

TEXAS COMMISSION ON FIRE PROTECTION

October 27, 2022, 10:00 a.m.

1701 N. Congress Ave., William B. Travis Building, Room 1-104, Austin, Texas

The meeting of the Texas Commission on Fire Protection will be held in-person at the physical location above. If you are not feeling well or were possibly exposed to COVID-19, please stay at home.

The Texas Commission on Fire Protection may discuss and/or take action on any of the following agenda items. The Commission may go into executive session on any agenda item listed below as authorized by the Open Meetings Act, Texas Government Code Chapter 551.

- 1. Call to order with invocation and pledge of allegiance.**
- 2. Roll call and excuse of Commissioner absences.**
- 3. Approval of Commission meeting minutes of July 14, 2022.**
- 4. The Budget and Strategic Plan Subcommittee may meet on October 27, 2022, during the commission meeting and provide a report relating to any recommendations developed by the subcommittee relating to modifications to the agency operating budget and strategic plan.**
- 5. Reports from fire service interest groups and agencies on matters relating to their specific organizational purposes, functions, activities, and objectives, including reports from the Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firefighters 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, the State Fire Marshal's Office, and the National Fallen Fire Fighters Foundation.**
- 6. Report from commission representative to the Texas Fire School Advisory Board or by representatives of the Texas Engineering Extension Service (TEEX) regarding fire protection training provided by TEEX through its Emergency Services Training Institute (ESTI).**
- 7. Report from commission representative to the Homeland Security Council.**
- 8. Report from the Health and Wellness ad-hoc Committee.**
- 9. Subjects for future commission meeting agendas.**
- 10. Future meeting dates.**
- 11. Matters referred from the Fire Fighter Advisory Committee (FFAC), including, but not limited to:**
 - A. Possible final adoption of the proposed amendments as follows:**
 - 1. 37 Tex. Administrative Code, Part 13, Chapter 401, Administrative Practice and Procedure.**

2. **37 Tex. Administrative Code, Part 13, Chapter 403, Criminal Convictions and Eligibility for Certification.**
3. **37 Tex. Administrative Code, Part 13, Chapter 421, Standard for Certifications.**
4. **37 Tex. Administrative Code, Part 13, Chapter 423, Fire Suppression.**
5. **37 Tex. Administrative Code, Part 13, Chapter 425, Fire Service Instructors.**
6. **37 Tex. Administrative Code, Part 13, Chapter 427, Training Facility Certification.**
7. **37 Tex. Administrative Code, Part 13, Chapter 431, Fire Investigation.**
8. **37 Tex. Administrative Code, Part 13, Chapter 433, Driver/Operator.**
9. **37 Tex. Administrative Code, Part 13, Chapter 435, Fire Fighter Safety.**
10. **37 Tex. Administrative Code, Part 13, Chapter 437, Fees.**
11. **37 Tex. Administrative Code, Part 13, Chapter 439, Examination for Certification.**
12. **37 Tex. Administrative Code, Part 13, Chapter 463, Advisory Committees.**

B. Proposed amendments regarding rule review of the following:

1. **37 Tex. Administrative Code, Part 13, Chapter 441, Continuing Education.**
2. **37 Tex. Administrative Code, Part 13, Chapter 443, Certification Curriculum Manual.**
3. **37 Tex. Administrative Code, Part 13, Chapter 447, Part-Time Fire Protection.**
4. **37 Tex. Administrative Code, Part 13, Chapter 455, Minimum Standards for Wildland Fire Protection Certification.**

12. Proposed rule review for the following:

- A. **37 TAC, Chapter 449, Head of Fire Department.**
- B. **37 TAC, Chapter 451, Fire Officer.**
- C. **37 TAC, Chapter 453, Hazardous Materials.**
- D. **37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification.**

13. Matters from the Agency Chief.

- A. **Update regarding agency duties and responsibilities.**
- B. **Decisions of Agency Chief in contested cases and consent orders.**
- C. **Status regarding division functions:**
 1. **Training Approval & Testing – test administered, training approvals, record**

reviews and online training audits

2. **Certification & Professional Development** – training applications, IFSAC seals issued, certifications issued, training facilities, curriculum development, library resource requests
 3. **Compliance** – biennial inspections, compliance officers training, issues involving regulated entities
 4. **Information Technology** – public website design, FARM and FIDO improvements, CAPPs (Central Accounting Payroll/Personnel System), IT security policy, service requests
14. **Personnel matters** regarding the appointment, employment, compensation, evaluation, reassignment, and duties of the Agency Chief.
15. **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.

1. Call to order with invocation and pledge of allegiance.

2. Roll call and excuse of Commissioner absences.

3. Approval of Commission meeting minutes of July 14, 2022.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer, J. P. Steelman, at 9:00 a.m. called the July 14, 2022, meeting of the Texas Commission on Fire Protection to order at 1701 N. Congress Avenue, Room 1-104, Austin, Texas.

Attending	Chris Cantu Mike Jones J. P. Steelman	David Coatney Clyde Loll Kelly Vandygriff	Sue DeVillez Bob Morgan* Rusty Wilson	Michael Glynn Mala Sharma*	Paul Hamilton Tim Smith*
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*absent entire meeting

**absent part of meeting

Staff	Mike Wisko Amanda Khan	Holden Wenger Candace Barnett	Grace Wilson Rosalind Hunt, Assistant Attorney General	Cliff Grant	Rick Wallace
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Guests See Guest List attached.

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| 1. Invocation and Pledge of Allegiance | The invocation was given by Commissioner Russell Wilson and the Pledge of Allegiance was lead by Presiding Officer, J. P. Steelman. |
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| 2. Roll call and excuse of Commissioner absences | Mike Jones called the roll, and a quorum was present. |
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| 3. Adoption of Minutes | A motion was made by Mike Jones and seconded by Rusty Wilson to approve the minutes of the April 21, 2022, commission meeting. The motion carried. |
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| 4. Report from Budget and Strategic Plan Subcommittee | No action necessary. |
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| 5. Reports from Interest Groups | A brief report was given by the Texas Fire Chief's Association, Texas State Association of Fire Fighters, the State Firefighters and Fire Marshals' Association of Texas, the Texas Association Texas A&M Forest Service, National Fire Protection Association, Center for Public Safety, Texas State Association of Fire and Emergency Districts, The Center for Public Safety Excellence, the State Fire Marshal's Office |
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| 6. Report from TX Fire School Advisory Board | Gordon Lohmeyer gave a brief report on activities of the board to date. |
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| 7. Report from Homeland Security Council | Commissioner Kelly Vandygriff had nothing to report. Announced the next meeting as August 15, 2022. |
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8. Report from Health & Wellness Health & Wellness Chairman, Mala Sharma was unable to attend the meeting. Chief Doug Boeker, Sugarland Fire Department, gave a brief report in her absence.
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9. Subjects for future meeting agendas None proposed.
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10. Future meeting Dates The commission previously scheduled October 27, 2022 at 10:00am for its next meeting.
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11. Report from Curriculum and Testing Committee A brief report was given by Pat McAuliff, Curriculum and Testing Committee, regarding new curriculum.
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12. Matters from Fire Fighter Advisory Committee
- A) 1. A motion was made by Chris Cantu and seconded by David Coatney to approve with proposed changes and grammatical corrections to Chapter 425. The motion carried.
2. A motion was made by Paul Hamilton and seconded by Clyde Loll to approve proposed changes with grammar corrections to Chapter 435. The motion carried.
3. A motion was made by Kelly Vandygriff and seconded by Mike Jones to approve proposed changes to Chapter 439. The motion carried.
4. A motion was made by Michael Glynn and seconded by Mike Jones to send Chapter 463 back to the committee. The motion did not carry.
- B) 1. A motion was made by Michael Glynn and seconded by David Coatney to approve updates to Chapter 401. The motion carried.
2. No action was taken on 37 TAC, Chapter 421 and was left with the Fire Fighter Advisory Committee to review.
3. A motion was made by Kelly Vandygriff and seconded by Mike Jones to approve the proposed changes to Chapter 439. The motion passed.
4. A motion was made by Mike Glynn and seconded by David Coatney to approve Chapter 431. The motion carried.
5. A motion was made by Paul Hamilton and seconded by Mike Jones to send Chapter 433 back to Fire Fighter Advisory for review. The motion carried.
6. A motion was made by David Coatney and seconded Rusty Wilson to move Chapter 437 Back to Fire Fighter Advisory Committee to include the adopted changes to fees. The motion carried.
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13. Matters from Fire Fighter Advisory Committee A. A motion was made by Mike Jones and seconded by Paul Hamilton to move Chapter 427 back to Fire Fighter Advisory for review. The motion carried.
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14. Proposed rule Reviews A motion was made by Kelly Vandygriff and seconded by Rusty Wilson to have the Fire Fighter Advisory Committee review the rules for 37 TAC, Chapter 441, Continuing Education, 37 TAC, Chapter 443, Certification Curriculum Manual, 37 TAC, Chapter 447, Part-Time Fire Protection Employee, and 37 TAC, Chapter 455, Minimum Standards for Wildland Fire Protection and submit recommendation back to the commission. The motion carried.
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15. Injury Report A motion was made by Mike Jones and seconded by Kelly Vandygriff to approve the language proposed by Fire Fighter Advisory Committee to the Injury Report. The motion carried.
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16. Matters from Agency Chief A. Mike Wisko, Agency Chief, gave an update on agency duties and responsibilities.
B. Mr. Wisko reported that there were no contested cases.
C. Mr. Wisko reported status on division functions.
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17. Executive Session Presiding Officer, J. P. Steelman called for an Executive Session.
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18. Adjournment A motion to adjourn was made by Rusty Wilson and seconded by Michael Glynn. The motion carried.
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Texas Commission on Fire Protection
Commission Meeting
July 14 , 2022
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J. P. Steelman, Presiding Officer

4. The Budget and Strategic Plan Subcommittee may meet on October 27, 2022, during the commission meeting and provide a report relating to any recommendations developed by the subcommittee relating to modifications to the agency operating budget and strategic plan.

Performance Measures

Texas Commission on Fire Protection Key Performance Measures.

Initial Report as of 10/13/2022 5:14 PM for Fiscal Year 2022.

Run by [Nancy Love](#).

Metric						Method of Calculation
* - Reported to ABEST quarterly, Q1 - Quarter 1, Q2 - Quarter 2, Q3 - Quarter 3, Q4 - Quarter 4, FY YTD - Year to date based on fiscal year						
Number of inspections of regulated entities (Cumulative): <u>1275</u>						
	Q1	Q2	Q3	Q4	FY YTD	
Inspection	212	328	361	220	1121	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.
Investigation	2	4	0	17	23	
Training Audits	8	17	23	19	67	
Inspection Related	42	8	8	6	64	
*Total Inspections	264	357	392	262	1275	
Number of examinations administered (Cumulative): <u>26485</u>						
	Q1	Q2	Q3	Q4	FY YTD	
*Exams Administered	6515	6281	7773	5916	26485	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.
Exam pass rate (Non-Cumulative): <u>83.82%</u>						
	Q1	Q2	Q3	Q4	FY YTD	
# Examined	6515	6281	7773	5916	26485	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.
# Passed	5432	5205	6650	4913	22200	
Pass Rate	83.38%	82.87%	85.55%	83.05%	83.82%	
Number of individuals certified (Non-cumulative):						
	Q1	Q2	Q3	Q4		
# Individuals	33861	34852	35632	36424		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.
Number of Training Providers Certified (Non-cumulative):						
	Q1	Q2	Q3	Q4		
# Providers	355	361	363	374		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.
Average cost per inspection of regulated Facilities: <u>\$292.37</u>						
	Q1	Q2	Q3	Q4	FY YTD	
Cost entered	\$90,738.26	\$87,990.34	\$88,047.38	\$105,989.40	\$372,765.40	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.
*Total Inspections	264	357	392	262	1275	
*Avg cost per	\$343.71	\$246.47	\$224.61	\$404.54	\$292.37	
<i>Report was run on 10/13/2022 5:14 PM</i>						

5. Reports from fire service interest groups and agencies on matters relating to their specific organizational purposes, functions, activities, and objectives, including reports from the Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firefighters 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, the State Fire Marshal's Office, and the National Fallen Fire Fighters Foundation.

6. Report from commission representative to the Texas Fire School Advisory Board or by representatives of the Texas Engineering Extension Service (TEEX) regarding fire protection training provided by TEEX through its Emergency Services Training Institute (ESTI).

7. Report from commission representative to the Homeland Security Council.

8. Report from the Health and Wellness ad-hoc Committee.

9. Subjects for future commission meeting agendas.

10. Future meeting dates.

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

A. Possible final adoption of the proposed amendments as follows:

- 1. 37 Tex. Administrative Code, Part 13, Chapter 401, Administrative Practice and Procedure.**

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER A
GENERAL PROVISIONS AND DEFINITIONS

§401.1. Purpose and Scope.

(a) Purpose. The purpose of this chapter is to provide a system of procedures for practice before the commission that will promote the just and efficient disposition of proceedings and public participation in the decision-making process. The provisions of this chapter shall be given a fair and impartial construction to attain these objectives.

(b) Scope.

(1) This chapter shall govern the initiation, conduct, and determination of proceedings required or permitted by law in matters regulated by the commission, whether instituted by order of the commission or by the filing of an application, complaint, petition, or any other pleading.

(2) This chapter shall not be construed so as to enlarge, diminish, modify, or otherwise alter the jurisdiction, powers, or authority of the commission, its staff, or the substantive rights of any person.

(3) This chapter shall not apply to matters related solely to the internal personnel rules and practices of this agency.

(4) To the extent that any provision of this chapter is in conflict with any statute or substantive rule of the commission, the statute or substantive rule shall control.

(5) In matters referred to the State Office of Administrative Hearings (SOAH), hearings or other proceedings are governed by 1 TAC Chapter 155 (relating to Rules of Procedures) adopted by SOAH. To the extent that any provision of this chapter is in conflict with SOAH Rules of Procedures, the SOAH rules shall control.

Source Note: The provisions of this §401.1 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective June 28, 2011, 36 TexReg 3936; amended to be effective February 26, 2015, 40 TexReg 826

§401.3. Definitions.

The following terms, when used in this chapter, shall have the following meanings, unless the context or specific language of a section clearly indicates otherwise:

(1) Advisory Committee--An advisory committee that is required to assist the commission in its rule-making function and whose members are appointed by the commission pursuant to Government Code, §419.008, or other law.

(2) Agency--Includes the commission, the **Agency Chief** [~~Executive Director~~], and all divisions, departments, and employees thereof.

(3) APA--Government Code, Chapter 2001, The Administrative Procedure Act, as it may be amended from time to time.

(4) Applicant--A person, including the commission staff, who seeks action from the commission by written application, petition, complaint, notice of intent, appeal, or other pleading that initiates a proceeding.

- (5) Application--A written request seeking a license from the commission, petition, complaint, notice of intent, appeal, or other pleading that initiates a proceeding.
- (6) Authorized Representative--A person who enters an appearance on behalf of a party, or on behalf of a person seeking to be a party or otherwise to participate in a commission proceeding.
- (7) Chairman--The commissioner who serves as presiding officer of the commission pursuant to Government Code, §419.007.
- (8) Commission--The Texas Commission on Fire Protection.
- (9) Commissioner--One of the appointed members of the decision-making body defined as the commission.
- (10) Complainant--Any person, including the commission's legal staff, who files a signed written complaint intended to initiate a proceeding with the commission regarding any act or omission by a person subject to the commission's jurisdiction.
- (11) Contested Case--A proceeding, including but not restricted to, the issuance of certificates, licenses, registrations, permits, etc., in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for adjudicative hearing.
- (12) Days--Calendar days, not working days, unless otherwise specified in this chapter or in the commission's substantive rules.
- (13) Division--An administrative unit for regulation of specific activities within the commission's jurisdiction.
- (14) **Agency Chief** [~~Executive Director~~] --The **Agency Chief** [~~Executive Director~~] appointed by the commission pursuant to Government Code, §419.009.
- (15) Hearings Officer--An administrative law judge on the staff of the State Office of Administrative Hearings assigned to conduct a hearing and to issue a proposal for decision, including findings of fact and conclusions of law, in a contested case pursuant to Government Code, Chapter 2003.
- (16) License--Includes the whole or part of any agency permit, certificate, approval, registration, license, or similar form of permission required or permitted by law.
- (17) Licensee--A person who holds an agency permit, certificate, approval, registration, license, or similar form of permission required or permitted by law.
- (18) Licensing--Includes the agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.
- (19) Party--Each person or agency named or admitted as a party in a contested case.
- (20) Person--Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the commission.
- (21) Pleading--A written document submitted by a party, or a person seeking to participate in a proceeding, setting forth allegations of fact, claims, requests for relief, legal argument, and/or other matters relating to a commission proceeding.
- (22) Preliminary Staff Conference—A conference with commission staff for the purpose of showing compliance with all requirements of law, or to discuss informal disposition of any complaint or contested case.

