	5,224.12	5,224.12	87%
Budget:	124,990.41	124,990.41	
Expended:	29,333.77	29,333.77	
TOTAL BALANCE - 3008	95,656.64	95,656.64	77%
% Remaining	77%	77%	

Fiscal Year 2019 - Operating Budget - 13014
12/1/2018

Appr. 3014	PCA	4004	4005	4006	4007	4008	FTEs	%
Goal B: Fire Department Standards								
		Mgmt	Complnc	Cert	Testing	Curr Dev	Total	Remaining
Salaries and Wages:								
7002- Salaries		0.00	108,112.90	42,403.95	84,859.51	12,000.00	247,386.36	
	Budget:	0.00	380,841.32	214,816.80	298,896.44	48,000.00	942,862.68	
	Expended:	0.00	108,112.90	42,403.95	84,859.51	12,000.00	247,386.36	
1001 - Balance Salaries & Wages:		0.00	272,528.42	172,211.85	214,825.93	36,000.00	695,566.20	74%
Other Personnel Costs:								
7022- Longevity Pay		0.00	2,140.00	780.00	1,300.00	0.00	4,220.00	
7033- Employee Retirement - Other expenses		0.00	0.00	1,653.00	0.00	0.00	1,653.00	
	Budget:	0.00	8,840.00	24,482.00	4,800.00	0.00	37,882.00	
	Expended:	0.00	2,140.00	2,433.00	1,300.00	0.00	5,873.00	
1002 - Balance Other Personnel Costs		0.00	6,500.00	22,059.00	3,500.00	0.00	32,059.00	86%
Professional Fees and Services:								
	Budget:		388.89	222.22	333.33	66.68	1,000.00	
	Expended:	0.00	0.00	0.00	0.00	0.00	0.00	
2001 - Balance Professional Fees and Services:		0.00	388.89	222.22	333.33	55.56	1,000.00	100%
Consumables:								
7300- Consumables		375.66	52.99	0.00	216.58	0.00	645.23	
	Budget:		1,666.68	888.89	1,333.33	222.22	4,000.00	
	Expended:	375.66	52.99	0.00	216.58	0.00	645.23	
2003 - Balance Consumable Supplies:		(375.66)	1,502.57	888.89	1,116.75	222.22	3,354.77	84%
Utilities:								
7516- Telecom-Other (reg voice/Internet)		0.00	305.78	0.00	0.00	0.00	305.78	
	Budget:		3,280.00	0.00	0.00	0.00	3,280.00	
	Expended:	0.00	305.78	0.00	0.00	0.00	305.78	
2004 - Balance Utilities:		0.00	2,954.22	0.00	0.00	0.00	2,954.22	91%
Travel:								
7101- Travel VS - Public Transportation Fares		0.00	1,264.61	0.00	303.00	0.00	1,567.61	
7102- Mileage		0.00	5,841.34	0.00	0.00	0.00	5,841.34	
7105- Travel VS - Incidental Expenses		0.00	500.19	0.00	58.57	0.00	558.76	
7106- Travel VS - Meals & Lodging		0.00	3,138.54	0.00	232.57	0.00	3,371.11	
7107- Travel VS - Non-Overnight Travel (Meals)		0.00	93.40	0.00	43.40	0.00	136.80	
7111- Travel OOS - Public Transportation Fares		0.00	0.00	0.00	45.24	0.00	45.24	
7115- Travel OOS - Incidental Expenses		0.00	0.00	0.00	32.00	0.00	32.00	
7116- Travel OOS - Meals, Lodging Allowable		0.00	0.00	0.00	77.11	0.00	77.11	
7135- Travel VS - State Occupancy Tax		0.00	80.09	0.00	0.00	0.00	80.09	
	Budget:	0.00	48,040.68	2,825.82	6,861.83	0.00	68,818.33	
	Expended:	0.00	10,918.17	0.00	791.89	0.00	11,710.06	
2006 - Balance Travel:		0.00	37,122.41	2,825.92	4,859.94	0.00	44,808.27	78%
Rent:								
7470- Rent Space - storage		20.82	0.00	0.00	0.00	0.00	20.82	
	Budget:		36.00	20.00	30.00	6.00	90.00	
	Expended:	20.82	0.00	0.00	0.00	0.00	20.82	
2008 - Balance Rent - Building :		(20.82)	35.00	20.00	30.00	5.00	69.18	77%
Rent - Machine and Other:								
7406- Rental - Furnishings & Equipment (copier)		518.96	0.00	0.00	0.00	0.00	518.96	
	Budget:		1,129.03	645.16	967.74	161.29	2,903.23	
	Expended:	518.96	0.00	0.00	0.00	0.00	518.96	
2007 - Balance Rent - Machine and Other:		(518.96)	1,129.03	645.16	967.74	161.29	2,384.27	82%

Fiscal Year 2019 - Operating Budget - 13014
12/1/2018

Apr. 3014	PCA	4004	4005	4006	4007	4008	FTEs	% Remaining
Goal B: Fire Department Standards								
	Mgmt	Complnc	Cert	Testing	Curr Dev	Total		
Other Operating Expense:								
7040- ERS Retirement Contribution	0.00	540.62	212.04	424.34	60.00	1,237.00		
7042- ERS Insurance Payment	0.00	1,022.43	424.05	744.25	120.00	2,310.73		
7203- Registration Fees-Employee Training	0.00	0.00	0.00	200.00	0.00	200.00		
7211- Awards	0.00	63.00	0.00	0.00	0.00	63.00		
7276- Communication Services (T-1 Line)	0.00	480.35	0.00	0.00	0.00	480.35		
7286- Freight & Delivery Services	0.00	0.00	0.00	1,733.20	0.00	1,733.20		
7291- Postage & Postal Services	975.00	0.00	0.00	0.00	0.00	975.00		
7296- Fees & Other Charges (DPS)	0.00	25.53	17.00	0.00	0.00	42.53		
7299- Purchased Contracted Services	339.30	0.00	0.00	0.00	0.00	339.30		
7334- Furnishings & Equipment -Expensed	38.97	0.00	0.00	0.00	0.00	38.97		
7380- Computer Software - Expensed	259.35	0.00	0.00	0.00	0.00	259.35		
7947- Workers Compensation Transfer (SORM)	1,059.08	0.00	0.00	0.00	0.00	1,059.08		
7961- STS Transfers-Telecommunications (TexAn)	828.79	0.00	0.00	0.00	0.00	828.79		
7962- STS transfer to GR (OCTS)	762.50	0.00	0.00	0.00	0.00	762.50		
	Budget:	20,827.22	11,868.41	17,837.82	2,888.80	63,812.88		
	Expended:	4,262.99	2,131.93	653.09	3,101.79	10,329.80		
2008 - Balance Other Operating Expense:	(4,262.99)	18,795.29	11,305.32	14,835.83	2,809.60	43,483.06		81%
	Budget FY19:	0.00	464,617.60	255,668.40	330,749.30	51,433.67	1,102,468.98	
	Expended:	5,178.43	123,661.77	45,490.04	90,279.77	12,180.00	276,790.01	
TOTAL BALANCE 3014	(5,178.43)	340,955.83	210,178.36	240,469.53	39,253.67	825,678.97		76%
	% Remaining	0%	73%	82%	73%	78%	76%	

Grants:		License Plates	
7623- Grant - Comm Service Program			4,566.77
	Budget:		17,600.00
	Excess Revenue from License Plates		0.00
	Expended:		4,566.77
4000 - Balance Grants:			12,933.23
			74%

YTD Current Costs for Performance Measures: Salaries, Other personnel costs, Consumables, & Travel:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	After FY	Total
4005 - Compliance	121,224.06	0.00	0.00	0.00		121,224.06
4006 - Certification	44,836.95	0.00	0.00	0.00		44,836.95
4007 - Testing	87,177.98	0.00	0.00	0.00		87,177.98
	253,238.99	0.00	0.00	0.00		\$ 253,238.99

Fiscal Year 2019 - Operating Budget - 13800
12/1/2018

Apr. 3800	PCA	4801	4802	4803	FTEs	%
Goal C: Indirect Administration						
	6	3				
	Exec Office	Fin Svcs	Commis	Total	Remaining	
Salaries and Wages:						
	67%	33%				
7001- Salaries & Wages - Exempt	26,908.50	0.00	0.00	26,908.50		
7002- Salaries & Wages - Non-Exempt	88,776.00	30,300.00	0.00	119,076.00		
	Budget:	482,798.00	168,200.00	0.00	628,998.00	
	Expended:	115,684.50	30,300.00	0.00	145,984.60	
1001 - Balance Salaries & Wages:	347,053.50	135,900.00	0.00	482,953.50		77%
Other Personnel Costs:						
7022- Longevity Pay	1,380.00	300.00	0.00	1,680.00		
	Budget:	23,020.00	1,440.00	0.00	24,480.00	
	Expended:	1,380.00	300.00	0.00	1,680.00	
1002 - Balance Other Personnel Costs	21,640.00	1,140.00	0.00	22,780.00		83%
Professional Fees and Services:						
	Budget:	16,800.00	8,400.00	0.00	25,200.00	
	Expended:	0.00	0.00	0.00	0.00	
2001 - Balance Professional Fees and Services:	16,800.00	8,400.00	0.00	25,200.00		100%
Consumables:						
7300- Consumables	89.45	173.39	0.00	262.84		
	Budget:	18,000.00	8,000.00	0.00	27,000.00	
	Expended:	89.45	173.39	0.00	262.84	
2003 - Balance Consumable Supplies:	17,910.55	8,826.61	0.00	26,737.16		88%
Utilities:						
	Budget:	240.00	120.00	0.00	360.00	
	Expended:	0.00	0.00	0.00	0.00	
2004 - Balance Utilities:	240.00	120.00	0.00	360.00		100%
Travel:						
7101- Travel /S - Public Transportation Fares	312.00	0.00	180.93	492.93		
7102- Mileage	0.00	0.00	422.76	422.76		
7104- Travel /S - Actual Expense Overnight	40.79	0.00	0.00	40.79		
7105- Travel /S - Incidental Expenses	5.37	0.00	89.10	94.47		
7110- Travel /S - Board Member Meals & Lodging	0.00	0.00	322.04	322.04		
7135- Travel /S - State Occupancy Tax	0.00	0.00	17.40	17.40		
	Budget:	1,883.01	0.00	18,787.08	18,830.10	
	Expended:	358.16	0.00	1,032.23	1,390.39	
2005 - Balance Travel:	1,504.85	0.00	15,734.86	17,239.71		83%
Rent:						
7470- Rent Space - storage	60.00	9.62	0.00	69.62		
	Budget:	1,860.00	876.00	0.00	2,826.00	
	Expended:	60.00	9.62	0.00	69.62	
2006 - Balance Rent - Building (storage):	1,890.00	965.38	0.00	2,855.38		88%
Rent - Machine and Other:						
7406- Rental - Furnishings & Equipment (copier)	0.00	239.53	0.00	239.53		
	Budget:	7,838.70	3,818.36	0.00	11,768.06	
	Expended:	0.00	239.53	0.00	239.53	
2007 - Balance Rent - Machine and Other:	7,838.70	3,679.82	0.00	11,518.52		88%

Fiscal Year 2019- Operating Budget - 13800
12/1/2018

Appr. 3800	PCA	4801	4802	4803		
Goal C: Indirect Administration		6	3		FTEs	%
Other Operating Expense:						
7040- ERG Retirement Contribution		494.79	151.50	0.00	646.29	
7042- ERG Insurance Payment		1,156.86	303.00	0.00	1,459.86	
7201- Membership Dues		75.00	75.00	0.00	150.00	
7203- Registration Fees-Employee Training		325.00	325.00	50.00	700.00	
7291- Postage & Postal Services		0.00	450.00	0.00	450.00	
7299- Purchased Contracted Services		0.00	156.60	0.00	156.60	
7334- Furnishings & Equipment -Expensed		61.98	56.54	0.00	118.52	
7335- Parts -Computer Equipment - Expensed		2,073.92	0.00	0.00	2,073.92	
7380- Computer Software - Expensed		0.00	119.70	0.00	119.70	
7947- Workers Compensation Transfer (DORM)		0.00	488.81	0.00	488.81	
7961- STS Transfers-Telecommunications (TexAn)		0.00	382.53	0.00	382.53	
7962- STS transfer to GR (CCTS)		0.00	351.93	0.00	351.93	
	Budget:	188,880.10	84,330.06	0.00	282,890.16	
	Expended:	4,187.55	2,860.61	50.00	7,098.16	
2009 - Balance Other Operating Expense:		184,472.55	91,469.44	(50.00)	275,891.99	97%
	Budget:	721,108.81	284,384.40	18,787.08	1,022,281.30	
	Expended:	121,759.66	33,883.15	1,082.23	156,725.04	
TOTAL - BALANCE Remaining 3800		599,350.15	250,501.25	15,684.86	865,536.26	86%

Revenue Comparison by Month 2018/2019
 Saturday, December 1, 2018
 YTD Comparisons

FY18 Revenue					FY19 Revenue				
Appr 99906 - General Revenue		Appr 13014 Fund 0001- IFSAC			Appr 99906 - General Revenue		Appr 13014 Fund 0001 - IFSAC		
Sep-17	\$ 227,470.00	8.2%	\$ 5,884.20	36.3%	Sep-18	\$ 328,639.34	11.1%	\$ 7,920.00	30.5%
Oct-17	\$ 1,999,213.00	72.3%	\$ 4,370.00	27.9%	Oct-18	\$ 1,931,970.00	65.3%	\$ 8,640.00	33.2%
Nov-17	\$ 538,455.00	19.5%	\$ 5,595.00	35.8%	Nov-18	\$ 898,102.50	23.5%	\$ 9,435.00	36.3%
Dec-17		0.0%		0.0%	Dec-18	\$ -	0.0%	\$ -	0.0%
Jan-18		0.0%		0.0%	Jan-19	\$ -	0.0%	\$ -	0.0%
Feb-18		0.0%		0.0%	Feb-19	\$ -	0.0%	\$ -	0.0%
Mar-18		0.0%		0.0%	Mar-19	\$ -	0.0%	\$ -	0.0%
Apr-18		0.0%		0.0%	Apr-19	\$ -	0.0%	\$ -	0.0%
May-18		0.0%		0.0%	May-19	\$ -	0.0%	\$ -	0.0%
Jun-18		0.0%		0.0%	Jun-19	\$ -	0.0%	\$ -	0.0%
Jul-18		0.0%		0.0%	Jul-19	\$ -	0.0%	\$ -	0.0%
Aug-18		0.0%		0.0%	Aug-19	\$ -	0.0%	\$ -	0.0%
Totals	\$ 2,765,138.00	100.0%	\$ 15,649.20	100.0%	Totals	\$ 2,956,711.84	100.0%	\$ 25,995.00	100.0%

FY18 Revenue Collected **\$ 2,780,787** **73.82%**

FY19 Revenue Collected **\$ 2,982,707** **79.42%**

Revenue for Biennium:
 Annual GR & Appropriated Receipts
 IFSAC Seals
 GAA Other Direct & Indirect
 Budget Rider
 Subtotal
 5% Contingency
Total Reqd

	FY18	FY19
Annual GR & Appropriated Receipts	\$ 1,888,152	\$ 1,883,402
IFSAC Seals	\$ 55,000	\$ 55,000
GAA Other Direct & Indirect	\$ 894,287	\$ 888,408
Budget Rider	\$ 750,000	\$ 750,000
Subtotal	\$ 3,587,439	\$ 3,576,810
5% Contingency	\$ 179,372	\$ 178,841
Total Reqd	\$ 3,766,811	\$ 3,755,651

Amount Over or (Under) Required Revenue **\$ (986,024)** **\$ (772,944)**

	FY18	FY19	
Collected	73.82%	79.42%	Percentage of Revenue Collected
As of Date	8/31/2018	12/1/2018	

Performance Measures

Texas Commission on Fire Protection Key Performance Measures.

Metric	Method of Calculation				
* - Reported to ABEST quarterly, Q1 - Quarter 1, Q2 - Quarter 2, Q3 - Quarter 3, Q4 - Quarter 4, FYYTD - Year to date based on fiscal year					
Number of inspections of regulated entities (Cumulative): <u>268</u>	Total number of inspections of regulated entities conducted within the reporting period is obtained from the commission's data system. The total number includes biannual inspections, inspections of training programs in progress (also called audits), an inspection of an entity as part of an investigation, and meetings associated with inspections.				
	Q1	Q2	Q3	Q4	FYYTD
Inspection	212	N/A	N/A	N/A	212
Investigation	0	N/A	N/A	N/A	0
Training Audits	15	N/A	N/A	N/A	15
Inspection Related	41	N/A	N/A	N/A	41
*Total Inspections	268	N/A	N/A	N/A	268
Number of examinations administered (Cumulative): <u>3020</u>	Each written examination is counted. The measure records the total number of examinations administered for fire service certification purposes. A retest, usually conducted due to failure of an initial exam, is counted as an examination as well.				
	Q1	Q2	Q3	Q4	FYYTD
*Exams Administered	3020	N/A	N/A	N/A	3020
Exam pass rate (Non-Cumulative): <u>83.12%</u>	The total number of individuals who passed their examination as reflected in the agency data management system (numerator) is divided by the total number of individuals examined (denominator) and then multiplied by 100 to achieve a percentage. Persons taking an examination multiple times are counted each time they take the exam.				
	Q1	Q2	Q3	Q4	FYYTD
# Examined	5193	N/A	N/A	N/A	7737
# Passed	4323	N/A	N/A	N/A	6431
Pass Rate	83.25%	N/A	N/A	N/A	83.12%
Number of individuals certified (Non-cumulative): <u>32635</u>	The total number of individuals holding one or more certifications with the agency is obtained from the data system at the end of the reporting period. An individual who holds more than one certification is counted only once. The measure records the number of certified persons, regardless of whether the individuals are associated with a fire protection entity.				
	Q1	Q2	Q3	Q4	FYYTD
# Individuals	32415	N/A	N/A	N/A	32635
Number of Training Providers Certified (Non-cumulative): <u>298</u>	The total number of training providers with one or more active certifications is counted. A training provider that holds more than one certification is counted only once.				
	Q1	Q2	Q3	Q4	FYYTD
# Providers	296	N/A	N/A	N/A	298
Average cost per inspection of regulated Facilities: <u>\$361.02</u>	Total cost related to inspection activities for the reporting period (numerator) is divided by the total number of inspections conducted during the same period (denominator) to determine the average cost. Costs used to perform the calculation include salaries of inspection personnel (including 25% of compliance manager's salary); travel costs directly related to inspections and inspection-related meetings with regulated entities; supplies; document review and handling; and notifications. Indirect costs are excluded.				
	Q1	Q2	Q3	Q4	FYYTD
Cost entered	\$96,752.32	N/A	N/A	N/A	\$96,752.32
*Total Inspections	268	N/A	N/A	N/A	268
*Avg cost per	\$361.02	N/A	N/A	N/A	\$361.02