(23) Presiding Officer--The chairman, the acting chairman, the **Agency Chief** [~~Executive Director~~], or a duly authorized hearings officer.

(24) Proceeding--Any hearing, investigation, inquiry, or other fact-finding or decision-making procedure, including the denial of relief or the dismissal of a complaint.

(25) Respondent--A person under the commission's jurisdiction against whom any complaint or appeal has been filed or who is under formal investigation by the commission.

(26) SOAH—State Office of Administrative Hearings

Source Note: The provisions of this §401.3 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective February 26, 2015, 40 TexReg 826

§401.5. Delegation of Authority.

All decisions to suspend, revoke, or deny an application for any certificate or approval, to reprimand or place on probation the holder of such certificate or approval, or to impose an order for restitution, remedial action, or administrative penalties pursuant to Government Code, Chapter 419, shall be made by the **Agency Chief** [~~Executive Director~~] or designee.

Source Note: The provisions of this §401.5 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778

§401.7. Construction.

(a) A provision of a rule referring to the commission, the, or a provision **Agency Chief** [~~Executive Director~~] referring to the presiding officer, is construed to apply to the commission or chairman if the matter is within the jurisdiction of the commission, to the **Agency Chief** [~~Executive Director~~] if the matter is within the jurisdiction of the **Agency Chief** [~~Executive Director~~].

(b) Unless otherwise provided by law, any duty imposed on the commission, the chairman, or the **Agency Chief** [~~Executive Director~~] may be delegated to a duly authorized representative. In such case, the provisions of any rule referring to the commission, the chairman, or the **Agency Chief** [~~Executive Director~~], shall be construed to also apply to the duly authorized representative of the commission, the chairman, or the **Agency Chief** [~~Executive Director~~].

Source Note: The provisions of this §401.7 adopted to be effective March 8, 2001, 26 TexReg 2040

§401.9. Records of Official Action.

All official acts of the commission or the **Agency Chief** [~~Executive Director~~] shall be evidenced by a recorded or written record. Official action of the commission or the Agency Chief shall not be bound or prejudiced by any informal statement or opinion made by any member of the commission, the **Agency Chief** [~~Executive Director~~], or the employees of the agency.

Source Note: The provisions of this §401.9 adopted to be effective March 8, 2001, 26 TexReg 2040

§401.11. Conduct of Commission and Advisory Meetings.

(a) Statements concerning items which are part of the commission's posted agenda. Persons who desire to make presentations to the commission concerning matters on the agenda for a scheduled commission or fire fighter advisory committee meeting shall complete registration cards which shall be made available at the entry to the place where the scheduled meeting is to be held. The registration cards shall include blanks in which all of the following information must be disclosed:

(1) name of the person making a presentation;

(2) a statement as to whether the person is being reimbursed for the presentation; and if so, the name of the person or entity on whose behalf the presentation is made;

(3) a statement as to whether the presenter has registered as a lobbyist in relationship to the matter in question;

(4) a reference to the agenda item which the person wishes to discuss before the commission;

(5) an indication as to whether the presenter wishes to speak for or against the proposed agenda item; and

(6) a statement verifying that all factual information to be presented shall be true and correct to the best of the knowledge of the speaker.

(b) Discretion of the presiding officer. The presiding officer of the commission or the advisory committee, as the case may be, shall have discretion to employ any generally recognized system of parliamentary procedures, including, but not limited to Robert's Rules of Order for the conduct of commission or committee meetings, to the extent that such parliamentary procedures are consistent with the Texas Open Meetings Act or other applicable law and these rules. The presiding officer shall also have discretion in setting reasonable limits on the time to be allocated for each matter on the agenda of a scheduled commission meeting or advisory committee meeting and for each presentation on a particular agenda item. If several persons wish to address the commission or advisory committee on the same agenda item, it shall be within the discretion of the chair to request that persons who wish to address the same side of the issue coordinate their comments, or limit their comments to an expression in favor of views previously articulated by persons speaking on the same side of an issue.

(c) Requests for issues to be placed on an agenda for discussion. Persons who wish to bring issues before the commission shall first address their request in writing to the **Agency Chief** [~~Executive Director~~]. Such requests should be submitted at least 15 days in advance of commission or fire fighter advisory committee meetings. The decision whether to place a matter on an agenda for discussion before the full commission, or alternatively before the fire fighter advisory committee, or with designated staff members, shall be within the discretion of the appropriate presiding officer.

Source Note: The provisions of this §401.11 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778

§401.13. Computation of Time.

(a) Computing Time. In computing any period of time prescribed or allowed by these rules, by order of the Agency, or by any applicable statute, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or a legal holiday, in which event, the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. A party or attorney of record notified under §401.61 of this title (relating to Record) is deemed to have been notified on the date which notice is sent.

(b) Extensions. Unless otherwise provided by statute, the time for filing any pleading, except a notice of protest, may be extended by order of the **Agency Chief** [~~Executive Director~~] or designee, upon the following conditions:

(1) A written motion must be duly filed with the **Agency Chief** [~~Executive Director~~] or designee prior to the expiration of the applicable period of time allowed for such filings.

(2) The written motion must show good cause for such extension and that the need is not caused by the neglect, indifference, or lack of diligence on the part of the movant.

(3) A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

Source Note: The provisions of this §401.13 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective July 19, 2007, 32 TexReg 4443; amended to be effective December 18, 2012, 37 TexReg 9778

§401.15. Agreements To Be in Writing.

(a) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(b) No stipulation or agreement between the parties, their attorneys or representatives, with regard to any matter involved in any proceeding before the Agency, shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate any right or privilege afforded by these rules, unless precluded by law.

Source Note: The provisions of this §401.15 adopted to be effective March 8, 2001, 26 TexReg 2040

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER B
RULEMAKING PROCEEDINGS

§401.17. Requirements.

Except for the requirements of mandatory rule development by the fire fighter advisory committee provided for by law, the procedure for rulemaking is governed by Subchapter B of the Administrative Procedure Act (APA).

Source Note: The provisions of this §401.17 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778

§401.19. Petition for Adoption of Rules.

- (a) Any person may petition the commission requesting the adoption of a new rule or an amendment to an existing rule as authorized by the APA, §2001.021.
- (b) Petitions shall be sent to the **Agency Chief** [~~Executive Director~~]. Petitions shall be deemed sufficient if they contain:
- (1) the name and address of the person or entity on whose behalf the application is filed;
 - (2) specific reference to the existing rule which is proposed to be changed, amended, or repealed;
 - (3) the exact wording of the new, changed, or amended proposed rule with new language underlined and deleted language dashed out;
 - (4) the proposed effective date; and
 - (5) a justification for the proposed action set out in narrative form with sufficient particularity to inform the commission and any other interested person of the reasons and arguments on which the petitioner is relying.
- (c) The **Agency Chief** [~~Executive Director~~] shall direct that the petition for adoption of rules be placed on the next agenda for discussion by the commission or the fire fighter advisory committee with subject matter jurisdiction in accordance with §401.11 of this title (relating to Conduct of Commission and Advisory Meetings).
- (d) A request for clarification of a rule shall be treated as a petition for a rule change. The commission staff may request submission of additional information from the applicant to comply with the requirements of subsection (b) of this section.

Source Note: The provisions of this §401.19 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective July 19, 2007, 32 TexReg 4443; amended to be effective December 18, 2012, 37 TexReg 9778

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER C
EXAMINATION APPEALS PROCESS

§401.21. Examination Challenge.

(a) An examinee who seeks to challenge the failure of an examination must submit a written request to the Agency Chief [~~Executive Director~~] or his designee to discuss informal disposition of the complaint(s).

(b) An examination may be challenged only on the basis of examination content, failure to comply with commission rules by a certified training facility, or problems in the administration of the examination.

(c) The written request must identify the examinee, the specific examination taken, the date of the examination, and the basis of the appeal.

(d) An examinee who challenges the content of an examination must identify the subject matter of the question(s) challenged and is not entitled to review the examination due to the necessity of preserving test security.

(e) The request must be submitted within 30 days from the date the grade report is posted on the website.

(f) Commission staff shall schedule a preliminary staff conference with the applicant in accordance with §401.41 of this title (relating to Preliminary Staff Conference) to discuss the challenge within 30 days of the request or as soon as practical. The examinee may accept or reject the settlement recommendations of the commission staff. If the examinee rejects the proposed agreement, the examinee must request in writing a formal administrative hearing as described in Subchapter F of this chapter (relating to Contested Cases) within 30 days of the action complained of.

Source Note: The provisions of this §401.21 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective July 19, 2007, 32 TexReg 4443; amended to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826

§401.23. Examination Waiver Request.

(a) An individual who is required to take a commission examination may petition the commission for a waiver of the examination if the person's certificate or eligibility expired because of a good faith clerical error on the part of the individual or an employing entity.

(b) The waiver request must include a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with commission requirements and that failure to comply was due to circumstances beyond the control of the certificate holder or applicant.

(c) Commission staff shall schedule a preliminary staff conference with the applicant in accordance with §401.41 of this title (relating to Preliminary Staff Conference) to discuss the waiver request within 30 days of the request, or as soon as practical. The applicant may accept or reject the settlement recommendations of the commission staff. If the examinee rejects the proposed agreement, the applicant must request in writing a formal administrative hearing as described in

Subchapter F of this chapter (relating to Contested Cases) within 30 days of the action complained of.

Source Note: *The provisions of this §401.23 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective July 19, 2007, 32 TexReg 4443; amended to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826*

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER D
DISCIPLINARY PROCEEDINGS

§401.31. Disciplinary Proceedings in Contested Cases.

(a) If the commission staff recommends administrative penalties or any other sanction for alleged violations of laws or rules, the respondent may request a preliminary staff conference.

(b) Commission staff shall schedule a preliminary staff conference with the applicant to discuss the alleged violations of laws or rules within 30 days of the request or as soon as practical. The respondent may accept or reject the settlement recommendations of the commission staff. If the respondent rejects the proposed agreement, the respondent must request in writing a formal administrative hearing as described in Subchapter F of this chapter (relating to Contested Cases) within 30 days of the notice of the staff's recommended disciplinary action.

***Source Note:** The provisions of this §401.31 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective July 19, 2007, 32 TexReg 4443; amended to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826*

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER E
PREHEARING PROCEEDINGS

§401.41. Preliminary Staff Conference.

(a) General. After receipt of notice of alleged violations of laws or rules administered or enforced by the commission and its staff, the holder of the certificate, applicant or regulated entity may request a conference with the commission's staff for the purpose of showing compliance with all requirements of law, or to discuss informal disposition of any complaint or contested case.

(b) Representation. The certificate holder, applicant or regulated entity may be represented by counsel or by a representative of his or her choice. The commission shall be represented by one or more members of its staff and by commission legal counsel.

(c) Informal Proceedings. The conference shall be informal, and will not follow procedures for contested cases. The commission's representative(s) may prohibit or limit attendance by other persons; may prohibit or limit access to the commission's investigative file by the licensee, the licensee's representative, and the complainant, if present; and may record part or all of the staff conference. At the discretion of the commission's representative(s), the licensee, the licensee's representative, and the commission staff may question witnesses; make relevant statements; and present affidavits, reports, letters, statements of persons not in attendance, and such other evidence as may be appropriate.

(d) Settlement Conference. At the discretion of the commission's representative(s), the preliminary staff conference may be concluded, and a settlement conference initiated to discuss staff recommendations for informal resolution of the issues. Such recommendations may include any disciplinary actions authorized by law, including administrative penalties, restitution, remedial actions, or such reasonable restrictions that may be in the public interest. These recommendations may be modified by the commission's representative(s) based on new information, a change of circumstances, or to expedite resolution in the interest of protecting the public. The commission's representative(s) may also recommend that the investigation be closed or referred for further investigation.

(e) Proposed Consent Order. The licensee may accept or reject the settlement recommendations of the commission staff. If the licensee accepts the recommendations, the licensee shall execute a settlement agreement in the form of a proposed consent order as soon thereafter as practicable. If the licensee rejects the proposed agreement, the matter may be scheduled for a hearing as described in Subchapter F of this chapter.

(f) Approval of Consent Order. Following acceptance and execution of the settlement agreement recommended by staff, said proposed agreement shall be submitted to the **Agency Chief** [~~Executive Director~~] for approval. If the order is approved, it shall be signed by the **Agency Chief** [~~Executive Director~~]. If the proposed order is not approved, the licensee shall be so informed and the matter shall be referred to the commission staff for appropriate action to include dismissal, closure, further negotiation, further investigation, or a formal hearing.

(g) Preliminary Notice. A revocation, suspension, annulment, denial, or withdrawal of a certificate or license is not effective unless, before the institution of contested case proceedings, the holder of

the certificate receives preliminary notice of the facts or conduct alleged to warrant the intended action and an opportunity to show compliance with all requirements of law.

(h) Request for Formal Hearing. Except as otherwise provided by law, if an applicant's original application or request for a certificate is denied, he or she shall have 30 days from the date of denial to make a written request for a formal hearing, and if so requested, the formal hearing will be granted and the provisions of the APA and this chapter with regard to contested cases shall apply.

Source Note: *The provisions of this §401.41 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826*

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER F
CONTESTED CASES

§401.51. Opportunity for Hearing.

In general, except as otherwise provided by law, the procedure for the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a certificate is governed by Government Code, Chapter 2001, pertaining to Administrative Procedures and by 1 TAC Chapter 155 (relating to Rules of Procedures) adopted by SOAH.

Source Note: The provisions of this §401.51 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective July 19, 2007, 32 TexReg 4443; amended to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826

§401.53. Contested Case Hearing.

(a) The commission appoints SOAH to be its finder of fact in contested cases. The commission does not delegate to the hearings officer and retains for itself the right to determine the sanctions and make the final decision in a contested case.

(b) SOAH hearings of contested cases shall be conducted in accordance with the APA by a hearings officer assigned by SOAH. Jurisdiction over the case is acquired by SOAH when the commission staff files a request to docket case.

(c) The commission may serve the notice of hearing on the respondent at his or her last known address as shown by commission records. The notice may be served by registered U. S. mail or by certified mail, return receipt requested.

Source Note: The provisions of this §401.53 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective February 26, 2015, 40 TexReg 826

§401.57. Filing of Exceptions and Replies to Proposal for Decision.

(a) A copy of the proposal for decision in a contested case shall be simultaneously delivered or mailed by certified mail, return receipt requested, to each party representative of record.

(b) Exceptions to the proposal for decision shall be filed within 20 days of the date of the proposal for decision.

(c) Replies to exceptions shall be filed within 15 calendar days after the date of filing of the exceptions and briefs.

(d) The exceptions shall be specifically and concisely stated. The evidence relied upon shall be stated with particularity, and any evidence or arguments relied upon shall be grouped under the exceptions to which they relate.

(e) The hearings officer will rule on all exceptions, briefs, replies, and requests for extension of time and notify the parties of decisions and any amendments to the proposal for decision.

Source Note: The provisions of this §401.57 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective February 26, 2015, 40 TexReg 826

§401.59. Orders.

After the time for filing exceptions and replies to exceptions expires, the hearings officer's proposal for decision will be considered by the **Agency Chief** [~~Executive Director~~] and either adopted or modified and adopted. All final decisions or orders of the commission or the **Agency Chief** [~~Executive Director~~] shall be in writing and signed. A final decision shall include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, shall be accomplished by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by certified mail of any decision or order, and a copy of the decision or order shall be delivered or mailed to any party and to his or her authorized representative.

Source Note: The provisions of this §401.59 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective February 26, 2015, 40 TexReg 826

§401.61. Record.

(a) The record in a contested case includes the matters listed in the APA, Government Code, §2001.060.

(b) Proceedings, or any part of them, shall be transcribed on written request of any party. The party requesting the proceeding to be transcribed shall make the initial payment for the transcription. Ultimately, however, the commission or **Agency Chief** [~~Executive Director~~] has the authority to assess, in addition to an administrative penalty, the costs of transcribing the administrative hearing.

(c) Appeal. The costs of transcribing the testimony and preparing the record for an appeal by judicial review shall be paid by the party who appeals.

Source Note: The provisions of this §401.61 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective February 26, 2015, 40 TexReg 826

§401.63. Final Decision and Orders.

(a) Commission action. A copy of the final decision or order shall be delivered or mailed to any party and to the attorney of record.

(b) Recorded. All final decisions and orders shall be in writing. A final order shall include findings of fact and conclusions of law, separately stated.