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. Discussion and possible action regarding report from the Health and Wellness Ad Hoc committee.

9. Discussion and possible action on report from staff regarding cancer reporting.

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

11. Discussion and possible action on future meeting dates.

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

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 429, Minimum Standards For Fire Inspector Certification.**



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 01/17/2019

Agenda Item #: 12-(1)

Agenda Title: Chapter 429, Minimum Standards For Fire Inspector Certification

Action to be taken: Discussion and possible final adoption

Origin of Item: Staff and committee

1. INTRODUCTION/PURPOSE

Proposal to revise Fire Inspector certification, creating separate certifications for Fire Inspector and Plan Examiner I. The previous Fire Inspector chapter would be repealed, and a new chapter introduced with separate subchapters for Fire Inspector and Plan Examiner I.

2. DESCRIPTION/ JUSTIFICATION

The proposed rule language removes the plan examiner component from the current fire inspector certification and establishes Plan Examiner I as its own certification. The proposal simplifies and shortens the process to gain Fire Inspector certification for those who would not be assigned to plan review duties.

3. BUDGET IMPACT

No impact is anticipated

4. TIMELINE CONSIDERATIONS

Propose for final adoption

5. RECOMMENDATION

Recommend adoption

6. REFERENCES

37 TAC, Chapter 429, Minimum Standards For Fire Inspector Certification

CHAPTER 429

FIRE INSPECTOR AND PLAN EXAMINER

SUBCHAPTER A

MINIMUM STANDARDS FOR FIRE INSPECTOR CERTIFICATION

§429.1. Minimum Standards for Fire Inspector Personnel.

- (a) Fire code enforcement is defined as the enforcement of laws, codes, and ordinances of the authority having jurisdiction pertaining to fire prevention.
- (b) To qualify for appointment to fire code enforcement duties, individuals must be certified as a Fire Inspector, or meet the requirements in subsections (c) and (d) of this section.
- (c) Individuals may be appointed to fire code enforcement duties on a probationary or temporary status if they have successfully passed the commission exam for Fire Inspector, as specified in Chapter 439 of this title (relating to Examinations for Certification).
- (d) Individuals appointed to fire code enforcement duties in subsection (c) of this section must be certified as a Fire Inspector within one year of the appointment.
- (e) Individuals holding any level of fire inspector certification shall be required to comply with the continuing education requirements in §441.13 of this title (relating to Continuing Education for Fire Inspection Personnel).
- (f) Individuals holding a fire inspector certification issued prior to March 1, 2019, are not required to hold a plan examiner certification to perform plan reviews.

§429.3. Minimum Standards for Basic Fire Inspector Certification.

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

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

requirements as listed in the commission approved Basic Fire Inspector Curriculum as specified in the commission's Certification Curriculum Manual; or

(C) successful completion of the following college courses:

- (i) Fire Protection Systems, three semester hours;**
- (ii) Fire Prevention Codes and Inspections, three semester hours;**
- (iii) Building Construction in the Fire Service or Building Codes and Construction, three semester hours; and**
- (iv) Hazardous Materials I, II, or III, three semester hours (total semester hours, 12);
or**

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

§429.5. Minimum Standards for Intermediate Fire Inspector Certification.

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

- (1) hold as a prerequisite Basic Fire Inspector Certification as defined in §429.3 of this title (relating to Minimum Standards for Basic Fire Inspector Certification); and**
- (2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:**

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

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

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

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

(c) The training required in this section must be in addition to any training used to qualify for any lower level of fire inspector certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§429.7. Minimum Standards for Advanced Fire Inspector Certification.

(a) **Applicants for Advanced Fire Inspector Certification must complete the following requirements:**

- (1) **hold as a prerequisite an Intermediate Fire Inspector Certification as defined in §429.5 of this title (relating to Minimum Standards for Intermediate Fire Inspector Certification); and**
- (2) **acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:**
 - (A) **Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or**
 - (B) **Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or**
 - (C) **Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)**
- (b) **Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.**
- (c) **The training required in this section must be in addition to any training used to qualify for any lower level of fire inspector certification. Repeating a course or a course of similar content cannot be used towards this level of certification.**

§429.9. Minimum Standards for Master Fire Inspector Certification.

(a) **Applicants for Master Fire Inspector Certification must complete the following requirements:**

- (1) **hold as a prerequisite an Advanced Fire Inspector Certification as defined in §429.7 of this title (relating to Minimum Standards for Advanced Fire Inspector Certification); and**
 - (2) **acquire a minimum of 12 years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.**
- (b) **College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire Inspector Certification.**

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

- (a) Individuals who pass the applicable sections of the state examination may be granted IFSAC seal(s) for Inspector I and Inspector II by making application to the commission for the IFSAC seal(s) and paying the associated fees, provided they meet the following provisions:
- (1) To receive the IFSAC Inspector I seal, the individual must:
- (A) complete the Inspector I section of a commission approved course; and
 - (B) pass the Inspector I section of a commission examination.
- (2) To receive the IFSAC Inspector II seal, the individual must:
- (A) complete the Inspector II section of a commission approved course;
 - (B) document possession of an IFSAC Inspector I seal; and
 - (C) pass the Inspector II section of a commission examination.
- (b) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

SUBCHAPTER B

MINIMUM STANDARDS FOR PLAN EXAMINER

§429.201. Minimum Standards for Plan Examiner Personnel.

- (a) Plan examiner duties are defined as the review of building or other structure plans for the purpose of determining compliance with adopted fire codes and standards.
- (b) To qualify for appointment to plan examiner duties, individuals must be certified as a Plan Examiner, or meet the requirements in subsections (c) and (d) of this section.
- (c) Individuals may be appointed to plan examiner duties on a probationary or temporary status if they have successfully passed the commission exam for Plan Examiner, as specified in Chapter 439 of this title (relating to Examinations for Certification).
- (d) Individuals appointed to plan examiner duties in subsection (c) must be certified as a Plan Examiner within one year of the appointment.
- (e) Individuals holding any level of plan examiner certification shall be required to comply with the continuing education requirements in §441.25 of this title (relating to Continuing Education for Plan Examiner).
- (f) Individuals holding a fire inspector certification issued prior to March 1, 2019, are not required to hold a plan examiner certification to perform plan reviews.

§429.203. Minimum Standards for Plan Examiner I Certification.

In order to be certified as a Plan Examiner I, an individual must:

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

(C) documentation of the receipt of a Plan Examiner I certificate issued by the State Firemen's and Fire Marshals' Association of Texas that is deemed equivalent to a commission approved Plan Examiner I curriculum.

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

- (a) Individuals who pass the state examination may be granted an IFSAC seal for Plan Examiner I by making application to the commission for the IFSAC seal and paying the associated fee.**
- (b) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.**



CITY OF HOUSTON

Fire Department

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To: Texas Commission on Fire Protection Board Members

From: Richard Mann, Executive Assistant Fire Chief, Houston Fire Dept.

Subject: Fire Inspector I / II / Plan Examiner

Date: November 28, 2018

The Houston Fire Department (HFD) would like to request revisions to the proposed rule changes for the "Minimum Standards for Fire Inspector Certification" (37 Texas Administration Code §429). The department expresses its support for creating an inspector certification without the Plans Examiner requirement but is also in favor in dividing Fire Inspector I and Fire Inspector II into separate certifications.

The 81st Texas Legislature passed House Bill 3866, which requires that "only an individual certified by the commission as a fire inspector may conduct a fire safety inspection required by a state or local law, rule, regulation, or ordinance." The authors of the bill stated that they introduced the bill because no standards existed on who conducts fire safety inspections. The bill intended to protect government entities, facility owners, and occupants from relying on unqualified fire inspectors. Committee discussions addressed concerns regarding costs to local governments, and the Legislative Budget Board noted that the bill had no expected fiscal impact on local governments. Under this presumption, the bill passed with near unanimous support.

As the Texas Commission on Fire Protection has met the *Sunset Licensing and Regulation Model* standard of providing regulation "to protect the public from the unqualified practice of a profession," Houston Fire Department fully embraces the need to license fire inspectors. The *Sunset Licensing and Regulation Model*, however, states that "the most stringent forms of licensing may not be necessary to provide acceptable protection" and "licensure qualifications should not arbitrarily overburden applicants." The current and proposed rules may create undue cost and burden on local governments and their respective personnel. Removing the

requirement to meet Fire Inspector II standards in an initial fire inspector certification does not compromise the ability of an individual to perform his or her functions.

The Texas Commission on Fire Protection bases its certifications requirements on the professional qualifications established by the National Fire Protection Association (NFPA). NFPA develops its standards in a development process approved by the American National Standards Institute that incorporates feedback from varied viewpoints and interests. The State of Texas can establish a benchmark for the rest of the nation by modeling its certification requirements off NFPA standards, which it already has.

NFPA 1031 sets separate professional qualifications for Fire Inspector I, Fire Inspector II, Fire Inspector III, Plan Examiner I, and Plan Examiner II. While higher levels of qualifications indeed indicate higher levels of competency, each certification has a different function much like how an individual certified as a hazardous materials technician has different responsibilities than an individual certified in hazardous materials operations. For example, a Fire Inspector I should be able to “recognize the need for a permit” whereas a Fire Inspector II should be able to “process a permit application” (NFPA 1031, 4.2.2 and 5.2.1). Likewise, a Fire Inspector I has responsibilities in identifying applicable fire codes while a Fire Inspector II has responsibilities in recommending modifications in the adopted codes (NFPA 1031, 4.2.5 and 5.2.4). While Fire Inspector II needs all the skills established in the Fire Inspector I certification, the reverse does not apply as it is superfluous. Thus, the notion that removing requirements lower the quality of inspections is misguided, as the NFPA standards expand the scope of responsibilities rather than set a higher standard of quality.

Local governments should not be mandated to commit the resources – time, staffing, and funds – necessary to train personnel for functions they may not perform. For those needing to perform those respective functions should undoubtedly meet the professional qualifications related to Fire Inspector II. However, the cost effectiveness of separating Inspector I and II will allow departments to invest strategically in additional efforts that substantially promote community safety by increasing the number of inspections being conducted.

Please feel free to contact me with any additional questions.

Richard Mann
Richard.mann@houstontx.gov
832-394-6712

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

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

- 2. 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: 01/17/2019

Agenda Item #: 12-(2)

Agenda Title: Chapter 439, Examinations For Certification

Action to be taken: Discussion and possible final adoption

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The proposal removes the plan examiner component from the Fire Inspector exam.

2. DESCRIPTION/ JUSTIFICATION

The proposal removes language addressing the plan examiner component of Fire Inspector exams. Plan Examiner I would become a stand-alone exam and separate certification. The language is only necessary if agenda item #12-(1) is approved.

3. BUDGET IMPACT

No impact is anticipated

4. TIMELINE CONSIDERATIONS

Propose for final adoption

5. RECOMMENDATION

Recommend final adoption if agenda item #12-(1) is approved.

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 (IFSAC) 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 ~~two~~ ~~three~~ sections: Inspector I, **and** 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^[j] 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, meet any other prerequisite requirements, and submit the appropriate application processing fee(s);
 - (2) receive from the commission an "Endorsement of Eligibility" letter and provide this letter to the lead examiner;
 - (3) 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;
 - (4) report on time to the proper location; and
 - (5) 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; 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 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 the 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.
- (d) 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.
- (e) 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 II	50		
	TOTAL	100 [150]	15 [25]	2.0 [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	
FOR ALL OTHER EXAMINATIONS, SECTIONAL EXAMINATIONS, AND RETESTS				
	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

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.

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

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

- 3. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 441, Continuing Education.**



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission
DATE: 01/17/2019

Agenda Item #: 12-(3)

Agenda Title: Chapter 441, Continuing Education

Action to be taken: Propose for Final Adoption

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The proposal adds language addressing continuing education for Plan Examiner.

2. DESCRIPTION/ JUSTIFICATION

The proposed rule language addresses the requirement for continuing education for persons holding a Plan Examiner certification and who are assigned to those duties. The language is only necessary if the Plan Examiner I certification proposed in agenda item #12-(1) is approved.

3. BUDGET IMPACT

No significant impact is anticipated

4. TIMELINE CONSIDERATIONS

Propose for possible final adoption

5. RECOMMENDATION

Recommend for final adoption if agenda item #12-(1) is approved.

6. REFERENCES

37 TAC, Chapter 441, Continuing Education

CHAPTER 441

CONTINUING EDUCATION

§441.1. Objective.

Continuing education is intended to maintain or increase the knowledge and skills pertinent to the fire service.

§441.3. Definitions.

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

- (1) Certification period--That period from the time a certificate is obtained or renewed until it is time for the certificate to be renewed again. See §437.5 of this title (relating to Renewal Fees) for the definition of certification period.
- (2) Level 1--Training intended to maintain previously learned skills as stated in the commission certification curriculum manual for the certifications held.
- (3) Level 2--Fire service training or education intended to develop new skills that are not contained in the commission's certification curriculum manual for certifications held.

§441.5. Requirements.

- (a) Continuing education shall be required in order to renew certification.
- (b) The continuing education requirement for renewal shall consist of a minimum of 18 hours of training to be conducted during the certification period. All documentation of training used to satisfy the continuing education requirements must be maintained for a period of three years from the date of the training. Continuing education records shall be maintained by the department in accordance with the Texas State Library and Archives Commission, State and Local Records Management Division, Records Schedule, Local Schedule (GR 1050-28), whichever is greater.
- (c) Level 1 training must be conducted by a certified instructor. Interactive computer-based continuing education training that is supervised and verified by a certified instructor is acceptable.
- (d) The continuing education program of a regulated entity must be administered and maintained in accordance with commission rule by a certified instructor.
- (e) No more than four hours per year in any one subject of Level 1 training may be counted toward the continuing education requirement for a particular certification.
- (f) There shall be no "hour per subject limit" placed on Level 2 courses, except that emergency medical courses shall be limited to four hours per year.
- (g) The head of a fire department may select subject matter for continuing education appropriate for a particular discipline.

- (h) The head of a fire department must certify whether or not the individuals whose certificates are being renewed have complied with the continuing education requirements of this chapter on the certification renewal document. Unless exempted from the continuing education requirements, an individual who fails to comply with the continuing education requirements in this chapter shall be notified by the commission of the failure to comply.
- (i) After notification from the commission of a failure to comply with continuing education requirements, an individual who holds a certificate is prohibited from performing any duties authorized by a required certificate until such time as the deficiency has been resolved and written documentation is furnished by the department head for approval by the commission. Continuing education hours obtained to resolve a deficiency may not be applied to the continuing education requirements for the current certification period.
- (j) Any person who is a member of a paid or volunteer fire department who is on extended leave for a cumulative period of six months or longer due to a documented illness, injury, or activation to military service may be exempted from the continuing education requirement for the applicable renewal period(s). Such exemptions shall be reported by the head of the department to the commission at renewal time, and a copy kept with the department continuing education records for three years.
- (k) Any individual who is not a member of a paid or volunteer fire department who is unable to perform work, substantially similar in nature as would be performed by fire protection personnel appointed to that discipline, may be exempted from the continuing education requirement for the applicable renewal period(s). Commission staff shall determine the exemption using documentation provided by the individual and the individual's treating physician of the illness or injury that cumulatively lasts six months or longer, or by documentation of military service or activation to military service.
- (l) In order to renew certification for any discipline which has a continuing education requirement stated in this chapter, an individual holder of a certificate not employed by a regulated entity must comply with the continuing education requirements for that discipline. Only 20 total hours of continuing education for each certification period in Level 1 or Level 2 subjects relating to the certification being renewed shall be required to renew all certificates the individual holds, except as provided in §441.17 of this title (relating to Continuing Education for Hazardous Materials Technician).
- (m) An individual certificate holder, not employed by a regulated entity, shall submit documentation of continuing education training upon notification by the commission. An example of documentation of continuing education training may include, but not be limited to a Certificate of Completion, a college or training facility transcript, a fire department training roster, etc. Commission staff will review and may approve or disapprove such documentation of training in accordance with applicable commission rules and/or procedures. The training for a resident of Texas at the time the continuing education training is conducted shall be administered by a commission instructor, commission certified training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The training for a nonresident of Texas, shall be delivered by a state fire academy, a fire department training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The individual must submit training documentation to the commission for evaluation of the equivalency of the training required by this chapter. The individual certificate holder is responsible for maintaining all of his/her training records for a period of three years from the date of the training.
- (n) If an individual has completed a commission approved academy in the 12 months prior to his or her certification expiration date, a copy of that certificate of completion will be acceptable documentation of continuing education for that certification renewal period.