(c) Changes stated in final order. If the hearings officer's proposed findings of fact or conclusions of law are modified, the final order shall reflect the specific reason and legal basis for each change made.

(d) In general. Any party aggrieved of a final decision or order of the **Agency Chief** [~~Executive Director~~] in a contested case may appeal to the commission after the decision or order complained of is final. An appeal to the commission for review of action of the **Agency Chief** [~~Executive Director~~] shall be made within 30 days from the date that the writing evidencing the official action or order complained of is final and appealable, but for good cause shown, the commission may

allow an appeal after that date. A motion for rehearing is not a prerequisite for an appeal to the commission.

(e) Oral argument. On the request of any party, the commission may allow oral argument prior to the final determination of an appeal of a decision or order of the **Agency Chief** [~~Executive Director~~].

(f) If the **Agency Chief's** [~~Executive Director~~] final decision or order is appealed to the commission, the matter shall be set for the next available commission meeting and the commission shall take action in open session. A copy of the commission decision shall be delivered or mailed to any party and to the attorney of record.

Source Note: The provisions of this §401.63 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective February 26, 2015, 40 TexReg 826

§401.67. Motions for Rehearing.

(a) In the absence of a finding of imminent peril, a motion for rehearing is a prerequisite to a judicial appeal. A motion for rehearing must be filed by a party within 20 days after the date the party representative is notified of the final decision or order.

(b) Replies to a motion for rehearing must be filed with the agency within 30 days after the date the party representative is notified of the final decision or order.

(c) Agency action on the motion for rehearing must be taken within 45 days after the date a party representative is notified of the final decision or order. If agency action is not taken within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date the party representative is notified of the final decision or order.

(d) The commission may rule on a motion for rehearing at a meeting or by mail, telephone, telegraph, facsimile transmission, or another suitable means of communication. The motion shall be deemed overruled by operation of law, unless a majority of the commissioners serving vote to grant the motion within the time provided by law for ruling on the motion for rehearing.

(e) The agency may, by written order, extend the period of time for filing the motions or replies and taking agency action, except that an extension may not extend the period for agency action beyond 90 days after the date a party representative is notified of the final order or decision.

(f) In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date the party representative is notified of the final decision or order.

Source Note: The provisions of this §401.67 adopted to be effective March 8, 2001, 26 TexReg 2040

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER G
CONDUCT AND DECORUM, SANCTIONS, AND PENALTIES

§401.105. Administrative Penalties.

(a) Following the hearing the administrative law judge shall issue a proposal for decision containing findings of facts and conclusions of law. While the administrative law judge may recommend a sanction, findings of fact and conclusions of law are inappropriate for sanction recommendations, and sanction recommendations in the form of findings of fact and conclusions of law are an improper application of applicable law and these rules. In all cases, the commission or **Agency Chief** [~~Executive Director~~] has the discretion to impose the sanction that best accomplishes the commission's legislatively-assigned enforcement goals. The commission or **Agency Chief** [~~Executive Director~~] is the ultimate arbiter of the proper penalty.

(b) The commission, acting through the **Agency Chief** [~~Executive Director~~] may, after notice and hearing required by Government Code, Chapter 2001, Administrative Procedure Act, impose an order requiring payment of an administrative penalty or monetary forfeiture in an amount not to exceed \$1,000 for each violation of Government Code, Chapter 419, or rule promulgated there under, as provided by Government Code, §419.906.

(c) In determining the amount of the administrative penalty or monetary forfeiture the commission or the **Agency Chief** [~~Executive Director~~] shall consider:

(1) the seriousness of the violation, including but not limited to the nature, circumstances, extent, and gravity of the prohibited act, and the hazard or potential hazard created to the health and safety of the public;

(2) the economic damage to property or the public's interests or confidences caused by the violation;

(3) the history of previous violations;

(4) any economic benefit gained through the violation;

(5) the amount necessary to deter future violations;

(6) the demonstrated good faith of the person, including efforts taken by the alleged violator to correct the violation;

(7) the economic impact of imposition of the penalty or forfeiture on the person; and

(8) any other matters that justice may require.

(d) The commission or **Agency Chief** [~~Executive Director~~] retains the right to increase or decrease the amount of an administrative penalty based on the circumstances in each case. In particular, the commission or **Agency Chief** [~~Executive Director~~] may increase the amount of administrative

penalties when the respondent has committed multiple violations (e.g. some combination of different violations).

(e) Because it is the policy of the commission to pursue expeditious resolution of complaints when appropriate, administrative penalties in uncontested cases may be less than the amounts assessed in contested cases. Among other reasons, this may be because the respondent admits fault, takes steps to rectify matters, timely responds to commission concerns, or identified mitigating circumstances, and because settlements avoid additional administrative costs.

(f) The commission or **Agency Chief** [~~Executive Director~~] may impose an administrative penalty alone or in addition to other permitted sanctions.

Source Note: The provisions of this §401.105 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective February 26, 2015, 40 TexReg 826

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER H
REINSTATEMENT

§401.111. Application for Reinstatement of License or Certificate.

- (a) At the expiration of one year from the date of revocation or suspension, or upon the conclusion of any specified period of suspension, the commission may consider a request for reinstatement by the former licensee or certificate holder (applicant).
- (b) The request for reinstatement must be submitted to the commission office in writing and should include a short and plain statement of the reasons why the applicant believes the license should be reinstated.
- (c) Upon denial of any application for reinstatement, the commission may not consider a subsequent application until the expiration of one year from the date of denial of the prior application.
- (d) In taking action to revoke or suspend a license or certificate, the commission may, in its discretion, specify the terms and conditions upon which reinstatement shall be considered.

Source Note: The provisions of this §401.111 adopted to be effective March 8, 2001, 26 TexReg 2040

§401.113. Evaluation for Reinstatement.

In considering reinstatement of a suspended or revoked license or certificate, the commission will evaluate:

- (1) the severity of the act which resulted in revocation or suspension of the license or certificate;
- (2) the conduct of the applicant subsequent to the revocation or suspension of the license or certificate;
- (3) the lapse of time since revocation or suspension;
- (4) the degree of compliance with all conditions the commission may have stipulated as a prerequisite for reinstatement;
- (5) the degree of rehabilitation attained by the applicant as evidenced by sworn notarized statements sent directly to the commission from qualified people who have personal and professional knowledge of the applicant; and
- (6) the applicant's present qualifications to perform duties regulated by the commission.

Source Note: The provisions of this §401.113 adopted to be effective March 8, 2001, 26 TexReg 2040

§401.115. Procedure upon Request for Reinstatement.

(a) An applicant for reinstatement of a revoked or suspended license or certificate must personally appear before an administrative law judge designated by the commission at a scheduled date and time to show why the license or certificate should be reinstated.

(b) Upon submission of proof of past revocation or suspension of the applicant's license or certificate, the applicant has the burden of proof to show present fitness and/or rehabilitation to perform duties regulated by the commission.

(c) Upon receipt of a written request for reinstatement as required by §401.111 of this title (relating to Application for Reinstatement of License or Certificate), the applicant will be notified of a date and time of an appearance before the administrative law judge.

Source Note: The provisions of this §401.115 adopted to be effective March 8, 2001, 26 TexReg 2040

§401.117. Commission Action Possible upon Reinstatement.

After evaluation, the commission may:

- (1) deny reinstatement of a suspended or revoked license or certificate;
- (2) reinstate a suspended or revoked license or certificate and probate the practitioner for a specified period of time under specific conditions;
- (3) authorize reinstatement of the suspended or revoked license or certificate;
- (4) require the satisfactory completion of a specific program of remedial education approved by the commission; and/or
- (5) reinstate a suspended or revoked license or certificate after verification through examination of required knowledge and skills appropriate to the suspended or revoked license or certificate. All applicable procedures shall be followed and all applicable fees shall be paid.

Source Note: The provisions of this §401.117 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778

§401.119. Failure To Appear for Reinstatement.

An applicant for reinstatement of a revoked or suspended license or certificate who makes a commitment to appear before the administrative law judge, and fails to appear at a hearing set with notice by the agency, shall not be authorized to appear before the administrative law judge before the expiration of six months. For good cause shown, the **Agency Chief** [~~Executive Director~~] may authorize an exception to this rule.

Source Note: The provisions of this §401.119 adopted to be effective March 8, 2001, 26 TexReg 2040

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER I
NOTICE AND PROCESSING PERIODS FOR CERTIFICATE APPLICATIONS

§401.121. Purpose of Establishing Time Periods.

In order to minimize delays, this subchapter establishes time periods within which the commission shall review and process certificate applications efficiently and provides for an appeal process should the agency violate these periods in accordance with the Government Code, Chapter 2005.

Source Note: The provisions of this §401.121 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826

§401.123. Notice of Deficiency.

Written notice that an application is deficient must be mailed to the applicant or delivered by such means as will reasonably provide actual notice.

Source Note: The provisions of this §401.123 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778

§401.125. Processing Periods.

(a) Notice to applicant. Within 30 days from receipt of an application for a certificate or approval issued pursuant to the Government Code, Chapter 419, the agency shall determine a filing to be complete or deficient and issue written notice in accordance with §401.123 of this title (relating to Notice of Deficiency) to the applicant regarding the status of the application.

(1) Complete application.

(A) The written notice for a complete application shall state that the application is complete and accepted for filing and shall advise the applicant of the time period in which the agency must deny or approve the application unless such information has previously been provided to the applicant.

(B) For purposes of this section, an application is complete upon agency determination that it is in compliance with the content and form prescribed by the agency.

(2) Deficient application.

(A) The written notice for a deficient application shall state that the application is not complete, set out the specific additional information that is required for completion, and advise the applicant that the agency may disapprove an application that is not complete. After one written notice of deficiency has been issued, another is not required for an application resubmitted in whole or in part with deficiencies.

(B) In addition to notice issued under subparagraph (A) of this paragraph, the agency may notify the applicant, in any manner, of deficiencies in the application.

(b) Processing of application. Within 60 days after receipt of a complete application, the agency shall:

- (1) issue the certificate on payment of the appropriate fees and successful completion of all required examinations; or
- (2) deny the certificate.

Source Note: The provisions of this §401.125 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective December 18, 2012, 37 TexReg 9778

§401.127. Appeal.

(a) Hearing.

(1) Notice. An applicant who does not receive notice as to the complete or deficient status of a certificate application within the period established in this subchapter for such application may petition for a hearing to review the matter.

(2) Processing. An applicant whose permit is not approved or denied within the period established in this subchapter for such certificate may petition for a hearing to review the matter.

(3) Procedure. A hearing under this section shall be in accordance with the Administrative Procedure Act and Subchapter E of this chapter (relating to Contested Cases).

(b) Petition. A petition filed under this section must be in writing and directed to the **Agency Chief** [~~Executive Director~~]. The petition shall identify the applicant, indicate the type of certificate sought and the date of the application, specify each provision in this subchapter that the agency has violated, and describe with particularity how the agency has violated each provision. The petition shall be filed with the office of the **Agency Chief** [~~Executive Director~~].

(c) Decision. An appeal filed under this section shall be decided in the applicant's favor if the **Agency Chief** [~~Executive Director~~] finds that:

- (1) the agency exceeded an established period under this subchapter; and
- (2) the agency failed to establish good cause for exceeding the period.

(d) Good cause. The agency is considered to have good cause for exceeding a notice or processing period established for a permit if:

- (1) the number of certificates to be processed exceeds by 15% or more the number of certificates processed in the same calendar quarter of the preceding year;
- (2) the agency must rely on another public or private entity for all or part of its certificate processing, and the delay is caused by the other entity;
- (3) the hearing and decision-making process results in reasonable delay under the circumstances;
- (4) the applicant is under administrative review; or
- (5) any other conditions exist giving the agency good cause for exceeding a notice or processing period.

(e) Commission review. A permit applicant aggrieved by a final decision or order of the **Agency Chief** [~~Executive Director~~] concerning a period established by these sections may appeal to the commission in writing after the decision or order complained of is final, in accordance with §401.63 of this title (relating to Final Decision and Orders).

(f) Relief.

(1) Complete or deficient status. An applicant who maintains a successful appeal under subsection (c) of this section for agency failure to issue notice as to the complete or deficient status of an application shall be entitled to notice of application status.

(2) Certificate approval or denial. An applicant who maintains a successful appeal under subsection (c) of this section for agency failure to approve or deny a certificate shall be entitled to such approval or denial of the certificate and to full reimbursement of all filing fees that have been paid to the agency in connection with the application.

Source Note: The provisions of this §401.127 adopted to be effective March 8, 2001, 26 TexReg 2040; amended to be effective January 20, 2002, 27 TexReg 382; amended to be effective February 26, 2015, 40 TexReg 826

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER J
CHARGES FOR PUBLIC RECORDS

§401.129. Charges for Public Records.

(a) The commission is subject to Texas Government Code, Chapter 552, Texas Public Information Act. The Act gives the public the right to request access to government information.

(b) The commission adopts by reference Title 1, Part 13, Chapter 70, Cost of Copies of Public Information, as promulgated by the Office of the Attorney General.

(c) The **Agency Chief** [~~Executive Director~~] may waive or reduce a charge for copies when furnishing the information benefits to the general public.

Source Note: The provisions of this §401.129 adopted to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826

CHAPTER 401
ADMINISTRATIVE PRACTICE AND PROCEDURE
SUBCHAPTER K
HISTORICALLY UNDERUTILIZED BUSINESSES

§401.131. Historically Underutilized Businesses.

The commission adopts by reference Title 34, Part 1, Chapter 20, Texas Procurement and Support Services, Subchapter B, Historically Underutilized Business Program, as promulgated by the Comptroller of Public Accounts.

Source Note: The provisions of this §401.131 adopted to be effective December 18, 2012, 37 TexReg 9778; amended to be effective February 26, 2015, 40 TexReg 826

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

A. Possible final adoption of the proposed amendments as follows:

2. 37 Tex. Administrative Code, Part 13, Chapter 403, Criminal Convictions and Eligibility for Certification.

CHAPTER 403

CRIMINAL CONVICTIONS AND ELIGIBILITY FOR CERTIFICATION

§403.3. Scope.

(a) The policy and procedures established in this chapter apply to a person who holds or applies for any certificate issued under the commission's regulatory authority contained in Government Code, Chapter 419.

(b) When a person is convicted of a crime of a sexual nature, the conviction of which would require the individual to be registered as a sex offender under Chapter 62 of the Code of Criminal Procedure; or

(c) When a person is convicted of a crime that is an offense under Title 7 of the Texas Penal Code, or a similar offense under the laws of the United States of America, another state, or other jurisdiction, the person's conduct directly relates to the competency and reliability of the person to assume and discharge the responsibilities of fire protection personnel. Such conduct includes, but is not limited to, intentional or knowing conduct, without a legal privilege, **which** ~~that~~ causes or is intended to cause a fire or explosion with the intent to injure or kill any person or animal or to destroy or damage any property. The commission may:

(1) deny a person the opportunity to be examined for a certificate;

(2) deny the application for a certificate;

(3) grant the application for a new certificate with the condition that a probated suspension be placed on the newly granted certificate;

(4) refuse to renew a certificate;

(5) suspend, revoke, or probate the suspension or revocation of an existing certificate; or

(6) limit the terms or practice of a certificate holder to areas prescribed by the commission.

(d) When a person's criminal conviction of a felony or misdemeanor directly relates to the duties and responsibilities of the holder of a certificate issued by the commission, the commission may:

(1) deny a person the opportunity to be examined for a certificate;

(2) deny the application for a certificate;

(3) grant the application for a new certificate with the condition that a probated suspension be placed on the newly granted certificate;

(4) refuse to renew a certificate;

(5) suspend, revoke, or probate the suspension or revocation of an existing certificate; or

(6) limit the terms or practice of a certificate holder to areas prescribed by the commission.

§403.5. Access to Criminal History Record Information.

(a) Criminal history record. The commission is entitled to obtain criminal history record information maintained by the Department of Public Safety, or another law enforcement agency to investigate the eligibility of a person applying to the commission for or holding a certificate.

(b) Confidentiality of information. All information received under this section is confidential and may not be released to any person outside the agency except in the following instances:

- (1) a court order;
- (2) with written consent of the person being investigated;
- (3) in a criminal proceeding; or
- (4) in a hearing conducted under the authority of the commission.

(c) Early review. **A regulated entity** [~~fire department~~] that employs a person regulated by the commission, a person seeking to apply for a beginning position with a regulated entity, a volunteer fire department, or an individual participating in the commission certification program may seek the early review under this chapter of the person's present fitness to be certified. Prior to completing the requirements for certification, the individual may request such a review in writing by following the required procedure. A decision by the commission based on an early review does not bind the commission if there is a change in circumstances. The following pertains to early reviews:

- (1) The commission will complete its review and notify the requestor in writing concerning potential eligibility or ineligibility within **ninety** [90] days following receipt of all required and necessary information for the review.
- (2) A notification by the commission regarding the results of an early review is not a guarantee of certification, admission to any training program, or employment with a local government.
- (3) A fee assessed by the commission for conducting an early review will be in an amount sufficient to cover the cost to conduct the review process, as provided in §437.19 of this title (relating to Early Review Fees).
- (4) An early review request will be considered incomplete until the requestor submits all required and necessary information. Early review requests that remain incomplete for 90 days following receipt of the initial request will expire. If the request expires and an early review is still desired, a new request and fee must be submitted.

§403.15. Report of Convictions by an Individual or a Department.

(a) A certificate holder must report to the commission, any conviction, other than a minor traffic offense (Class C misdemeanor) under the laws of this state, another state, the United States, or foreign country, within 14 days of the conviction date.

(b) A **regulated entity** [~~fire department~~] or local government entity shall report to the commission, any conviction of a certificate holder other than a minor traffic offense (class C misdemeanor) under the laws of this state, another state, the United States, or foreign country, that it has knowledge of, within 14 days of the conviction date.

(c) A certificate holder is subject to suspension, revocation, or denial of any or all certifications for violation of the requirements of subsection (a) of this section. Each day may be considered a

separate offense.

(d) A **regulated entity** ~~[fire department]~~ or government entity regulated by the commission violating subsection (b) of this section may be subject to administrative penalties of up to \$500. Each day may be considered a separate offense.

(e) Notification may be made by mail, e-mail, or in person to the Texas Commission on Fire Protection (TCFP) Austin office. TCFP Form #014 shall be used.

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

A. Possible final adoption of the proposed amendments as follows:

3. 37 Tex. Administrative Code, Part 13, Chapter 421, Standard for Certifications.

CHAPTER 421

STANDARDS FOR CERTIFICATION

§421.1. Procedures for Meetings.

(a) The Commission may maintain advisory committees and ad hoc committees to assist with rulemaking, curriculum development, and the performance of the Commission's duties. These committee names, make up, term limits, roles and meeting requirements will be outlined within this rule. These committees shall exist for no more than five (5) years and shall be reviewed and evaluated for continuance before the end of the fifth year.

(a) Time and place. The committees shall meet at such time and place in the State of Texas as they deem proper.

(b) Meeting called. Meetings shall be called by the chairman, by the Commission, or upon the written request of a quorum of members.

(d) Quorum. A majority of members shall constitute a quorum.

(e) Members. Committee members serve at the will of the Commission and may serve six-year staggered terms but may not serve more than two (2) consecutive terms.

(f) Officers. Committee Officers shall consist of a chairman and vice-chairman appointed by the Commission.

(g) Responsibility. Committee responsibilities shall be established by the Commission.

(h) Effective Date. All committees will have designated effective dates not to exceed five years without review and reestablishment by the Commission.

(i) Removal. It is a ground for removal from an advisory committee appointed by the Commission if a member is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year unless the absence is excused by a majority vote of the committee.

(j) Effective in 2021, the Commission established three (3) advisory committees, the Curriculum and Testing, Firefighter Advisory, and Health and Wellness. These committees will expire in 2026 unless reviewed and reestablished by the Commission. The Commission has established two (2) ad hoc committees, 427 and 435, which will exist for the period of time needed, not to exceed two years.

Source Note: The provisions of this §421.1 adopted to be effective November 1, 1998, 23 TexReg 10886; amended to be effective March 2, 2000, 25 TexReg 1721; amended to be effective July 29, 2002, 27 TexReg 6722; amended to be effective November 20, 2002, 27 TexReg 10747; amended to be effective November 28, 2007, 32 TexReg 8522; amended to be effective November 25, 2021, 46 TexReg 7897

§421.3. Minimum Standards Set by the Commission.

(a) General statement. It shall be clearly understood that the specified minimum standards

described in this section are designated as a minimum program. Employing entities are encouraged to exceed the minimum program wherever possible. Continuous in-service training beyond the minimum standards for fire protection personnel is strongly recommended. Nothing in these regulations shall limit or be construed as limiting the powers of the Civil Service Commission, or the employing entity, to enact rules and regulations which establish a higher standard of training than the minimum specified, or which provides for the termination of the services of unsatisfactory employees during or upon completion of the prescribed probationary period.

(b) Functional position descriptions.

(1) Structural Fire Protection personnel. The following general position description for structural fire protection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire fighter operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. Successfully complete a commission approved course; achieve a passing score on written and performance certification examinations; must be at least 18 years of age; generally, the knowledge and skills required show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, drag, and balance weight equivalent to the average human weight; ability to interpret in English, written and oral instructions; ability to work effectively in high stress situations; ability to work effectively in an environment with loud noises and flashing lights; ability to function through an entire work shift; ability to calculate weight and volume ratios; ability to read and understand English language manuals including chemical, medical and technical terms, and road maps; ability to accurately discern street signs and address numbers; ability to document in English, all relevant information in prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other emergency response personnel. Good manual dexterity with ability to perform all tasks related to the protection of life and property; ability to bend, stoop, and crawl on uneven surfaces; ability to withstand varied environmental conditions such as extreme heat, cold, and moisture; and ability to work in low or no light, confined spaces, elevated heights and other dangerous environments.

(B) Competency. A basic fire fighter must demonstrate competency handling emergencies utilizing equipment and skills in accordance with the objectives in Chapter 1 of the commission's Certification Curriculum Manual.

(2) Aircraft Rescue Fire Fighting personnel. The following general position description for aircraft rescue fire fighting personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of aircraft rescue fire fighting personnel operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for basic structural fire protection personnel: familiarity with geographic and physical components of an airport; ability to use and understand communication equipment, terminology, and procedures utilized by airports; ability and knowledge in the application of fire suppression agents; and ability to effectively perform fire suppression and rescue operations.

(B) Competency. Basic fire fighting and rescue personnel must demonstrate competency

handling emergencies utilizing equipment and skills in accordance with the objectives in Chapter 2 of the commission's Certification Curriculum Manual.

(3) Marine Fire Protection personnel. The following general position description for marine fire protection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the marine fire fighter operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for basic structural fire protection personnel: familiarity with geographic and physical components of a navigable waterway; ability to use and understand communication equipment, terminology, and procedures used by the maritime industry; and knowledge in the operation of fire fighting vessels.

(B) Competency. A marine fire fighter must demonstrate competency in handling emergencies utilizing equipment and skills in accordance with the objectives in Chapter 3 of the commission's Certification Curriculum Manual.

(4) Fire Inspection personnel. The following general position description for fire inspection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire inspector operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. Successfully complete a commission approved course; achieve a passing score on certification examinations; must be at least 18 years of age; generally, the knowledge and skills required to show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, and balance weight equivalent to weight of common tools and equipment necessary for conducting an inspection; ability to interpret written and oral instructions; ability to work effectively with the public; ability to work effectively in an environment with potentially loud noises; ability to function through an entire work shift; ability to calculate area, weight and volume ratios; ability to read and understand English language manuals including chemical, construction and technical terms, building plans and road maps; ability to accurately discern street signs and address numbers; ability to document, in writing, all relevant information in a prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other personnel. Demonstrate knowledge of characteristics and behavior of fire, and fire prevention principles. Good manual dexterity with the ability to perform all tasks related to the inspection of structures and property; ability to bend, stoop, and crawl on uneven surfaces; ability to climb ladders; ability to withstand varied environmental conditions such as extreme heat, cold, and moisture; and the ability to work in low light, confined spaces, elevated heights, and other dangerous environments.

(B) Competency. A fire inspector must demonstrate competency in conducting inspections utilizing equipment and skills in accordance with the objectives in Chapter 4 of the commission's Certification Curriculum Manual.

(5) Fire Investigator personnel. The following general position description for fire investigator personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire investigator operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. Successfully complete a commission approved course; achieve a passing score on certification examinations; be at least 18 years of age; generally, the knowledge and skills required to show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, and balance weight equivalent to weight of common tools and equipment necessary for conducting an investigation; ability to interpret written and oral instructions; ability to work effectively with the public; ability to work effectively in a hazardous environment; ability to function through an entire work shift; ability to calculate area, weight and volume ratios; ability to read and understand English language manuals including chemical, legal and technical terms, building plans and road maps; ability to accurately discern street signs and address numbers; ability to document, in writing, all relevant information in a prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other personnel. Good manual dexterity with the ability to perform all tasks related to fire investigation; ability to bend, stoop, and walk on uneven surfaces; ability to climb ladders; ability to withstand varied environmental conditions such as extreme heat, cold and moisture; and the ability to work in low light, confined spaces, elevated heights, and other potentially dangerous environments.

(B) Competency. A fire investigator or arson investigator must demonstrate competency in determining fire cause and origin utilizing equipment and skills in accordance with the objectives in Chapter 5 of the commission's Certification Curriculum Manual.

(6) Hazardous Materials Technician personnel. The following general position description for hazardous materials personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the hazardous materials technician operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for basic structural fire protection personnel: successfully complete a commission approved course; achieving a passing score on the certification examination; the ability to analyze a hazardous materials incident, plan a response, implement the planned response, evaluate the progress of the planned response, and terminate the incident.

(B) Competency. A hazardous materials technician must demonstrate competency handling emergencies resulting from releases or potential releases of hazardous materials, using specialized chemical protective clothing and control equipment in accordance with the objectives in Chapter 6 of the commission's Certification Curriculum Manual.

(7) Hazardous Materials Incident Commander personnel. The following general position description for Hazardous Materials Incident Commander serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Hazardous Materials Incident Commander operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for awareness and operations level personnel, the Hazardous Materials Incident Commander is an individual who has met all the job performance requirements of Hazardous Materials Incident Commander as defined in Chapter 8 of NFPA 472, Competence of Responders to Hazardous Materials Incidents/Weapons of Mass Destruction. The individual should demonstrate knowledge in the policies, plans, and procedures regarding hazardous materials response as adopted by the local jurisdiction; and all components of the incident command system and their proper utilization.

(B) Competency. In addition to the competencies of awareness and operations level personnel, a Hazardous Materials Incident Commander must demonstrate competency in such areas as:

analyzing an incident via the collection of information and an estimation of potential outcomes; planning appropriate response operations; implementing a planned response; evaluating the progress of a planned response and revising as necessary; terminating an incident; conducting a post-incident critique; and reporting and documenting an incident in a manner consistent with local, state, and federal requirements.

(8) Driver/Operator-Pumper personnel. The following general position description for driver/operator-pumper personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the driver/operator-pumper of a fire department pumper operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for basic structural fire protection personnel: ability to perform specified routine test, inspection, and maintenance functions; ability to perform practical driving exercises; ascertain the expected fire flow; ability to position a fire department pumper to operate at a fire hydrant; ability to produce effective streams; and supply sprinkler and standpipe systems.

(B) Competency. A driver/operator-pumper must demonstrate competency operating a fire department pumper in accordance with the objectives in Chapter 7 of the commission's Certification Curriculum Manual.

(9) Fire Officer I personnel. The following general position description for Fire Officer I personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Officer I operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for basic structural fire protection and Fire Instructor I personnel: the ability to supervise personnel, and assign tasks at emergency operations; the ability to direct personnel during training activities; the ability to recommend action for member-related problems; the ability to coordinate assigned tasks and projects, and deal with inquiries and concerns from members of the community; the ability to implement policies; the ability to perform routine administrative functions, perform preliminary fire investigation, secure an incident scene and preserve evidence; the ability to develop pre-incident plans, supervise emergency operations, and develop and implement action plans; the ability to deploy assigned resources to ensure a safe work environment for personnel, conduct initial accident investigation, and document an incident.

(B) Competency. A Fire Officer I must demonstrate competency in handling emergencies and supervising personnel utilizing skills in accordance with the objectives in Chapter 9 of the commission's Certification Curriculum Manual.

(10) Fire Officer II personnel. The following general position description for Fire Officer II personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Officer II operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for Fire Officer I and Fire Instructor I personnel: the ability to motivate members for maximum job performance; the ability to evaluate job performance; the ability to deliver life safety and fire prevention education programs; the ability to prepare budget requests, news releases, and policy changes; the ability to conduct pre-

incident planning, fire inspections, and fire investigations; the ability to supervise multi-unit emergency operations, identify unsafe work environments or behaviors, review injury, accident, and exposure reports.

(B) Competency. A Fire Officer II must demonstrate competency in supervising personnel and coordinating multi-unit emergency operations utilizing skills in accordance with the objectives in Chapter 9 of the commission's Certification Curriculum Manual.

(11) Fire Officer III personnel. The following general position description for Fire Officer III personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Officer III operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. A Fire Officer III is a midlevel supervisor who performs both supervisory and first-line managerial functions. In addition to the qualifications and competency for Fire Officer II, the Fire Officer III is an individual who has met all the job performance requirements of Fire Officer III as defined in Chapter 6 of NFPA 1021, Standard for Fire Officer Professional Qualifications. Typical duties of an individual at the Fire Officer III level include: establishing procedures for hiring, assignment, and professional development of personnel; developing public service/partnership and programs; preparing budgets and budget management systems; planning for organizational resource management; evaluating inspection and public safety programs and plans; managing multi-agency plans and operations; serving as Incident Commander at expanding emergency incidents for all hazard types; and developing and managing a departmental safety program.

(B) Competency. A Fire Officer III must demonstrate competency doing research; analyzing data and using evaluative techniques; developing proposals; developing, preparing, and implementing various procedures and programs within an organization; managing personnel resources; preparing and managing budgets; utilizing techniques to encourage personnel participation and development; and working in top-level positions within the incident command system.

(12) Fire Officer IV personnel. The following general position description for Fire Officer IV personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Officer IV operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. A Fire Officer IV is an upper level supervisor who performs both supervisory and managerial functions. In addition to the qualifications and competency for Fire Officer III, the Fire Officer IV is an individual who has met all the job performance requirements of Fire Officer IV as defined in Chapter 7 of NFPA 1021, Standard for Fire Officer Professional Qualifications. Typical duties of an individual at the Fire Officer IV level include: administering job performance requirements; evaluating and making improvements to department operations; developing long-range plans and fiscal projections; developing plans for major disasters; serving as Incident Commander at major incidents for all hazard types; and administering comprehensive risk management programs.

(B) Competency. A Fire Officer IV must demonstrate competency in appraising and evaluating departmental programs to ensure adherence to current laws and best practices; developing

medium and long-range plans for organizations; and assuming a top-level leadership role in both the organization and community.

(13) Fire Service Instructor I personnel. The following general position description for Fire Service Instructor I personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Service Instructor I operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to successfully completing a commission approved course and achieving a passing score on the certification examination: must have the ability to deliver instructions effectively from a prepared lesson plan; the ability to use instructional aids and evaluation instruments; the ability to adapt to lesson plans to the unique requirements of both student and the jurisdictional authority; the ability to organize the learning environment to its maximum potential; the ability to meet the record-keeping requirements of the jurisdictional authority.

(B) Competency. A Fire Service Instructor I must demonstrate competency in delivering instruction in an environment organized for efficient learning while meeting the record-keeping needs of the authority having jurisdiction, utilizing skills in accordance with the objectives in Chapter 8 of the commission's Certification Curriculum Manual.

(14) Fire Service Instructor II personnel. The following general position description for Fire Service Instructor II personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Service Instructor II operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to successfully completing a commission approved course, achieving a passing score on the certification examination, and meeting the qualifications for Fire Service Instructor I: the ability to develop individual lesson plans for a specific topic, including learning objectives, instructional aids, and evaluation instruments; the ability to schedule training sessions based on the overall training plan of the jurisdictional authority; the ability to supervise and coordinate the activities of other instructors.

(B) Competency. A Fire Service Instructor II must demonstrate competency in developing individual lesson plans; scheduling training sessions; and supervising other instructors, utilizing skills in accordance with the objectives in Chapter 8 of the commission's Certification Curriculum Manual.

(15) Fire Service Instructor III personnel. The following general position description for Fire Service Instructor III personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Service Instructor III operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to successfully completing a commission approved course, achieving a passing score on the certification examination, and meeting the qualifications for Fire Service Instructor II: the ability to develop comprehensive training curricula and programs for use by single or multiple organizations; the ability to conduct organizational needs analysis; and the

ability to develop training goals and implementation strategies.

(B) Competency. A Fire Service Instructor III must demonstrate competency in developing comprehensive training curricula and programs; conducting organizational needs analysis; and developing training goals and implementation strategies, utilizing skills in accordance with the objectives in Chapter 8 of the commission's Certification Curriculum Manual.