§441.7. Continuing Education for Structure Fire Protection Personnel.

- (a) A minimum of two hours of continuing education in structure fire protection subjects in addition to the continuing education requirements in §441.5(b) of this title (relating to Requirements) will be required for personnel certified as structure fire protection personnel and who are appointed to structure fire protection duties.
- (b) Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.

§441.9. Continuing Education for Aircraft Rescue Fire Fighting Personnel.

- (a) Continuing education will be required for personnel assigned as aircraft rescue fire fighting personnel.
- (b) Continuing education must, at a minimum, meet the specific training requirements of FAR 139.319(i)(2) and (3) (pertaining to Aircraft Rescue and Fire Fighting Operational Requirements). Continuing education required by this subsection may exceed 20 hours, if necessary, to complete all required subjects.

§441.11. Continuing Education for Marine Fire Protection Personnel.

- (a) A minimum of two hours of continuing education in marine fire protection subjects in addition to the continuing education requirements in §441.5(b) of this title (relating to Requirements) will be required for personnel certified as marine fire protection personnel and who are appointed to marine fire protection duties for any certification period beginning after October 31, 1993.
- (b) Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.

§441.13. Continuing Education for Fire Inspection Personnel.

- (a) A minimum of two hours of continuing education in fire inspection subjects in addition to the continuing education requirements in §441.5(b) of this title (relating to Requirements) will be required for personnel certified as fire inspection personnel and who are appointed to fire inspection duties.
- (b) Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.

§441.15. Continuing Education for Arson Investigator or Fire Investigator.

- (a) A minimum of two hours of continuing education in arson or fire investigation subjects in addition to the continuing education requirements in §441.5(b) of this title (relating to Requirements) will be required for personnel certified as arson investigation or fire investigation personnel and who are appointed to arson or fire investigation duties.
- (b) Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.

§441.17. Continuing Education for Hazardous Materials Technician.

- (a) Eight hours of continuing education in hazardous materials (technician level) will be required for individuals certified as a hazardous materials technician. This will be in addition to continuing education required by other sections of this chapter.
- (b) Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.

§441.19. Continuing Education for Head of a Fire Department.

- (a) A minimum of twenty hours of continuing education in addition to the continuing education requirements in §441.5(b) of this title (relating to Requirements) will be required for personnel certified as head of a fire department and who are appointed as head of a department. The twenty hours of continuing education shall include:
 - (1) ten hours in emergency operations subjects; and
 - (2) ten hours in fire administration subjects. These subjects may include emergency management, leadership, budget and finance, labor relations, human resources and personnel management, collective bargaining, conflict resolution, organizational and strategic planning, community relations and public education, intergovernmental regulations, and personnel health, safety and wellness.
- (b) Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.

§441.21. Continuing Education for Fire Service Instructor.

- (a) A minimum of two hours of continuing education in fire service instruction subjects in addition to the continuing education requirements in §441.5(b) of this title (relating to Requirements) will be required for individuals certified as a fire service instructor and who are appointed to fire service instructor duties.
- (b) Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.

§441.23. Continuing Education for Wildland Fire Fighter.

A minimum of four hours of continuing education in Wildland Fire Fighting subjects will be required for individuals certified as a Wildland Fire Fighter. The required hours must include hands-on refresher training in the use and deployment of a fire shelter. The four hours may be included in the eighteen hours required during the certification renewal period.

§441.25. Continuing Education for Plan Examiner.

- (a) **A minimum of two hours of continuing education in plan review subjects in addition to the continuing education requirements in §441.5(b) of this title (relating to Requirements) will be required for individuals certified as a Plan Examiner and who are appointed to plan examiner duties.**
- (b) **Subjects selected to satisfy the continuing education requirement may be selected from Level 1, Level 2, or a combination of both.**

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

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

- 4. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 459, Minimum Standards For Fire and Life Safety Educator Certification.**



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 01/17/2019

Agenda Item #: 12-(4)

Agenda Title: Chapter 459, Minimum Standards For Fire and
Life Safety Educator Certification

Action to be taken: Propose for Final Adoption

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The proposal creates a new Fire and Life Safety Educator II certification.

2. DESCRIPTION/ JUSTIFICATION

The proposed rule language creates a new Fire and Life Safety Educator II certification in addition to FLSE I. The previous Chapter 459 would be repealed, and a new chapter and title proposed, consisting of subchapters addressing each of the certifications.

3. BUDGET IMPACT

A positive budget impact is anticipated from additional testing and certification revenue.

4. TIMELINE CONSIDERATIONS

Propose for final adoption

5. RECOMMENDATION

Recommend for final adoption

6. REFERENCES

37 TAC, Chapter 459, Minimum Standards For Fire and Life Safety Educator Certification

CHAPTER 459**FIRE AND LIFE SAFETY EDUCATOR****SUBCHAPTER A****MINIMUM STANDARDS FOR FIRE AND LIFE SAFETY EDUCATOR I****§459.1. Fire and Life Safety Educator I Certification.**

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

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

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

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

(B) completion of an out-of-state, educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.

§459.5. Examination Requirement

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

SUBCHAPTER B

MINIMUM STANDARDS FOR FIRE AND LIFE SAFETY EDUCATOR II

§459.201 Fire and Life Safety Educator II Certification.

- (a) A Fire and Life Safety Educator II is defined as an individual who performs professional work in the coordination and delivery of public fire and life safety education, and fire prevention programs.
- (b) All individuals holding a Fire and Life Safety Educator II certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).
- (c) Special temporary provision. Individuals are eligible to take the commission examination for Fire and Life Safety Educator II by:
- (1) holding Fire and Life Safety Educator I certification and meeting one of the following requirements:
 - (2) providing documentation acceptable to the commission that the individual has successfully completed Fire and Life Safety Educator II certification training that meets the minimum requirements of the National Fire Protection Association Standard 1035; or
 - (3) providing documentation acceptable to the commission of proficiency in fire and life safety education as an employee of a government entity, a member in a volunteer fire service organization, and/or an employee of a regulated non-governmental fire department or
 - (4) hold a TCFP Fire Instructor II certification or higher.
 - (5) This subsection will expire on February 29, 2020.

§459.203 Minimum Standards for Fire and Life Safety Educator II Certification.

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

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

(B) completion of an out-of-state, educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.

§459.205 Examination Requirement

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

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



Texas Commission on Fire Protection

Agenda Item Summary

MEETING: Commission

DATE: 01/17/2019

Agenda Item #: 13
Agenda Title: Chapter 427, Training Facility Certification
Action to be taken: Propose for Publication
Origin of Item: Commission Board

1. INTRODUCTION/PURPOSE

Proposed rule revisions for instructors of certain courses.

2. DESCRIPTION/ JUSTIFICATION

The proposed rule revisions allow instructors holding specific TEEX ProBoard credentials to teach TEEX ProBoard courses that have been approved by the commission.

3. BUDGET IMPACT

No significant impact anticipated

4. TIMELINE CONSIDERATIONS

Proposed for possible publication

5. RECOMMENDATION

Requested by commission board for consideration

6. REFERENCES

Title 37, 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 for which the facility provides 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.
- (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 will emphasize performance testing to determine if the trainee has acquired the knowledge and skills to achieve the required level of competency required by the respective training program.
- (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 must submit an application for certification as an on-site training facility to the commission. The application will include descriptions, addresses of physical facilities and an inventory of apparatus, equipment, and reference material to be utilized in conducting the training. 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 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. A copy of the letters of commitment must be maintained on-site and available for review. Photographs of resources annotated to reflect their identity may be required as part of the application. When submitting training approvals, the facility shall certify that the resources are provided in accordance with this chapter.
- (g) The chief training officer 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, are required for an on-site training facility. These resources may be combined or separated utilizing one or more structures.

- (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 the particular discipline(s).
- (6) Facilities to conduct exterior live fire training as required by the particular discipline(s).
- (7) If performance or driving skills are part of the training program, suitable area(s) for practicing required skills, demonstration of skills, and performance testing.

§427.5. Apparatus.

- (a) Certified on-site training facility--approved for basic structure fire protection personnel certification training.
 - (1) A pumper apparatus fully equipped as required by the basic fire suppression curriculum.
 - (2) Ladders or a ladder truck as required by the basic fire suppression curriculum.
- (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.
- (c) Certified on-site training facility--approved for Driver/Operator certification training.
 - (1) Driver/Operator-Pumper--A 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.

§427.7. Protective Clothing.