(16) Incident Safety Officer personnel. The following general position description for Incident Safety Officer personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Incident Safety Officer operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. An Incident Safety Officer is an individual who has met the requirements of Fire Officer Level I specified in NFPA 1021, Standard for Fire Officer Professional Qualifications and Chapter 6 of NFPA 1521, Standard for Fire Department Safety Officer and has the knowledge, skill, and abilities to manage incident scene safety. Typical Incident Safety Officer duties include risk and resource evaluation; hazard identification and communication; action plan reviews; safety briefings; accident investigation; post incident analysis; and participation in safety committee activities.

(B) Competency. An Incident Safety Officer must demonstrate competency in management of incident scene safety through a working knowledge of the various emergency operations as prescribed by the local jurisdiction; an understanding of building construction; fire science and fire behavior; managing an organization's personnel accountability system; and incident scene rehabilitation methodology.

(17) Basic Wildland Fire Protection personnel. The following general position description for Basic Wildland Fire Protection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Basic Wildland Fire Fighter operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. A Basic Wildland Fire Fighter is an individual who has met the requirements of Chapter 5 of NFPA 1051, Standard for Wildland Fire Fighter Professional qualifications, and should demonstrate knowledge in: wildland fire behavior; fireline safety and use; limitations of personal protective equipment; fire shelter use; fire suppression tactics and techniques in wildland settings; and have an understanding of the fire fighter's role within the local incident management system.

(B) Competency. A Basic Wildland Fire Fighter must demonstrate competency in such areas as: maintaining personal protective equipment and assigned fire suppression tools and equipment; the ability to quickly prepare for a response when notified; recognizing hazards and unsafe situations in a wildland fire; securing a fire line; mopping up a fire area; and patrolling a fire area so as to ensure fire control.

(18) Intermediate Wildland Fire Protection personnel. The following general position description for Intermediate Wildland Fire Protection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Intermediate Wildland Fire Fighter operating in the State of Texas. It is ultimately the responsibility of an employer to

define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications and competency for the Basic Wildland Fire Fighter, the Intermediate Wildland Fire Fighter is an individual who has met the requirements of Chapter 6 of NFPA 1051, Standard for Wildland Fire Fighter Professional qualifications, and should demonstrate knowledge in: basic map reading; use of a locating device such as a compass; radio procedures as adopted by the local jurisdiction; and record keeping.

(B) Competency. An Intermediate Wildland Fire Fighter must demonstrate competency in such areas as: the ability to lead a team of fire fighters in the performance of assigned tasks while maintaining the safety of personnel; implementing appropriate fireline construction methods and other techniques for protection of exposed property; operation of water delivery equipment; securing an area of suspected fire origin and associated evidence; and serving as a lookout in a wildland fire.

Source Note: The provisions of this §421.3 adopted to be effective November 1, 1998, 23 TexReg 10886; amended to be effective May 23, 1999, 24 TexReg 3861; amended to be effective November 14, 1999, 24 TexReg 10139; amended to be effective November 20, 2002, 27 TexReg 10747; amended to be effective June 17, 2003, 28 TexReg 4566; amended to be effective March 2, 2005, 30 TexReg 1085; amended to be effective May 21, 2006, 31 TexReg 3903; amended to be effective December 3, 2006, 31 TexReg 9618; amended to be effective May 9, 2007, 32 TexReg 2470; amended to be effective November 28, 2007, 32 TexReg 8522; amended to be effective August 5, 2013, 38 TexReg 4901

§421.5. Definitions.

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

(1) Admission to employment--An entry level full-time employee of a local government entity in one of the categories of fire protection personnel.

(2) Appointment--The designation or assignment of a person to a discipline regulated by the commission. The types of appointments are:

(A) permanent appointment--the designation or assignment of certified fire protection personnel or certified part time fire protection employees to a particular discipline (See Texas Government Code, Chapter 419, §419.032); and

(B) probationary or temporary appointment--the designation or assignment of an individual to a particular discipline, except for head of a fire department, for which the individual has passed the commission's certification and has met the medical requirement of §423.1(c) of this title (relating to Minimum Standards for Structure Fire Protection Personnel), if applicable, but has not yet been certified. (See Texas Government Code, Chapter, §419.032.)

(3) Approved training--Any training used for a higher level of certification must be approved by the commission and assigned to either the A-List or the B-List. The training submission must be in a manner specified by the commission and contain all information requested by the commission. The commission will not grant credit twice for the same subject content or course. Inclusion on the A-List or B-List does not preclude the course approval process as stated elsewhere in the Standards Manual.

(4) Assigned/work--A fire protection personnel or a part-time fire protection employee shall be

considered "assigned/working" in a position, any time the individual is receiving compensation and performing the duties that are regulated by the commission and has been permanently appointed, as defined in this section, to the particular discipline.

(5) Assistant fire chief--The officer occupying the first position subordinate to the head of a fire department.

(6) Auxiliary fire fighter--A volunteer fire fighter.

(7) Benefits--Benefits shall include, but are not limited to, inclusion in group insurance plans (such as health, life, and disability) or pension plans, stipends, free water usage, and reimbursed travel expenses (such as meals, mileage, and lodging).

(8) Chief Training Officer--The individual, by whatever title he or she may be called, who coordinates the activities of a certified training facility.

(9) Class hour--Defined as not less than 50 minutes of instruction, also defined as a contact hour; a standard for certification of fire protection personnel.

(10) Code--The official legislation creating the commission.

(11) College credits--Credits earned for studies satisfactorily completed at an institution of higher education accredited by an agency recognized by the U.S. Secretary of Education and including National Fire Academy (NFA) open learning program colleges, or courses recommended for college credit by the American Council on Education (ACE) or delivered through the National Emergency Training Center (both EMI and NFA) programs. A course of study satisfactorily completed and identified on an official transcript from a college or in the ACE National Guide that is primarily related to Fire Service, Emergency Medicine, Emergency Management, or Public Administration is defined as applicable for Fire Science college credit, and is acceptable for higher levels of certification. A criminal justice course related to fire and or arson investigation that is satisfactorily completed and identified on an official transcript from a college or in the ACE National Guide may be used to qualify for Master Arson Investigator certification.

(12) Commission--Texas Commission on Fire Protection.

(13) Commission-recognized training--A curriculum or training program which carries written approval from the commission, or credit hours that appear on an official transcript from an accredited college or university, or any fire service training received from a nationally recognized source, i.e., the National Fire Academy.

(14) Compensation--Compensation is to include wages, salaries, and "per call" payments (for attending drills, meetings or answering emergencies).

(15) Expired--Any certification that has not been renewed on or before the end of the certification period.

(16) Federal fire fighter--A person as defined in Texas Government Code, Chapter 419, §419.084(h).

(17) Fire chief--The head of a fire department.

(18) Fire department--A department of a local government that is staffed by one or more fire protection personnel or part-time fire protection employees.

(19) Fire protection personnel--Any person who is a permanent full-time employee of a fire department or governmental entity and who is appointed duties in one of the following categories/disciplines: fire suppression, fire inspection, fire and arson investigation, marine fire fighting, aircraft rescue fire fighting, fire training, fire education, fire administration and others employed in related positions necessarily or customarily appertaining thereto.

(20) Fire Code Inspection—Also called Fire Safety Inspection as referenced in Texas Government Code, Chapter 419, §419.909. An inspection performed for the purpose of determining and enforcing compliance with an adopted fire code.

(21) Fire suppression duties--Engaging in the controlling or extinguishment of a fire of any type or performing activities which are required for and directly related to the control and extinguishment of fires or standing by on the employer's premises or apparatus or nearby in a state of readiness to perform these duties.

(22) Full-time--An officer or employee is considered full-time if the employee works an average of 40 hours a week or averages 40 hours per week or more during a work cycle in a calendar year. For the purposes of this definition paid leave will be considered time worked.

(23) Government entity--The local authority having jurisdiction as employer of full-time fire protection personnel in a state agency, incorporated city, village, town or county, education institution or political subdivision.

(24) High school--A school accredited as a high school by the Texas Education Agency or equivalent accreditation agency from another jurisdiction.

(25) Immediately dangerous to life or health (IDLH)--An atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.

(26) Incipient stage fire--A fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.

(27) Instructor:

(A) Lead Instructor--Oversees the presentation of an entire course and assures that course objectives are met in accordance with the applicable curriculum or course material. The lead instructor should have sufficient experience in presenting all units of the course so as to be capable of last-minute substitution for other instructors.

(B) Instructor (also Unit Instructor for wildland courses)--Responsible for the successful presentation of one or more areas of instruction within a course, and should be experienced in the lesson content they are presenting.

(C) Guest Instructor--An individual who may or may not hold Instructor certification but whose special knowledge, skill, and expertise in a particular subject area may enhance the effectiveness of the training in a course. Guest instructors shall teach under the endorsement of

the lead instructor.

(28) Interior structural fire fighting--The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. (See 29 CFR §1910.155.)

(29) Military active duty (or active duty)--Current full-time military service in the armed forces of the United States, or full-time military service as a member of the Texas military forces or a similar service of another state.

(30) Military service member--A person who is on active duty.

(31) Military spouse--A person who is married to a military service member.

(32) Military veteran--A person who has served on active duty and who was discharged or released from active duty.

(33) Municipality--Any incorporated city, village, or town of this state and any county or political subdivision or district in this state. Municipal pertains to a municipality as defined in this section.

(34) National Fire Academy semester credit hours--The number of hours credited for attendance of National Fire Academy courses is determined as recommended in the most recent edition of the "National Guide to Educational Credit for Training Programs," American Council on Education (ACE).

(35) National Fire Protection Association (NFPA)--An organization established to provide and advocate consensus codes and standards, research, training, and education for fire protection.

(36) National Wildfire Coordinating Group (NWCG)--An operational group designed to establish, implement, maintain, and communicate policy, standards, guidelines, and qualifications for wildland fire program management among participating agencies.

(37) Non-self-serving affidavit--A sworn document executed by someone other than the individual seeking certification.

(38) Participating volunteer fire fighter--An individual who voluntarily seeks certification and regulation by the commission under the Texas Government Code, Chapter 419, Subchapter D.

(39) Participating volunteer fire service organization--A fire department that voluntarily seeks regulation by the commission under the Texas Government Code, Chapter 419, Subchapter D.

(40) Part-time fire protection employee--An individual who is appointed as a part-time fire protection employee and who receives compensation, including benefits and reimbursement for expenses. A part-time fire protection employee is not full-time as defined in this section.

(41) Personal alert safety system (PASS)--Devices that are certified as being compliant with NFPA 1982 and that automatically activates an alarm signal (which can also be manually activated) to alert and assist others in locating a fire fighter or emergency services person who is in danger.

(42) Political subdivision--A political subdivision of the State of Texas that includes, but is not

limited to the following:

- (A) city;
- (B) county;
- (C) school district;
- (D) junior college district;
- (E) levee improvement district;
- (F) drainage district;
- (G) irrigation district;
- (H) water improvement district;
- (I) water control and improvement district;
- (J) water control and preservation district;
- (K) freshwater supply district;
- (L) navigation district;
- (M) conservation and reclamation district;
- (N) soil conservation district;
- (O) communication district;
- (P) public health district;
- (Q) river authority;
- (R) municipal utility district;
- (S) transit authority;
- (T) hospital district;
- (U) emergency services district;
- (V) rural fire prevention district; and
- (W) any other governmental entity that:
 - (i) embraces a geographical area with a defined boundary;

(ii) exists for the purpose of discharging functions of the government; and

(iii) possesses authority for subordinate self-government through officers selected by it.

(43) Pre-fire Planning—Also called a Pre-fire Survey. A walk-through performed by fire fighters for the purpose of gaining familiarity with a building, its contents, and its occupancy.

(44) Reciprocity for IFSAC seals and TEEEX Pro Board certificates--Valid documentation of accreditation from the International Fire Service Accreditation Congress and the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service used for commission certification may only be used for obtaining an initial certification.

(45) Recognition of training--A document issued by the commission stating that an individual has completed the training requirements of a specific phase level of the Basic Fire Suppression Curriculum.

(46) School--Any school, college, university, academy, or local training program which offers fire service training and included within its meaning the combination of course curriculum, instructors, and facilities.

(47) Structural fire protection personnel--Any person who is a permanent full-time employee of a government entity who engages in fire fighting activities involving structures and may perform other emergency activities typically associated with fire fighting activities such as rescue, emergency medical response, confined space rescue, hazardous materials response, and wildland fire fighting.

(48) Trainee--An individual who is participating in a commission approved training program.

(49) Volunteer fire protection personnel--Any person who has met the requirements for membership in a volunteer fire service organization, who is assigned duties in one of the following categories: fire suppression, fire inspection, fire and arson investigation, marine fire fighting, aircraft rescue fire fighting, fire training, fire education, fire administration and others in related positions necessarily or customarily appertaining thereto.

(50) Volunteer fire service organization--A volunteer fire department or organization not under mandatory regulation by the commission.

(51) Years of experience--For purposes of higher levels of certification or fire service instructor certification:

(A) Except as provided in subparagraph (B) of this paragraph, years of experience is defined as full years of full-time, part-time or volunteer fire service while holding:

(i) a commission certification as a full-time, or part-time 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

(ii) a State Firemen's and Fire Marshals' Association advanced fire fighter certification and have successfully completed, as a minimum, the requirements for an Emergency Care Attendant (ECA) as specified by the Department of State Health Services (DSHS), or its successor agency, or its

equivalent; or

(iii) an equivalent certification as a full-time fire protection personnel of a governmental entity from another jurisdiction, including the military, or while a member in a volunteer fire service organization from another jurisdiction, and have, as a minimum, the requirements for an ECA as specified by the DSHS, or its successor agency, or its equivalent; or

(iv) for fire service instructor eligibility only, a State Firemen's and Fire Marshals' Association Level II Instructor Certification, received prior to June 1, 2008 or Instructor I received on or after June 1, 2008 or an equivalent instructor certification from the DSHS or the Texas Commission on Law Enforcement. Documentation of at least three years of experience as a volunteer in the fire service shall be in the form of a non self-serving sworn affidavit.

(B) For fire service personnel certified as required in subparagraph (A) of this paragraph on or before October 31, 1998, years of experience includes the time from the date of employment or membership to date of certification not to exceed one year.

Source Note: The provisions of this §421.5 adopted to be effective November 1, 1998, 23 TexReg 10886; amended to be effective May 23, 1999, 24 TexReg 3861; amended to be effective November 14, 1999, 24 TexReg 10139; amended to be effective March 2, 2000, 25 TexReg 1721; amended to be effective June 26, 2001, 26 TexReg 4734; amended to be effective March 5, 2002, 27 TexReg 1533; amended to be effective July 29, 2002, 27 TexReg 6722; amended to be effective November 20, 2002, 27 TexReg 10747; amended to be effective March 10, 2003, 28 TexReg 2122; amended to be effective February 17, 2004, 29 TexReg 1413; amended to be effective May 6, 2004, 29 TexReg 4229; amended to be effective August 5, 2004, 29 TexReg 7452; amended to be effective March 27, 2006, 31 TexReg 2695; amended to be effective December 3, 2006, 31 TexReg 9618; amended to be effective May 9, 2007, 32 TexReg 2470; amended to be effective February 17, 2008, 33 TexReg 1129; amended to be effective August 17, 2008, 33 TexReg 6600; amended to be effective February 23, 2009, 34 TexReg 1259; amended to be effective August 10, 2009, 34 TexReg 5411; amended to be effective August 5, 2013, 38 TexReg 4901, amended to be effective November 11, 2013; 38 TexReg 7978; amended to be effective March 2, 2014, 39 TexReg 1163; amended to be effective May 20, 2014; 39, TexReg 3874; amended to be effective November 26, 2015, 40 TexReg 8343; amended to be effective Feb. 10, 2016; 40 TexReg 980

§421.9. Designation of Fire Protection Duties.

(a) An individual who performs one or more fire protection duties, listed in the Texas Government Code, §419.021(3)(C), for a fire department of local government entity shall be designated to only one of the following categories:

- (1) fire protection personnel;
- (2) a part-time fire protection employee; or
- (3) a volunteer fire fighter or other auxiliary fire fighter.

(b) A fire department regulated by the Commission may not designate the same person under more than one category under this section. The designation shall be made on the records of the department and the designation shall be made available for inspection by the Commission or sent to the Commission on request.

(c) A fire department regulated by the Commission shall report the appointment of fire protection personnel to a regulated discipline via the Commission's online management program, or the appropriate form if available. Fire protection personnel who are assigned to a regulated discipline as part of their regularly assigned duties shall be appointed to that discipline with the Commission.