All protective clothing, including proximity clothing, that will be used during the course of instruction for a commission approved fire protection personnel training program 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 used by the organization for emergency operations 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 is required for an on-site training facility.

- (1) If instruction in the use of self-contained breathing apparatus is a part of the training, 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 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; and
- (3) other equipment, which may include training simulators, training aids, clothing and tools required by the applicable training program. 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. 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 conducted during basic certification training of fire protection personnel.

- (1) Prior to being permitted to participate in live fire training evolutions, the student shall have received training to meet the performance requirements for Fire Fighter 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 live fire training evolution is adequate to control and extinguish the training fire. The lead instructor will also ensure that the resources necessary for backup lines to protect personnel and 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. 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. 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 and 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;
- (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 certified training facilities shall meet these minimum requirements. Training credit will not be recognized from a training facility that has not been certified by the commission, unless the program has been deemed equivalent. The 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 training course in fire suppression before being assigned to fire suppression duties. 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 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 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.
- (f) The 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 may revoke, suspend, probate, refuse to renew, or otherwise limit the certification of a training facility when the 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 rules and/or these minimum standards; or
 - (3) fails to submit required reports in a timely manner or submits false reports to the commission; or
 - (4) fails to meet at least a 70% student pass rate on the certification examination per course.

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 must be interactive. 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.
- (c) In order to become a commission approved distance training provider, the provider must submit a completed training facility application with supporting documentation and fees. The 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.
- (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 credit will not be recognized from a distance training provider that has not been certified by the commission. The commission shall take action on an application for certification of a distance training provider within 30 days from receipt.
- (b) Distance training providers conducting on-site activities shall ensure that all training is conducted in a controlled and safe manner so that trainees are not subjected to unnecessary risks. 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 at any time during regular business hours. Distance training providers shall provide the commission with access to the training facility to monitor the course in progress.
- (e) The 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 may revoke, suspend, probate, refuse to renew, or otherwise limit the certification of a distance training provider when the commission determines that the provider:
 - (1) fails to provide the quality of training and education for which the provider was approved; or
 - (2) fails to comply with 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; or
 - (4) per course, fails to meet at least a 70% student pass rate on the certification examination.

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 must meet the objectives and competencies in that discipline.
- (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, shall certify that it has provided the resources described in §427.1 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 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 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. 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 examinations for certification 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 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), ~~(i)(2)~~, or (j) 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 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 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 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 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.

(j) In order to teach a TEEEX Pro Board course for which a training prior approval has been submitted and approved by the commission:

(1) The training instructor must meet the applicable requirements of this section or possess Fire Instructor and discipline-specific Pro Board credentials issued by TEEEX.

(2) The lead instructor must meet the applicable requirements of this section or, as a minimum possess Fire Instructor II and discipline-specific Pro Board credentials issued by TEEEX.

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 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.
- (d) In order to become a commission approved training facility under this subchapter, the provider must submit a completed 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 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 to establish financial stability.
- (h) Prior to a change in ownership of a facility, the purchaser shall furnish the 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 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 of the change in ownership within 14 days of the transaction.
- (j) The commission may require submission of a full application for approval of a change in ownership.
- (k) Management agreements must be disclosed to the 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 14 days prior to the transaction.
- (m) If the 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 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 determines that reasonable cause exists to question the validity of any financial information submitted, or the financial stability of the facility, the 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 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, 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. 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 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 of this title (relating to 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 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 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 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 (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.
- (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.

§427.409. Advertising.

(a) General Information for Advertising.

- (1) A school shall not make deceptive statements in attempting to enroll students.
- (2) The commission may require a school to furnish proof 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 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.
- (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 or IFSAC approved in order to solicit students prior to receiving actual commission approval. Any such activity by the school, prior to the 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 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 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 may require schools to submit all advertisements to the 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 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 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 may suspend enrollments in a particular course of instruction at any time the 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, the 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.

14. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 449, Head of a Fire Department.



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

MEETING: Commission

DATE: 01/17/2019

Agenda Item #: 14

Agenda Title: Chapter 449, Head of a Fire Department

Action to be taken: Propose for Publication

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

Proposed rule revisions for Head of a Fire Department

2. DESCRIPTION/ JUSTIFICATION

The proposed rule revisions seek to clarify the requirements for head of a department, and to provide additional avenues for persons to qualify for the position.

3. BUDGET IMPACT

No significant impact is anticipated

4. TIMELINE CONSIDERATIONS

Propose for publication

5. RECOMMENDATION

Recommend by staff

6. REFERENCES

37 TAC, Chapter 449, Head of a Fire Department

CHAPTER 449

HEAD OF A FIRE DEPARTMENT

SUBCHAPTER A

MINIMUM STANDARDS FOR HEAD OF A SUPPRESSION FIRE DEPARTMENT

§449.1. Minimum Standards for the Head of a Suppression Fire Department.

- (a) An individual who becomes employed and is appointed as the head of a suppression fire department must be certified by the commission as Head of a Suppression Fire Department within one year of appointment. The requirements in this subchapter also apply to an individual who is appointed on an interim basis to head of a suppression fire department.
- (b) Prior to being appointed as the head of a suppression fire department, an individual must:
- (1)** hold a Texas Commission on Fire Protection certification as fire protection personnel in any discipline that has a commission approved curriculum that requires structural fire protection personnel certification. The individual must have five years of experience in a full-time fire suppression position or ten years in a part-time fire suppression position at the time of appointment, or attain the required years of experience within one year of the appointment; or
 - (2)** provide documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the commission's approved basic fire suppression curriculum, and provide documentation in the form of a sworn non-self-serving affidavit of five years of experience in a full-time fire suppression position in a jurisdiction other than Texas; or
 - (3)** provide documentation in the form of a sworn non-self-serving affidavit of ten years of experience as an employee of a local governmental entity in a full-time structural fire protection personnel position in a jurisdiction other than Texas; or
 - (4)** provide documentation in the form of a sworn non-self-serving affidavit of ten years of experience as an active volunteer fire fighter in one or more volunteer fire departments. The ten years of volunteer service must include documentation of attendance at 40% of the drills for each year and attendance of at least 25% of a department's emergencies in a calendar year while a member of a volunteer fire department or departments with ten or more active members that conducts a minimum of 48 hours of drills in a calendar year; **or**
- (5) document a combined total of five years of experience using:**
- (A) full time experience while holding a commission certification as referenced in (1) of this subsection; and**
 - (B) provide documentation in the form of a sworn non-self-serving affidavit of experience as an employee of a local governmental entity in a full-time structural fire protection position in a jurisdiction other than Texas as referenced in (3) of this subsection, with two years of affidavit time counted as one year of experience for purposes of this qualification; or**
 - (C) provide documentation in the form of a sworn non-self-serving affidavit of experience as an active volunteer fire fighter and meeting the attendance requirements referenced in (4) of this subsection, with two years of affidavit time counted as one year of experience**
- (6) document a combined total of five years of experience using:**
- (A) full time experience while holding a commission certification as referenced in (1) of this subsection; and**

(B) documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the commission's approved basic fire suppression curriculum while appointed to a full-time fire suppression position in a jurisdiction other than Texas. Documentation of experience will be in the form of a sworn non-self-serving affidavit; or

(7) document a combined total of five years of experience using:

(A) documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the commission's approved basic fire suppression curriculum while appointed to a full-time fire suppression position in a jurisdiction other than Texas, with documentation of experience being in the form of a non-self-serving affidavit; and

(B) provide documentation in the form of a sworn non-self-serving affidavit of experience as an employee of a local governmental entity in a full-time structural fire protection position in a jurisdiction other than Texas as referenced in (3) of this subsection, with two years of affidavit time counted as one year of experience for purposes of this qualification; or

(C) provide documentation in the form of a sworn non-self-serving affidavit of experience as an active volunteer fire fighter and meeting the attendance requirements referenced in (4) of this subsection, with two years of affidavit time counted as one year of experience for purposes of this qualification; or

(8) document a combined total of ten years of experience using:

(A) documentation in the form of a sworn non-self-serving affidavit of experience as an employee of a local governmental entity in a full-time structural fire protection position in a jurisdiction other than Texas as referenced in (3) of this subsection; and

(B) documentation in the form of a sworn non-self-serving affidavit of experience as an active volunteer fire fighter and meeting the attendance requirements referenced in (4) of this subsection.

- (c) Holding the Head of a Fire Suppression Fire Department certification does not qualify an individual for any other certification. An individual who seeks certification in another discipline must meet the requirements for that discipline.
- (d) Nothing contained in this chapter shall be construed to supersede Chapter 143, Local Government Code, **regarding** ~~in regard to~~ appointment **as the** ~~[of a]~~ head of a suppression fire department.
- (e) Individuals certified as the Head of a Suppression Fire Department must meet the continuing education requirement as provided for in Chapter 441 of this title (relating to Continuing Education).
- (f) An individual certified as Head of a Suppression Fire Department under this subchapter may engage in fire fighting activities only as the head of a suppression fire department. These activities include incident command, direction of fire fighting activities or other emergency activities typically associated with fire fighting duties, i.e. rescue, confined space and hazardous materials response.