No individual may be appointed to a discipline without approval by the Commission. The Commission shall not approve an initial appointment to a regulated discipline until it has reviewed and approved a person's fingerprint-based criminal history record. Termination of fire protection personnel or part-time fire protection employees shall be reported to the Commission via the Commission's online management program, or the appropriate form if available within 14 calendar days of the action. In the case of termination, the employing entity shall report an individual's last known home address to the Commission. A Removal from Appointment form may be submitted without the employee's signature.

(d) A fire department may not in a calendar year compensate, reimburse, or provide benefits to a person the department has designated as a volunteer or other auxiliary fire fighter in an amount that is equal to or more than what a person receives working 2,080 hours at the federal minimum wage.

(e) A person certified as fire protection personnel in one fire department may be employed and designated as a part-time fire protection employee in another fire department without additional certification as a part-time fire protection employee.

Source Note: The provisions of this §421.9 adopted to be effective November 1, 1998, 23 TexReg 10886; amended to be effective May 23, 1999, 24 TexReg 3861; amended to be effective November 20, 2002, 27 TexReg 10747; amended to be effective June 17, 2003, 28 TexReg 4566; amended to be effective November 18, 2009, 34 TexReg 8040; amended to be effective May 18, 2010, 35 TexReg 3847; amended to be effective June 3, 2012, 37 TexReg 3861

§421.11. Requirement To Be Certified Within One Year.

(a) Except for subsection (c) and (d) of this section, fire protection personnel or part-time fire protection employees of a fire department who are appointed duties identified as fire protection personnel duties must be certified by the commission in the discipline(s) to which they are assigned within one year of their appointment to the duties or within two years of successfully passing the applicable commission examination, whichever is less. The commission shall not approve an initial certification for a regulated discipline until it has reviewed and approved a person's fingerprint-based criminal history record. An individual who accepts appointment(s) in violation of this section shall be removed from the appointment(s) and will be subject to administrative penalties. A department or local government that appoints an individual in violation of this section will also be subject to administrative penalties.

(b) An individual who has been removed from appointment to duties identified as fire protection personnel duties for violation of this section must petition the commission in writing for permission to be reappointed to the duties from which they were removed. The petition will be considered only if the individual has obtained all appropriate certification(s) applicable to the duties to which the individual seeks reappointment.

(c) A military spouse may be appointed to fire protection personnel duties with a regulated fire department without being required to obtain the applicable certification, provided the military spouse submits the following to the commission prior to appointment and has received confirmation of approval from the commission:

- (1) notification to the commission of intent to perform regulated fire protection duties;
- (2) documentation of equivalent certification from another jurisdiction;

- (3) a fingerprint-based criminal history record using the commission approved system;
- (4) proof of residency in Texas; and
- (5) a copy of the individual's military identification card.

(d) A military spouse appointed to fire protection duties under this section may engage in those duties only for the period in which the military service member to whom the spouse is married is stationed at a military installation in Texas, but not to exceed three years from the date the military spouse receives approval from the commission to engage in those duties.

Source Note: The provisions of this §421.11 adopted to be effective May 23, 1999, 24 TexReg 3861; amended to be effective November 20, 2002, 27 TexReg 10747; amended to be effective May 18, 2010, 35 TexReg 3847; amended to be effective December 2, 2019, 44 TexReg 7413

§421.13. Individual Certificate Holders.

- (a) Employment is not mandatory for certification. An individual may hold or renew any certificate issued by the commission for which they maintain their qualifications.
- (b) An individual certificate holder must notify the commission of a change of his or her home address within 14 calendar days of a change of address.

Source Note: The provisions of this §421.13 adopted to be effective March 2, 2000, 25 TexReg 1721; amended to be effective March 8, 2001, 26 TexReg 2043; amended to be effective November 20, 2002, 27 TexReg 10747

§421.15. Extension of Training Period.

A fire department may apply to the commission for an extension of the one-year training period, identified in §419.032(c) of the Government Code, for a time period not exceeding two years from the date of original appointment as follows:

- (1) the request for extension shall be placed on the Fire Fighter Advisory Committee's (FFAC's) agenda to be heard at its next regular or special called meeting after submission of the request;
- (2) after review by the FFAC, the application along with the FFAC's recommendations will be sent to the commission to be heard at its next regular meeting. If the request for extension is approved by the commission, the extension shall become effective immediately; and
- (3) the one-year extension of training time, if granted, shall run from the date of forfeiture and removal or, at the latest, from one year after the original date training began, whichever occurs first.

Source Note: The provisions of this §421.15 adopted to be effective July 29, 2002, 27 TexReg 6722; amended to be effective November 15, 2003, 28 TexReg 9883

§421.17. Requirement to Maintain Certification.

- (a) All full-time or part-time employees of a fire department or local government assigned duties identified as fire protection personnel duties must maintain certification by the commission in the

discipline(s) to which they are assigned for the duration of their assignment.

(b) In order to maintain the certification required by this section, the certificate(s) of the employees must be renewed annually by complying with §437.5 of this title (relating to Renewal Fees) and Chapter 441 of this title (relating to Continuing Education) of the commission standards manual.

(c) Except for subsection (d) of this section, or upon determination by the ~~Agency Chief~~ **Agency Chief** when special circumstances are presented, an individual whose certificate has been expired for one year or longer may not renew the certificate previously held. To obtain a new certification, an individual must meet the requirements in Chapter 439 of this title (relating to Examinations for Certification).

(d) A military service member whose certificate has been expired for three years or longer may not renew the certificate previously held. To obtain a new certification, the person must meet the requirements in Chapter 439 of this title (relating to Examinations for Certification). In order to qualify for this provision, the individual must have been a military service member at the time the certificate expired and continued in that status for the duration of the three-year period.

(e) The commission will provide proof of current certification to individuals whose certification has been renewed.

Source Note: *The provisions of this §421.17 adopted to be effective March 5, 2002, 27 TexReg 1533; amended to be effective November 20, 2002, 27 TexReg 10747; amended to be effective August 10, 2009, 34 TexReg 5411; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective Feb. 10, 2016; 40 TexReg 980; amended to be effective February 24, 2021, 46 TexReg 1250; amended to be effective August 11, 2021; 46 TexReg 4857;*

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

A. Possible final adoption of the proposed amendments as follows:

4. 37 Tex. Administrative Code, Part 13, Chapter 423, Fire Suppression.

CHAPTER 423

FIRE SUPPRESSION

SUBCHAPTER A

MINIMUM STANDARDS FOR STRUCTURE FIRE PROTECTION PERSONNEL CERTIFICATION

§423.3. Minimum Standards for Basic Structure Fire Protection Personnel Certification.

(a) In order to be certified as Basic Structure Fire Protection Personnel, an individual must:

(1) possess valid documentation from the International Fire Service Accreditation Congress or the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1 of this title (relating to Requirements—General) as:

(A) Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness Level Personnel; and

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

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

(D) meet the medical requirements outlined in §423.1 of this title (relating to Minimum Standards for Structure Fire Protection Personnel); or

(2) complete a commission approved basic structure fire protection program, meet the medical requirements outlined in §423.1(c) of this title (relating to Minimum Standards for Structure Fire Protection Personnel), and successfully pass the commission examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved basic structure fire suppression program shall consist of one or any combination of the following:

(A) completion of a commission approved Basic Fire Suppression Curriculum, as specified in the commission's Certification Curriculum Manual; or

(B) completion of an out-of-state, and/or military training program deemed equivalent to the commission approved Basic Fire Suppression Curriculum; or

(C) documentation of the receipt of a Fire Fighter II certificate, an advanced certificate, or confirmation of training from the State **Firefighters'** [~~Firemen's~~] and Fire Marshals' Association of Texas that is deemed equivalent to a commission approved Basic Fire Suppression Curriculum.

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

(a) Individuals completing a commission approved basic structure fire protection program, meeting any other NFPA requirement, and passing the applicable commission examination(s) may be granted IFSAC seal(s) for Hazardous Materials Awareness Level Personnel, Hazardous Materials Operations Level Responders (including the Mission-Specific Competencies for Personal Protective Equipment and Product Control), Fire Fighter I, and/or Fire Fighter II by making application to the

commission for the IFSAC seal(s) and paying applicable fees, provided they meet the following provisions:

(1) To receive the IFSAC Hazardous Materials Awareness Level Personnel seal, the individual must:

- (A) complete the Hazardous Materials Awareness section of a commission approved course; and
- (B) pass the Hazardous Materials Awareness section of a commission examination.

(2) To receive the IFSAC Hazardous Materials Operations Level Responders seal (including the Mission-Specific Competencies for Personal Protective Equipment and Product Control) the individual must:

- (A) complete the Hazardous Materials Operation section of a commission approved course; and
- (B) document possession of an IFSAC Hazardous Materials Awareness Level Personnel seal; and
- (C) pass the Hazardous Materials Operations section of a commission examination.

(3) To receive the IFSAC Fire Fighter I seal, the individual must:

- (A) complete a commission approved Fire Fighter I course; and
- (B) provide medical documentation as outlined in subsection **(b) [(c)]** of this section; and
- (C) document possession of an IFSAC Hazardous Materials Awareness Level Personnel seal; and
- (D) document possession of an IFSAC Hazardous Materials Operations Level Responders seal; and
- (E) pass the Fire Fighter I section of a commission examination.

(4) To receive the IFSAC Fire Fighter II seal, the individual must:

- (A) complete a commission approved Fire Fighter II course; and
- (B) document possession of an IFSAC Fire Fighter I seal; and
- (C) pass the Fire Fighter II section of a commission examination.

(b) In order to qualify for a Fire Fighter I seal, the individual must document successful completion of an emergency medical training course or program that includes those subject areas required by NFPA 1001.

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

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

A. Possible final adoption of the proposed amendments as follows:

5. 37 Tex. Administrative Code, Part 13, Chapter 425, Fire Service Instructors.

CHAPTER 425

FIRE SERVICE INSTRUCTORS

§425.1. Minimum Standards for Fire Service Instructor Certification.

(a) Training programs that are intended to satisfy the requirements for fire service instructor certification must meet the curriculum and competencies based upon NFPA 1041, **Standard for Fire and Emergency Services Instructor Professional Qualifications or its successor**. All applicants for certification must meet the examination requirements of this section.

(b) Prior to being appointed to fire service instructor duties, all personnel must complete a commission approved fire service instructor program and successfully pass the commission examination pertaining to that curriculum.

(c) Personnel who receive probationary or temporary appointment to fire service instructor duties must be certified by the commission within one year from the date of appointment to such position.

(d) An out-of-state, military, or federal instructor training program may be accepted by the commission as meeting the training requirements for certification as a fire service instructor if the training has been submitted to the commission for evaluation and found to be equivalent to or to exceed the commission approved instructor course for that particular level of fire service instructor certification.

(e) An individual who holds a bachelor's degree or higher in education from a regionally accredited educational institution or a teaching certificate issued by the State Board for Educator Certification or an associate's degree with twelve semester hours of education instructional courses is considered to have training equivalent to the commission's curriculum requirements for Instructor I, II and III training.

(f) Personnel holding any level of fire service instructor certification must comply with the continuing education requirements specified in §441.21 of this title (relating to Continuing Education for Fire Service Instructor).

§425.3. Minimum Standards for Fire Service Instructor I Certification.

In order to be certified as a Fire Service Instructor I an individual must:

(1) have a minimum of three years of experience as defined in §421.5 of this title (relating to Definitions) in fire protection in one or more or any combination of the following:

(A) a paid, volunteer, or regulated non-governmental fire department; or

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(2) possess valid documentation as a Fire Instructor I, II or III from either:

(A) the International Fire Service Accreditation Congress (IFSAC); or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M

Engineering Extension Service using the 2007 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements—General); or

(3) have completed the appropriate curriculum for Fire Service Instructor I contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(4) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification).

§425.5. Minimum Standards for Fire Service Instructor II Certification.

In order to be certified as a Fire Service Instructor II, an individual must:

(1) hold as a prerequisite a Fire Instructor I certification as defined in §425.3 of this title (relating to Minimum Standards for Fire Service Instructor I Certification); and

(2) have a minimum of three years of experience as defined in §421.5 of this title (relating to Definitions) in fire protection in one or more or any combination of the following:

(A) a paid, volunteer, or regulated non-governmental fire department; or

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(3) possess valid documentation as a Fire Instructor II or III from either:

(A) the International Fire Service Accreditation Congress (IFSAC); or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2007 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

(4) have completed the appropriate curriculum for Fire Service Instructor II contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(5) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification).

§425.7. Minimum Standards for Fire Service Instructor III Certification.

In order to be certified as a Fire Service Instructor III an individual must:

(1) hold as a prerequisite, a Fire Instructor II Certification as defined in §425.5 of this title (relating to Minimum Standards for Fire Service Instructor II Certification); and

(2) have a minimum of three years of experience (as defined in §421.5(47) of this title (relating to Definitions)) in fire protection in one or more or any combination of the following:

- (A) a paid, volunteer, or regulated non-governmental fire department; or
- (B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and
- (3) possess valid documentation of accreditation from the International Fire Service Accreditation Congress (IFSAC) as a Fire Instructor III; or
- (4) have completed the appropriate curriculum for Fire Service Instructor III contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title (relating to Minimum Standards for Fire Service Instructor Certification); and
- (5) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification) and either:
 - (A) hold as a prerequisite an advanced structural fire protection personnel certification, an advanced aircraft fire protection personnel certification, advanced marine fire protection personnel certification, advanced inspector certification, advanced fire investigator, or advanced arson investigator certification; or
 - (B) have 60 college hours from a regionally accredited educational institution; or
 - (C) hold an associate degree from a regionally accredited educational institution.

§425.9. Minimum Standards for Master Fire Service Instructor III Certification.

In order to be certified as a Master Fire Service Instructor III the individual must:

- (1) hold as a prerequisite a Fire Service Instructor III certification; and
- (2) be a member of a paid, volunteer, or regulated non-governmental fire department; or a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and
- (3) hold as a prerequisite a master structural fire protection personnel certification, a master aircraft rescue fire fighting personnel certification, master marine fire protection personnel certification, master inspector certification, master fire investigator certification, or master arson investigator certification; or
- (4) hold a bachelor's degree or higher in education from a regionally accredited educational institution or a teaching certificate issued by the Texas State Board of Education.

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

- (a) Individuals completing a commission approved Fire Service Instructor I training program and passing the applicable state examination may be granted an IFSAC seal for Instructor I by making application to the commission and paying the applicable fee.
- (b) Individuals holding an IFSAC Instructor I seal, completing a commission approved Fire Service Instructor II training program, and passing the applicable state examination may be granted an IFSAC seal for Instructor II by making application to the commission and paying the applicable fee.
- (c) Individuals holding an IFSAC Instructor II seal, completing a commission approved Fire Service

Instructor III training program, and passing the applicable state examination may be granted an IFSAC seal for Instructor III by making application to the commission and paying the applicable fee.

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

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

A. Possible final adoption of the proposed amendments as follows:

6. 37 Tex. Administrative Code, Part 13, 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.

The following minimum apparatus resources, applicable to the discipline, are required for an on-site training facility.

(a) **For a certified** [Certified] on-site training facility--approved for basic structure fire protection personnel certification training: [-]

(1) A pumper apparatus fully equipped **for functions** as required by the basic fire suppression curriculum.

(2) **An aerial ladder** [Ladders or a ladder] truck **for functions** as required by the basic fire suppression curriculum.

(b) **For a certified** [Certified] on-site training facility--approved for basic aircraft rescue fire fighting **(ARFF)** personnel certification training: [-Fire apparatus that is equipped to perform aircraft operations as required by the basic aircraft fire protection curriculum.]

(1) an ARFF vehicle for assigned aircraft type and size,

(2) an ARFF vehicle with 260 gpm minimum turret; and

(3) Support vehicles per authority having jurisdiction

(c) **For a certified** [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 **or its successor**.

(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, Use, Care & Maintenance.

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 **be appropriate for the training evolution**. [~~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.~~]

Protective clothing and elements no longer used for emergency operations may be used for non-live fire training provided such clothing and elements are not contaminated, defective, or damaged and are appropriately marked to be easily recognized.

(1) **All protective** [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, **shall comply with the minimum standards of the National Fire Protection Association (NFPA) Standard or its successor suitable for the tasks the individual is expected to perform.** [~~provided such clothing and elements are not contaminated, defective, or damaged, and are appropriately marked to be easily recognized.~~]

(A) A certified training facility that provides personal protective equipment (PPE) shall comply with NFPA 1851, Standard on Selection, Care, and Maintenance of Structural Fire Fighting Protection Ensembles or its successor and provide upon request a written Standard Operating Procedure (SOP) on the use, maintenance, and care of personal protective equipment (PPE) to include the application of Preliminary Exposure Reduction for determination of the appropriate level of cleaning and inspection of PPE at the conclusion of a training evolution.