§449.3. Minimum Standards for Head of a Suppression Fire Department Certification.

Applicants for Head of a Suppression Fire Department Certification must complete the following requirements:

- (1) must be appointed as head of a fire department; and
- (2) complete the Standards Review Assignment for Head of a Fire Department identified in the applicable chapter of the Certification Curriculum Manual; and

- (3) meet with a Texas Commission on Fire Protection Compliance Section representative for review and approval of the Standards Review Assignment; and
- (4) attend at least one Texas Commission on Fire Protection regularly scheduled commission meeting or one regularly scheduled fire fighter advisory committee meeting in the first year of appointment; and
- (5) document completion of the National Incident Management System courses 100, 200, 300, 400, 700, and 800.

SUBCHAPTER B

MINIMUM STANDARDS FOR HEAD OF A PREVENTION ONLY FIRE DEPARTMENT

§449.201. Minimum Standards for the Head of a Prevention Only Fire Department.

- (a) An individual who becomes employed and is appointed as the head of a prevention only fire department must be certified by the commission as Head of a Prevention Only Fire Department, within one year of appointment. The requirements in this subchapter also apply to an individual who is appointed on an interim basis to head of a prevention only fire department.
- (b) **Prior to being appointed as the head of a prevention only fire department, an individual must:**
- (1) hold a Texas Commission on Fire Protection certification as a fire inspector, fire investigator, or arson investigator. The individual must have five years of experience in a full-time fire prevention position or ten years in a part-time fire prevention position at the time of appointment, or attain the required years of experience within one year of the appointment; or
 - (2) possess valid documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the commission's approved basic arson investigator, fire investigator or fire inspector curriculum and provide documentation in the form of a sworn non-self-serving affidavit of five years of experience in a full-time fire prevention position in a jurisdiction other than Texas; or
 - (3) provide documentation in the form of a sworn non-self-serving affidavit of ten years of experience as an employee of a local governmental entity in a full-time fire inspector, fire investigator, or arson investigator position in a jurisdiction other than Texas; or
 - (4) provide documentation in the form of a sworn non-self-serving affidavit of ten years of experience as a certified fire investigator, fire inspector or arson investigator as a part-time fire prevention employee; or
 - (5) provide documentation in the form of a sworn non-self-serving affidavit of ten years of fire prevention experience as an active volunteer fire inspector, fire investigator, or arson investigator.

(6) document a combined total of five years of experience using:

(A) full time experience while holding commission certification as a fire inspector, fire investigator, or arson investigator; and

(B) provide documentation in the form of a sworn non-self-serving affidavit of experience as an employee of a local governmental entity in a full-time fire inspector, fire investigator, or arson investigator position in a jurisdiction other than Texas as referenced in (3) of this subsection, with two years of affidavit time counted as one year of experience for purposes of this qualification; or

(C) provide documentation in the form of a sworn non-self-serving affidavit of experience as an active volunteer fire inspector, fire investigator, or arson investigator in one or more volunteer fire departments, with two years of affidavit time counted as one year of experience for purposes of this qualification; or

(7) document a combined total of five years of experience using:

(A) full time experience while holding commission certification as a fire inspector, fire investigator, or arson investigator; and

(B) documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the commission's approved basic fire investigator or fire inspector curriculum while appointed to a full-time fire prevention position in a

jurisdiction other than Texas. Documentation of experience will be in the form of a sworn non-self-serving affidavit; or

(8) document a combined total of five years of experience using:

(A) documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the commission's approved basic fire investigator or fire inspector curriculum while appointed to a full-time fire prevention position in a jurisdiction other than Texas, with documentation of experience being in the form of a non-self-serving affidavit; and

(B) provide documentation in the form of a sworn non-self-serving affidavit of experience as an employee of a local governmental entity in a full-time fire inspector, fire investigator, or arson investigator position in a jurisdiction other than Texas as referenced in (3) of this subsection, with two years of affidavit time counted as one year of experience for purposes of this qualification; or

(C) provide documentation in the form of a sworn non-self-serving affidavit of experience as an active volunteer fire inspector, fire investigator, or arson investigator in one or more volunteer fire departments, with two years of affidavit time counted as one year of experience for purposes of this qualification; or

(9) document a combined total of ten years of experience using:

(A) documentation in the form of a sworn non-self-serving affidavit of experience as an employee of a local governmental entity in a full-time fire inspector, fire investigator, or arson investigator position in a jurisdiction other than Texas as referenced in (3) of this subsection; and

(B) documentation in the form of a sworn non-self-serving affidavit of experience as an active volunteer fire inspector, fire investigator, or arson investigator in one or more volunteer fire departments.

- (c) Holding the Head of a Prevention Only Fire Department certification does not qualify an individual for any other certification. An individual who seeks certification in another discipline must meet the requirements for that discipline.
- (d) Nothing contained in this chapter shall be construed to supersede Chapter 143, Local Government Code, regarding appointment as the head of a prevention only fire department.
- (e) Individuals certified as the Head of a Prevention Only Fire Department must meet the continuing education requirement as provided for in Chapter 441 of this title (relating to Continuing Education).

§449.203. Minimum Standards for Head of a Prevention Only Fire Department Certification.

Applicants for Head of a Prevention Only Fire Department Certification must complete the following requirements:

- (1) must be appointed as head of a prevention only fire department; and
- (2) complete the Standards Review Assignment for Head of a Fire Department identified in the applicable chapter of the Certification Curriculum Manual; and
- (3) meet with a Texas Commission on Fire Protection Compliance Section representative for review and approval of the Standards Review Assignment; and
- (4) attend at least one Texas Commission on Fire Protection regularly scheduled commission meeting or one regularly scheduled fire fighter advisory committee meeting in the first year of appointment; and
- (5) document completion of National Incident Management System courses 100, 200, 300, 400, 700 and 800.

15. Discussion and possible action on the review and evaluation by the Curriculum and Testing Committee regarding the International Code Council Inspector Certification Program.

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

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

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

B. Status of division functions.

Commission Report, 1st Quarter FY2019 Overview and Executive Office

The first quarter of FY2019 continued a pattern of heavy activity in most agency sections.

The new data management system, launched in early 2018, saw additional refinements, expansions, and overall improvements. Work continued to be focused on the user interface for both customers and staff and expanding the capabilities of all users to access data and perform various functions. Work also began on the development of a comprehensive IT security plan. The agency had participated in a third-party assessment of its IT infrastructure and functions, and the development of the overall security plan will address many of the findings from the assessment.

Testing and certification issuance both remain at very high levels. Both reached record numbers for the 2018 fiscal year, and the pace appears to be continuing into the new year. Online testing volume saw a significant increase from its initial launch in May of 2018. Slightly over 1,000 exams had been delivered via the online platform since the May launch, with over 700 delivered during the September – November quarter. Only the Structural and Marine Fire Protection exams remain to be developed in the online format; all others are available in both onsite and online formats. Twenty-three facilities were participating as online test sites by the end of the quarter, with others slated to be activated soon after the new year. The overall pass rate for exams continues to be impacted because of the rules adopted in January 2017, calling for examinees to pass all sections of the Structural FP and Fire Inspector exams to qualify for state certification. However, training facilities are adjusting their programs to improve their own pass rates.

The Compliance Section continued with its inspection program, and participation with conducting exams around the state. Key members of the staff conducted a comprehensive investigation of a major fire department following receipt of a complaint regarding the department's PPE care and maintenance practices. Findings from the investigation, and requirements for corrective actions were delivered to the department at the end of the quarter.

Executive office activities:

- Participation in Occupational Education Advisory Committee, including Career Cluster Advisory Summit on Nov 9th.
- Presentation to Fire Instructor Association of North Texas (FIANT) – Oct 3rd
- Developed 2019 Agency Homeland Security Strategic Plan and submitted on Dec 7th
- Met with TDI reps on Oct 16th regarding data collected for injuries
- Attended Biennial Legislative Conference on Oct 17th
- Presentation to Texas State Fire Marshals' Conference – Oct 19th
- Presentation to Fire Chief's Academy class – Oct 24th
- Attended LODD Conference – Oct 29th – 31st
- Attended Home Security Council meeting on Nov 14th

Commission Quarterly Report Training Approval and Testing Section

Test Administration, Training Approvals, Record Reviews, and Training Audits Statistics – 1st Quarter, FY 2019

- o Test Administration – 3020 exams were administrated during this quarter with a pass rate of 83.25%.
- o Training Approvals – Total of 602 training approvals were submitted with start dates during this quarter in the commission’s Training Facility Management System.
- o Record Reviews – One hundred one (101) record reviews for equivalency were conducted (23 SFFMA/28 out of state/26 BWFF). One hundred thirty-nine (139) Qual numbers were issued in the Training Facility Management System.
- o Training and Skill Testing Audits – Information not available

Activities for the Next Quarter

- o Continue to work with IT staff resolve any remaining issues encountered with test scheduling procedures, payment processes, audits, web-based testing and implementing changes to applications, TPAs and Skills.
- o Continue to scout for additional testing centers to fill “gaps” throughout the state.
- o Strong promotion of online testing using agency Facebook page, agency website, information included in all written test booklets/proctor script and “word of mouth”.