(B) A certified training facility shall verify NFPA 1851, Standard on Selection, Care, and Maintenance of Structural Fire Fighting Protection Ensembles or its successor for compliance with personal protective equipment provided by the participant.

(2) **The training facility shall comply with the following guidelines for use, care and maintenance of PPE used during live-fire training depending on the type of burn facility and/or fuel used.**

(A) Acquired Structures

Firefighting ensemble and/or element that has been used in an environment created by an acquired structure should be treated as stated in §435.1(a)(3) of this title (relating to Protective Clothing).

(B) Gas-Fired Training Center Buildings

Firefighting ensemble and/or element that has been used in an environment that uses gas-fired props may be cleaned as needed for soil levels that are hygienically unpleasant. Advanced cleaning and inspections should be completed as stated within the training facility's SOP.

(C) Non-Gas Fired Training Center Buildings

Firefighting ensemble and/or element that has been used in an environment that uses non-gas fired props must be assessed for contamination of products of combustion. Preliminary exposure reduction should be done as soon as the training is completed for the day. Advanced cleaning and inspection should be completed as soon as practically possible.

(D) Exterior Props

Firefighting ensemble and/or element that has been used in an environment that uses gas-fired props may be cleaned as needed for soil levels that are hygienically unpleasant. Advanced cleaning and inspections should be completed as stated within the training facility's SOP's.

(E) Exterior Class B Liquid Fires

Firefighting ensemble and/or element that has been used in exterior Class B liquid fire props must be assessed for contamination of products of combustion. Preliminary exposure reduction should be done as soon as the training is completed for the day. Advanced cleaning and inspection should be completed as soon as practically possible. [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 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 in sufficient quantity for use by trainees.

The minimum equipment required for conducting training is identified in the Equipment List found in each discipline chapter within the Texas Commission on Fire Protection (TCFP) Curriculum Manual. [The following minimum equipment, applicable to the discipline, is required for an on-site training facility.]

(1) All Self-Contained Breathing Apparatus (SCBA) that will be used during the course of instruction for a commission approved fire protection personnel training program shall comply with §435.3 of this title (relating to Self-Contained Breathing Apparatus). This rule applies whether the SCBA is provided by the academy or the trainee. [(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 **appropriate instructional aids and the** ~~[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 **regulated training** entity ~~[onsite training facility]~~ that reflect **at minimum**:

(1) **training subject**: ~~[who was trained, subject, instructor, and date of instruction. (Note: Individual records are required rather than class records); and]~~

(2) **date(s) of instruction**: ~~[individual trainee test scores to include performance testing]~~

(3) who attended the training.

(4) instructor(s).

(5) course grade report with individual trainee test scores.

(6) individual trainee Commission-Designated Performance Skill Evaluations; and

(7) when administering distance skill evaluations, letter(s) of assurance for performance skill evaluations including the identification of the examinee, evaluating field examiner, and observer.

(b) The regulated training entity must be able to substantiate the evaluation process used to determine the trainee has acquired the knowledge and skills to achieve the minimum level of competency required by the applicable commission curriculum and/or National Fire

Protection Association (NFPA) standards.

~~(c)[(b)]~~ All ~~[training]~~ records must be maintained by the **regulated training entity** ~~[onsite training facility]~~ 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.

§427.18. Live Fire Training Evolutions.

The most current edition of NFPA 1403, Standard on Live Fire Training Evolutions **or its successor**, 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 **for basic fire suppression certification training**, the student shall have received training to meet the performance requirements for Fire Fighter I in NFPA 1001, Standard for Fire Fighter Professional Qualifications **or its successor**, 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.

CHAPTER 427
TRAINING FACILITY CERTIFICATION
SUBCHAPTER B
DISTANCE TRAINING PROVIDER

§427.201. Minimum Standards for Distance Training Provider.

(a) The following definition is applicable to this subchapter only. Approved distance training is defined as fire training where instructors and students are primarily in different locations and content is instructed primarily using the internet or an intranet. Courses 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. Facilities [~~Records~~].

The following minimum resources, applicable to the discipline, are required for a distance training provider. 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.

~~{(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.}~~

§427.205. Apparatus.

The following minimum apparatus resources, applicable to the discipline, are required for a distance training provider.

(a) For a certified distance training provider--approved for basic structure fire protection personnel certification training:

(1) A pumper apparatus fully equipped for functions as required by the basic fire suppression curriculum.

(2) An aerial ladder truck for functions as required by the basic fire suppression curriculum.

(b) For a certified distance training provider--approved for basic aircraft rescue fire fighting (ARFF) personnel certification training:

(1) an ARFF vehicle for assigned aircraft type and size,

(2) an ARFF vehicle with 260 gpm minimum turret; and

(3) Support vehicles per AHJ.

(c) For a certified distance training provider--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 or its successor.

(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.

§427.207. Protective Clothing, Use, Care & Maintenance.

All protective clothing used during instruction for a commission approved fire protection personnel training program shall be appropriate for the training evolution.

Protective clothing and elements no longer used for emergency operations may be used for non-live fire training provided such clothing and elements are not contaminated, defective, or damaged and are appropriately marked to be easily recognized.

(1) All protective clothing used for live fire training shall comply with the minimum standards of the National Fire Protection Association (NFPA) Standard suitable for the tasks the individual is expected to perform.

(A) A certified training provider that provides personal protective equipment shall comply with NFPA 1851, Standard on Selection, Care, and Maintenance of Structural Fire Fighting Protection Ensembles or its successor and provide upon request a written Standard Operating Procedure (SOP) on the use, maintenance, and care of personal protective equipment (PPE) to include the application of Preliminary Exposure Reduction for determination of the appropriate level of cleaning and inspection of PPE at the conclusion of a training evolution.

(B) A certified training provider shall verify NFPA 1851, Standard on Selection, Care, and Maintenance of Structural Fire Fighting Protection Ensembles or its successor, for compliance with personal protective equipment provided by the participant.

(2) The distance training provider shall comply with the following guidelines for use, care and maintenance of PPE used during live-fire training depending on the type of burn facility and/or fuel used.

(A) Acquired Structures

Firefighting ensemble and/or element that has been used in an environment created by an acquired structure should be treated as stated in §435.1(a)(3) of this title (relating to Protective Clothing).

(B) Gas-Fired Training Center Buildings

Firefighting ensemble and/or element that has been used in an environment that uses gas-fired props may be cleaned as needed for soil levels that are hygienically unpleasant. Advanced cleaning and inspections should be completed as stated within the training facility's SOP.

(C) Non-Gas Fired Training Center Buildings

Firefighting ensemble and/or element that has been used in an environment that uses non-gas fired props must be assessed for contamination of products of combustion. Preliminary exposure reduction should be done as soon as the training is completed for the day. Advanced cleaning and inspection should be completed as soon as practically possible.

(D) Exterior Props

Firefighting ensemble and/or element that has been used in an environment that uses gas-fired props may be cleaned as needed for soil levels that are hygienically unpleasant. Advanced cleaning and inspections should be completed as stated within the training facility's SOP's.

(E) Exterior Class B Liquid Fires

Firefighting ensemble and/or element that has been used in exterior Class B liquid fire props must be assessed for contamination of products of combustion. Preliminary exposure reduction should be done as soon as the training is completed for the day. Advanced cleaning and inspection should be completed as soon as practically possible.

§427.209. Equipment [General Information].

The distance training provider must ensure that all equipment necessary for practice of performance skills identified in the commission's Curriculum Manual or Curriculum Skills Manual is available in sufficient quantity for use by trainees.

The minimum equipment required for conducting training is identified in the Equipment List found in each discipline chapter within the Texas Commission on Fire Protection (TCFP) Curriculum Manual.

All Self-Contained Breathing Apparatus (SCBA) that will be used during the course of instruction for a commission approved fire protection personnel training program shall comply with §435.3 of this title (relating to Self-Contained Breathing Apparatus). This rule applies whether the SCBA is provided by the academy or the trainee.

(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 appropriate instructional aids and 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.

~~[(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.]~~

§427.211. 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.

§427.213. Records.

(a) Training records shall be maintained by the regulated distance training provider that reflect at minimum:

(1) training subject,

(2) date(s) of instruction.

(3) who attended the training.

(4) instructor(s).

(5) course grade report with individual trainee test scores.

(6) individual trainee Commission-Designated Performance Skill Evaluations; and

(7) when administering distance skill evaluations, letter(s) of assurance for performance skill evaluations including the identification of the examinee, evaluating field examiner, and observer.

(b) The regulated distance training provider must be able to substantiate the evaluation process used to determine the trainee has acquired the knowledge and skills to achieve the minimum level of competency required by the applicable commission curriculum and/or NFPA standards.

(c) All records must be maintained by the regulated 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.

§427.218. Live Fire Training Evolutions.

The most current edition of NFPA 1403, Standard on Live Fire Training Evolutions or its successor, shall be used as a guide when developing standard operating procedures for conducting live fire training.

(1) Prior to being permitted to participate in live fire training evolutions for basic fire suppression certification training, the student shall have received training to meet the performance requirements for Fire Fighter I in NFPA 1001, Standard for Fire Fighter Professional Qualifications or its successor, 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; or

(E) an evacuation signal and procedure; and pre-burn, burn and post-burn procedures.

§427.219 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 unless the program has been deemed equivalent. The commission shall take action on an application for certification of a distance training provider within 30 days from receipt.

(b) Certified distance training providers 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 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) Certified distance training providers are subject to inspection by the commission at any time during regular business hours.

(e) In order to retain the certification as a certified distance training provider, 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 distance training provider when the commission determines that the distance training provider:

(1) fails to provide the quality of training and education for which the provider was approved; or

(2) fails to comply with commission 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.

CHAPTER 427

TRAINING FACILITY CERTIFICATION

SUBCHAPTER C

TRAINING PROGRAMS FOR ON-SITE AND DISTANCE TRAINING PROVIDERS

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

(a) Training programs that are intended to satisfy the requirements for fire protection personnel certification 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 **prior** approvals (**TPAs**), a training provider shall certify that it has provided the resources described in §427.1 **or §427.201** of this title **as applicable**. [~~(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 **the** [~~an~~] original **training prior approval** [~~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 **of a** [~~an~~] testing center of an educational institution. A passing score of 70% must be achieved.

(e) If a course is taught in phases **or sections**, a comprehensive **test** [~~exam~~] for each phase **or section** shall be administered upon completion of each phase **or section** 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) **as a minimum shall** ~~[must]~~ possess **Fire Instructor Certification** ~~[fire instructor certification]~~. The instructor(s) must be certified in the applicable discipline or be approved by the commission to instruct in the applicable subject.

(c) The lead instructor, as a minimum, shall possess a Fire Service Instructor II certification and must be certified by the commission in the applicable discipline, except as stated in subsections (h)(2) and (i)(2) of this section.

(d) Guest instructors are not required to be certified as instructors.

(e) In order to teach fire officer certification courses, an individual who does not meet the requirements of subsection (a) or (c) of this section, shall possess a minimum of a bachelor's degree in management or its equivalent.

(f) In order to teach an instructor certification training course for Fire Service Instructor I, an individual must hold one of the following three qualifications:

(1) A 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) **Standards for Course Delivery** [~~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 **Standards for Course Delivery** [~~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 **Standards for Course Delivery** [~~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 **Standards for Course Delivery** [~~Field Manager's Course Guide~~] (901-1) or current TIFMAS guidelines for this level of course.

CHAPTER 427**TRAINING FACILITY CERTIFICATION****SUBCHAPTER D****CERTIFIED TRAINING FACILITIES****§427.401. General Provisions for Training Facilities Not Owned by the State of Texas or Operated by a Political Subdivision of the State of Texas.**

(a) The provisions in this subchapter apply only to certified training facilities that are not owned or operated by the State of Texas or a political subdivision of the State of Texas.

(b) Training facilities seeking certification under this subchapter must comply with all the provisions of this chapter and must also meet and comply with all commission 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; **and**

(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.

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

A. Possible final adoption of the proposed amendments as follows:

7.37 Tex. Administrative Code, Part 13, Chapter 431, Fire Investigation.

CHAPTER 431

FIRE INVESTIGATOR ~~[INVESTIGATION]~~

SUBCHAPTER A

MINIMUM STANDARDS FOR ARSON INVESTIGATOR CERTIFICATION

§431.1. Minimum Standards for Arson Investigation Personnel.

(a) Fire protection personnel who are appointed arson investigation duties must be certified, as a minimum, as a basic arson investigator as specified in §431.3 of this title (relating to Minimum Standards for Basic Arson Investigator Certification) within one year from the date of initial appointment to such position.

(b) Prior to being appointed to arson investigation duties, fire protection personnel must complete a commission approved basic fire investigator training program, successfully pass the commission examination pertaining to that curriculum, and possess a current peace officer license from the Texas Commission on Law Enforcement or document that the individual is a federal law enforcement officer.

(c) Personnel holding any level of arson investigation certification shall be required to comply with the continuing education requirements in §441.15 of this title (relating to Continuing Education for Arson Investigator or Fire Investigator).

§431.3. Minimum Standards for Basic Arson Investigator Certification.

In order to be certified as a Basic Arson Investigator an individual must:

- (1) possess a current basic peace officer's license from the Texas Commission on Law Enforcement or documentation that the individual is a federal law enforcement officer;
- (2) hold a current license as a peace officer and notify the commission on the prescribed form regarding the law enforcement agency currently holding the individual's peace officer license; and
- (3) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as a Fire Investigator; or
- (4) complete a commission approved basic fire investigation training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved fire investigation training program shall consist of one of the following:
 - (A) completion of the commission approved Fire Investigator Curriculum, as specified in Chapter 5 of the commission's Certification Curriculum Manual;
 - (B) successful completion of an out-of-state, NFA, 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 Fire Investigator Curriculum as specified in Chapter 5 of the commission's Certification Curriculum Manual; or

(C) successful completion of the following college courses: Fire and Arson Investigation I or II, 3 semester hours; Hazardous Materials I, II, or III, 3 semester hours; Building Construction in the Fire Service or Building Codes and Construction, 3 semester hours; Fire Protection Systems, 3 semester hours. Total semester hours, 12.

§431.5. Minimum Standards for Intermediate Arson Investigator Certification.

(a) Applicants for Intermediate Arson Investigator Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Arson Investigator Certification as defined in §431.3 of this title (relating to Minimum Standards for Basic Arson Investigator Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the requirements 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); or

(D) Option 4--Hold current Intermediate Peace Officer certification from the Texas Commission on Law Enforcement with four additional law enforcement courses applicable for fire investigations (See 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 Arson Investigator Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§431.7. Minimum Standards for Advanced Arson Investigator Certification.

(a) Applicants for Advanced Arson Investigator certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Arson Investigator Certification as defined in §431.5 of this title (relating to Minimum Standards for Intermediate Arson Investigator Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the requirements 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); or

(D) Option 4--Advanced Arson for Profit or Complex Arson Investigative Techniques (Bureau of Alcohol, Tobacco, Firearms, and Explosives resident or field course, 80 hours); or

(E) Option 5--Hold current Advanced Peace Officer certification from the Texas Commission on Law Enforcement with four additional law enforcement courses applicable for fire investigations (See 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 Arson Investigator Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§431.9. Minimum Standards for Master Arson Investigator Certification.

(a) Applicants for Master Arson Investigator Certification must complete the following requirements:

(1) hold as a prerequisite an Advanced Arson Investigator Certification as defined in §431.7 of this title (relating to Minimum Standards for Advanced Arson Investigator Certification); and

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

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Arson Investigator Certification.

§431.11. Minimum Standards for Arson Investigator Certification for Law Enforcement Personnel.

(a) A law enforcement officer employed or commissioned by a law enforcement agency as a peace officer who is designated as an arson investigator by an appropriate local authority is eligible for certification on a voluntary basis by complying with this chapter.

(b) An individual holding commission certification as a fire investigator who becomes a law enforcement officer employed or commissioned by a law enforcement agency as a peace officer, and who is designated as an arson investigator by an appropriate local authority will

qualify for a similar level arson investigator certification. To obtain an arson investigator certification the individual must make application to the commission to include confirmation of commission.

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

Individuals completing a commission approved basic fire investigator program and passing the applicable state examination may be granted an IFSAC seal as a Fire Investigator by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

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

A. Possible final adoption of the proposed amendments as follows:

8. 37 Tex. Administrative Code, Part 13, Chapter 433, Driver/Operator.