Certification, Renewal and Curriculum 1st Quarter Report, FY 2019

Certification/Renewal

- 29,253 Department Renewals processed
- 2,482 Individual Renewals processed
- 2,599 Professional Development Training Applications Reviewed
- 1,731 IFSAC Seals Issued
- 3,895 Certifications Issued
 - Criminal History: 582
 - Medical documents processed: 706
 - TEEEX: 311
 - IFSAC Registered: 309
 - Confirmation of Commissions (Peace Officer) reviewed: 42
- 55 Service time applications reviewed
- 4 Training Facilities Renewed
 - Total number of certificate training facilities: 296
- 17 HOD Appointments to duty processed

Curriculum Development:

Meetings

September 18-20: Curriculum and Testing Committee

September 25: Inspector Ad Hoc Committee

Meetings: Detail

- **Curriculum and Testing Committee**
 - Status of online testing
 - Development of full Hazardous Materials Technician/Incident Commander curriculum
 - ICC
 - IFSAC reciprocity and upcoming NFPA revisions/curricula updates
- **Inspector Ad Hoc Committee**
 - Reviewed test data for/amended problematic Plans Examiner I and Inspector II test questions
 - Discussed course of action regarding content and delivery of curriculum

IFSAC

Preparation continues for the TCFP's re-accreditation site visit in January 2019. Double-checking that test banks and skills have all required components. Making travel arrangements for site team. Working on logistics.

Test Development and Test Bank Maintenance

- Audited Fire Fighter I and Fire Fighter II test banks
 1. Determined which questions created by TCFP
 2. Updated text references
- Added new questions and/or made updates to the following test banks:
 1. Hazmat Technician
 2. Hazmat Awareness

3. Hazmat Incident Commander
 4. Firefighter I
 5. Firefighter II
 6. Inspector I
 7. Inspector II
 8. Plans Examiner I
- Researched comments by examinees on test questions

Ernest A. Emerson Fire Protection Resource Library:

	Q1
Items loaned	
A/V items	16*
Print items	3
New borrowers	1
Responses to borrower follow-up surveys	0
<i>Research and reference requests</i>	
Internal requests (count)	9
External requests (count)	3
Hours (total)	11.5
<i>Items cataloged</i>	
A/V items	38
Print items	27
Desk copies	3

**The online audio-visual catalog has been disabled since 11/1/2018.*

**Compliance Section
Commission Report
1st Qtr. FY 2019**

- The Compliance Team formulated a checklist of NFPA 1851 requirements for evaluating the acceptability of the regulated fire department's PPE SOP to be compliant with Texas Administrative Code 435.1. The evaluation checklist is available on the TCFP website with the PPE SOP information packet.
- The TCFP website redesign included measures for the agency information security. Some of these changes affected the ability for Head of Department applicants to complete the Standards Review Assignment as related to identification of TCFP staff. The compliance manager working with agency Information Technology staff updated the website to enable completion of the Standards Review Assignment.
- The Compliance Team evaluated in more detail the meaning and the intent of the following NFPA 1851 requirements; - Chapter 7 Cleaning and Decontamination, 7.3.2 Ensemble and ensemble that are soiled shall receive advance cleaning prior to reuse. - Chapter 9 Storage, 9.1.7 Ensembles and ensemble elements shall not be stored in contact with contaminants such as, but not limited to, oils, solvents, acids, or alkalis. The team is evaluating the merits of requesting a formal interpretation from the NFPA to ensure the proper compliance enforcement of the NFPA 1851 requirements.
- The Compliance Team continued to utilize Skype sessions for training, coordination and communication of agency and compliance issues.
- The Field Compliance Officers we invited to attend via phone connection to the agency wide meeting conducted by Robert Reese to discuss the Malware that infected the TCFP agency servers and PC systems.
- The Compliance Team assembled in Austin to successfully complete a large department biennial inspection. While in Austin the team was issued new cell phones and activated a new cell phone service plan for purpose of budget savings to the agency. Also, while in Austin the team received updates and tune up to the tablet computers used for field officer personnel.
- The Region 4 Compliance Officer position vacancy interview process was conducted to fill the vacancy created by the retirement of Region 4 Compliance Officer. Brian Meroney was hired to fill the position. Congratulations and welcome Brian.
- The Region 7 Compliance Officer, Tim Gardner attended the quarterly Curriculum and Testing Committee meeting and provided the compliance team meeting notes and updates.
- The normal 30 years approved DOT life span of SCBA cylinders may receive a life extension granted by DOT-SP 16320 using the method of Modal Acoustic Emission (MAE) for periodic testing. However, to confirm compliance with NFPA requirements any departments utilizing the DOT-SP 16320 method must submit to TCFP a letter obtained from the SCBA manufacturer indicating that the cylinders marked with DOT-SP 1632 will not affect or void the NIOSH or NFPA certification of the cylinder. The compliance team is instructed to complete a full thorough discussion with the compliance manager before approving the life extension of cylinders using the DOT-SP 16320 method.
- All Compliance Officers signed and returned to Grace Wilson a confidentiality agreement related to the agency certification examinations and tests items for compliance with IFSAC requirements in preparation for the upcoming IFSAC site visit.

- The Compliance team provided review, advice and recommendation on updated FLSE II skills documents to TCFP Curriculum & Testing staff and committee in preparation for the finalization of the materials in the skills manual.
- Region 7 Compliance Officer Tim Gardner worked with TCFP IT Programmer Derrell Beasley to fix a FARM problem that duplicated PPE violation data entries. Tim also worked with Derrell to address other glitches in the compliance inspection wizard in FARM. IT and the compliance team continue to work together on continuous improvement of the FARM compliance inspection module.
- The Compliance Manager worked with Annalise Mendez as she transitioned to the TCFP Agency Purchaser / Traveler Coordinator position. New voucher processes and procedures were developed to gain better compliance with the state requirements and to gain more consistency with all agency travelers.
- All Field Compliance Officers completed and submitted revised and updated agency Telecommute agreements for the 2019 fiscal year.
- The Fire Chief of a regulated fire department requested a meeting with TCFP staff and agency legal counsel in Austin to discuss preliminary findings related to a Compliance Investigation pertaining to the compliance with Texas Administrative Code 435.1, Protective Clothing. After the meeting and upon agency receipt of additional information and documentation, the TCFP investigation concluded with a final report submitted to the regulated fire department with the investigation findings and actions required. A copy of the final report was sent as courtesy copy to the complainant. The action requirements from the fire department are due to be returned to TCFP 60 days from date of the final report for staff evaluation and conclusion.
- Two Compliance Officers attended a SCOTT Authorized Technician Class to help the compliance team better understand and improve detailed knowledge of the regulation requirements per Texas Administrative Code 435.3, Self-Contained Breathing Apparatus. One Compliance Officer attended the annual Texas Fire Chiefs Association LODD Conference to gain knowledge and awareness of current and new health and safety trends in the Texas Fire Service and to better enable TCFP to assist with LODD investigations under the authority of the Texas State Fire Marshal's Office.
- Two Compliance Officers are pilot testing the use of a more expanded and comprehensive compliance inspection guide and checklist. The revised checklist is being well received by regulated fire departments. The Compliance team will evaluate the outcome of the pilot tests and decide about when and how to transition to the new checklist for use across all regions and by all the compliance officers.

**Activity Report for Information Technology Section
FY 2019, 1st Quarter**

- TCFP Websites and Web Applications: Uptime 99%
- Public website re-imagined and redesigned
 - Employing MVC technology
 - UI/UX Principles
- Introduced microservices into TCFP application landscape to reduce service interruptions.
- FARM and FIDO received feature improvements
 - Launched certification renewal portal
 - Created Training Facility renewal portal
 - Improved caching, increased speed of URL redirects
- Updated EPAY (online payment feature) backend and codebase with change to \$0 ACH fee.
- Implemented Special Training Exemptions for TPA and skill modules
- Onboarded additional exams to online exam module
- Initiated development of new IT security policy
- Addressed 538 Service Requests (Tickets)
 - Number of service requests have increased significantly since introduction of online contact form on public website (previous fiscal year).
- Resolved 1 critical security incident (trojan attack).
- Continued IT Training in the following areas
 - Developers training/ MVC
 - IRM training
 - Cybersecurity Training
 - Microservices

- 17. 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**

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

19. Adjourn meeting.