CHAPTER 433**DRIVER/OPERATOR****R SUBCHAPTER A****MINIMUM STANDARDS FOR DRIVER/OPERATOR-PUMPER****§433.1. Driver/Operator-Pumper Certification.**

A driver/operator - pumper is defined as an individual who safely operates a fire pumper in accordance with all state and local laws; operates a fire pump in a safe manner; and determines effective fire stream calculations and pump discharge pressures. Responsibilities include routine apparatus tests, maintenance, inspections, and servicing functions.

§433.3. Minimum Standards for Driver/Operator-Pumper Certification.

(a) In order to obtain Driver/Operator-Pumper certification, the individual must:

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

(2) possess valid documentation as a Driver/Operator-Pumper from either:

(A) the International Fire Service Accreditation Congress; or

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

(3) complete a commission approved Driver/Operator-Pumper Curriculum and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved driver/operator-pumper program must consist of one of the following:

(A) complete a commission approved Driver/Operator-Pumper Curriculum as specified in Chapter 7 of the commission's Certification Curriculum Manual;

(B) complete an out-of-state training program that has been submitted to the commission for evaluation and found to be equivalent to or exceeds the commission approved Driver/Operator-Pumper Curriculum; or

(C) complete a military training program that has been submitted to the commission for evaluation and found to be equivalent to or exceeds the commission approved Driver/Operator-Pumper Curriculum.

(b) Out-of-state or military training programs, which are submitted to the commission for the purpose of determining equivalency, will be considered equivalent if all competencies set forth in Chapter 7 (pertaining to Driver/Operator-Pumper) of the commission's Certification Curriculum Manual are met.

§433.5. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive driver/operator-pumper certification.

(b) Individuals will be permitted to take the commission examination for driver/operator-pumper by documenting, as a minimum, completion of the NFPA 1001 Fire Fighter I training, and completing a commission approved driver/operator-pumper curriculum.

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

Individuals completing a commission approved **Driver/Operator-Pumper** [~~driver/operator-pumper program~~]; documenting, as a minimum, an IFSAC seal for Fire Fighter I; and passing the applicable state examination may be granted an IFSAC seal as a Driver/Operator-Pumper by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

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

A. Possible final adoption of the proposed amendments as follows:

9.37 Tex. Administrative Code, Part 13, Chapter 435, Fire Fighter Safety.

CHAPTER 435

FIRE FIGHTER SAFETY

§435.1. Protective Clothing.

(a) A regulated entity [~~fire department~~] shall:

(1) purchase, rent, lease, provide, and maintain a complete set of protective clothing for each [~~all~~] fire protection person [~~personnel~~] who would be exposed to hazardous conditions from fire or other emergencies or where the potential for such exposure exists. A complete set of properly fitting protective clothing shall consist of garments including bunker coats, bunker pants, boots, gloves, helmets, and protective hoods, worn by fire protection personnel in the course of performing fire-fighting operations;

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

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

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

§435.3. Self-Contained Breathing Apparatus.

The regulated [~~employing~~] entity shall:

(1) [~~purchase,~~] provide, and maintain a complete self-contained breathing apparatus that complies with the minimum standards of the National Fire Protection Association identified in NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters, or its successor for each on-duty fire protection person [~~personnel~~] who engages [~~engage~~] in operations where IDLH atmospheres may be encountered, where the atmosphere is unknown or would be exposed to hazardous atmospheres from fire or other emergencies or where the potential for such exposure exists;

~~{(2) ensure that all self-contained breathing apparatus used by fire protection personnel complies with the minimum standards of the National Fire Protection Association identified in NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters;}~~

~~{(2) [(A)] the National Fire Protection Association standard applicable to a self-contained breathing apparatus is the standard in effect at the time the entity contracts for new, rebuilt, repaired, or used self-contained breathing apparatus;~~

~~{(3) [(B)] an entity may continue to use a self-contained breathing apparatus in use or contracted for before a change in the National Fire Protection Association standard, unless the commission determines that the continued use of the self-contained breathing apparatus constitutes an undue risk to the wearer, in which case the commission shall order that the use be discontinued and shall set an appropriate date for compliance with the revised standard;~~

(4) [(3)] develop an air quality program that complies with the most recent edition of the NFPA 1989 Standard on Breathing Air Quality for Emergency Services Respiratory Protection **or its successor**;

(5) [(4)] maintain and supply upon request by the commission, records and reports documenting compliance with commission requirements concerning self-contained breathing apparatus and breathing air. Records of all tests shall be made, and the records shall be retained for a period of no less than three years;

(6) [(5)] maintain and provide upon request by the commission, **the entity's [entities] [a departmental]** standard operating procedure regarding the use of self-contained breathing apparatus; and

(7) [(6)] maintain and provide upon request by the commission, **the [entities] entity's [a department]** standard operating procedure regarding the selection, care, and maintenance of self-contained breathing apparatus that complies with the most recent edition of the NFPA 1852 Standard on Selection, Care, and Maintenance of Open-Circuit Self-Contained Breathing Apparatus (SCBA) **or its successor**.

~~[(8) In any workplace where respiratory protection is necessary to protect the health of the employee or whenever respiratory protection is required by the employer, the employer shall establish and implement a written respiratory program that complies with NFPA 1500, Respiratory Protection Program. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respiratory protection use. Documents related to this rule shall be provided to the Texas Commission on Fire Protection upon request.]~~

§435.5. Commission Recommendations.

The commission recommends that all **regulated [employing]** entities use as a guide the **National Fire Protection Standard 1500 "Fire Department Occupational Safety and Health Program" or its successor.** [following publications:]

~~[(1) NFPA 1403 "Live Fire Training Evolutions";]~~

~~[(2) NFPA 1500 "Fire Department Occupational Safety and Health Program;"]~~

~~[(3) IAFF/IAFC "Fire Service Joint Labor Management Wellness-Fitness Initiative."]~~

§435.7. Implementation of Mandatory NFPA Standards [Fire Department Staffing Studies].

[(a)] Allow implementation of TCFP mandated NFPA standards at the Commissioner's discretion up to 365 days from the effective date of the new NFPA standard. [Section 419.022(a)(4) Texas Government Code provides that the commission may on request, assist in performing staffing studies of fire departments. Staffing studies must take into consideration all the objectives and missions of the fire department. Many staffing studies have been developed that can be used to assist in evaluating the needs of a fire department.]

~~[(b) A city should ultimately decide on the level of fire protection it is willing to provide to its citizens. The city and fire department should, as a minimum, address the needs of prevention, investigation and suppression as outlined in the appropriate National Fire Protection Association Standards. That decision should be based on facts, the safety of its citizens, and the safety of the fire fighters providing that protection.]~~

~~[(c) The commission will assist by maintaining information pertinent to fire department staffing. The information shall be maintained in the Ernest A. Emerson Fire Protection Resource Library at the commission. Copies shall be made available, free of charge, to anyone requesting such information to the extent permitted by copyright laws.]~~

§435.9. Personal Alert Safety System (PASS).

The **regulated** [employing] entity shall:

(1) [purchase,] provide[,] and maintain a PASS device **complying with the minimum standards of the National Fire Protection Association identified in NFPA 1982, Standard on Personal Alert Safety Systems (PASS) for Fire Fighters or its successor** for each on duty fire protection **person** [personnel] who **engages** [engage] in operations where IDLH atmospheres may be encountered, or where the atmosphere is unknown, or where hazardous conditions from fire or other emergencies exist, or where the potential for such exposure exists;

(2) ensure that all PASS devices used by fire protection personnel comply with the minimum standards of the National Fire Protection Association identified in NFPA 1982, Standard on Personal Alert Safety Systems (PASS) for Fire Fighters. [:] **The National Fire Protection Association standard applicable to a PASS device is the standard in effect at the time the entity contracts for new, rebuilt, repaired, or used PASS devices;**

[(A) the National Fire Protection Association standard applicable to a PASS device is the standard in effect at the time the entity contracts for new, rebuilt, or used PASS devices;]

[(B) an entity may continue to use a PASS device that meets the requirements of an earlier edition of NFPA 1982, unless the commission determines that the continued use of the PASS device constitutes an undue risk to the wearer, in which case the commission shall order that the use be discontinued and shall set an appropriate date for compliance with the revised standard;]

(3) ensure that the PASS device assigned to an individual user be inspected at the beginning of each duty period and before each use; **and** [-]

(4) maintain and provide upon request by the commission, **the entity's** [a departmental] standard operating procedure regarding the proper use, selection, care, and maintenance of PASS devices.

§435.11. Incident Management System (IMS).

(a) The **regulated entity** [fire department] shall develop, maintain, and use an incident management system.

(b) The incident management system shall:

(1) include a written standard operating procedure for the management of emergency incidents;

(2) require that the IMS be used at all emergency incidents;

(3) require operations to be conducted in a manner that recognizes hazards and assists in the prevention of accidents and injuries;

(4) require that all fire protection personnel be trained in the use of the IMS; and

(5) require that the IMS be applied to all drills, exercises and all other situations that involve hazards similar to those encountered at an actual emergency.

(c) The IMS shall meet the requirements of [the applicable sections of the] NFPA 1561, Standard on **Emergency Services Incident Management System and Command Safety or its successor** [Fire Department Incident Management System].

[(d) The commission recommends departments follow the National Incident Management System (NIMS) when developing their incident management system.]

§435.13. Personnel Accountability System.

(a) The **regulated entity** [fire department] shall develop, maintain, and use a personnel accountability system that provides for a rapid accounting of all personnel at an emergency incident.

(b) The accountability system shall:

- (1) require all fire protection personnel be trained in the use of the accountability system;
- (2) require that the fire protection personnel accountability system be used at all incidents;
- (3) require that all fire protection personnel operating at an emergency incident to actively participate in the personnel accountability system; and
- (4) require that the incident commander be responsible for the overall personnel accountability system for the incident.

(c) The fire department shall be responsible for developing the system components required to make the personnel accountability system effective.

(d) The personnel accountability system shall meet the minimum standards required by the National Fire Protection Association 1561, Standard on **Emergency Services Incident Management System and Command Safety or its successor** [Fire Department Incident Management System. If the standard is revised, the fire department shall have one (1) year from the effective date of the new standard to comply].

§435.15. Operating At Emergency Incidents.

(a) The **regulated entity** [fire department] shall develop, maintain, and use a standard operating procedure for fire protection personnel operating at emergency incidents.

(b) The standard operating procedure shall:

- (1) specify an adequate number of personnel to safely conduct emergency scene operations;
- (2) limit operations to those that can be safely performed by personnel at the scene;
- (3) require all personnel to be trained in and use the standard operating procedures; and
- (4) comply with §435.17 (Procedures for Interior Structural Fire Fighting (2-In / 2-Out Rule)).

(c) The **regulated entity** [fire department] may use standards established by the National Fire Protection Association for fire protection personnel operating at an emergency incident.

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

(a) The **regulated entity shall develop, maintain, and comply with written standard operating procedures that adhere** [fire department shall develop written procedures that comply] with the Occupational Safety and Health Administration's Final Rule, 29 CFR Section 1910.134(g)(4) by requiring:

- (1) a team of at least four fire protection personnel must be assembled before an interior fire attack can be made when the fire has progressed beyond the incipient stage;
- (2) at least two fire protection personnel to enter the IDLH atmosphere and remain in visual or voice (not radio) contact with each other;
 - (A) Visual means that the fire protection personnel must be close enough to see each other.
 - (B) Voice means that the fire protection personnel of the entry team must be close enough to speak to one another without the use of radios.

(3) at least two fire protection personnel remain located outside the IDLH atmosphere to perform rescue of the fire protection personnel inside the IDLH atmosphere;

(4) all fire protection personnel engaged in interior structural fire fighting use self-contained breathing apparatus and be clothed in a complete set of protective clothing as identified in Chapter 435;

(5) all fire protection personnel located outside the IDLH atmosphere be equipped with appropriate retrieval equipment where retrieval equipment would contribute to the rescue of the fire protection personnel who [that] have entered the IDLH atmosphere;

(6) one of the outside fire protection personnel must actively monitor the status of the inside fire protection personnel and not be assigned other duties. The second outside fire protection personnel may be assigned to an additional role, including, but not limited to, incident commander, safety officer, driver-operator, command technician or aide, or fire fighter/EMS personnel, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any fire protection personnel working at the scene;

(7) **All fire protection personnel entering an IDLH atmosphere must be equipped with an operable portable radio** [~~the fire protection personnel outside the IDLH atmosphere must remain in communication (including, but not limited to, radio) with the fire protection personnel in the IDLH atmosphere. Use of a signal line (rope) as a communications instrument for interior fire fighting is not permitted by the commission. This does not preclude the use of rescue guide ropes (guideline or lifeline or by what ever name they may be called) used during structural searches~~]; and

(8) each outside fire protection personnel must have a complete set of protective clothing and self-contained breathing apparatus, as identified in Chapter 435, immediately accessible for use if the need for rescue activities inside the IDLH atmosphere is necessary.

(b) The ~~regulated entity~~ [fire department] shall comply with the 2-in/2-out rule as described in this section except in **a reasonable belief of** an imminent life-threatening situation when immediate action could prevent the loss of life or serious injury before the team of four fire protection personnel are assembled.

(c) Whenever there is a variance to these procedures, a supplemental report must be submitted to the Texas Commission on Fire Protection, documenting the rationale used to deviate from these written procedures.

§435.19. Enforcement of Commission Rules.

(a) The commission shall enforce all commission rules at any time, including, but not limited to, commission investigations, fire department inspections, or upon receiving a [written] complaint from any [an identified] person or entity of an alleged infraction of a commission rule.

(b) The commission shall initiate a biennial inspection with an email notifying the fire department and requesting electronic copies of the Standard Operating Procedures (SOPs), training records, and/or other documentation needed for review, be submitted within 48 business hours of notification. The e-mail will also indicate the date range for an on-site inspection within the upcoming two-week period. Compliance officers may work with the Head of Department to ensure all necessary department representatives will be present at the time of the inspection. Compliance Officers may postpone an inspection for extenuating circumstances with the Compliance Manager's approval.

(c) Upon receipt of a [signed] complaint alleging a violation of a commission rule, the commission shall have 30 days to initiate an investigation and report back to the complainant its progress.

(d) Upon substantiating the validity of a [written] complaint, the commission shall follow the procedures outlined in Texas Government Code, Chapter 419, §419.011(b) and (c).

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

(a) A **regulated entity** [fire department] shall assess the wellness and fitness needs of the personnel in the department. The procedure used to make this assessment shall be written and made available for Commission inspection.

(b) A **regulated entity** [fire department] shall develop and maintain a standard operating procedure to address those needs.

(c) The approach to the fitness needs of the **regulated entity** [department] shall be based on the local assessment and local resources.

(d) The standard operating procedure shall be made available to the Commission for inspection.

§435.23. Fire Protection Personnel [Fire Fighter] Injuries.

(a) A **regulated entity** [fire department] shall report all Texas Workers' Compensation Commission reportable injuries that occur to on-duty regulated fire protection personnel on the Commission form.

(b) Minor injuries are those injuries that do not result in the **fire protection personnel** [fire fighter] missing more than one duty period or does not involve the failure of personal protective equipment. Minor injuries shall be reported within 30 business days of the injury event.

(c) Major injuries are those that require the **fire protection personnel** [fire fighter] to miss more than one duty period. Major injuries shall be reported within five business days of the injury event.

(d) **Investigatable fire protection personnel** injuries are those resulting from the malfunction of personal protective equipment, failure of personal protective equipment to protect the **fire protection personnel** [fire fighter] from injury, or injuries sustained from failure to comply with any provision of Commission mandated department SOPs. Investigatable injuries shall be reported within five business days of the injury event.

(e) The regulated entity shall secure any personal protective equipment involved in **an investigatable fire protection personnel** [a fire fighter] injury and shall be made available to the Commission for inspection.

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

~~[(a) In an effort to improve firefighter safety in the State of Texas, all regulated entities will ensure that the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program be completed as part of the continuing education required for certified fire protection personnel. Individuals will be credited with four hours of continuing education credit for completing this program.]~~

~~[(a) [(b)] All fire protection personnel will be required to complete the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program training within one year following appointment to a **regulated entity** [fire department] if the individual has not previously completed the program. **Individuals will be credited with four hours of continuing education credit for completing this program.**~~

~~[(b) [(c)] **Regulated entities** [Departments] will report the completion of training through the commission's **web-based** [web-based] reporting system.~~

~~[(c) [(d)] Failure to complete the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program before the required **deadline** [deadlines] will be considered a violation of continuing education rules found in Chapter 441 of this title (relating to Continuing Education).~~

§435.27. Live Fire Training Structure Evolutions.

The most current edition of NFPA 1403, Standard on Live Fire Training Evolutions or its successor, shall be used as a guide when developing standard operating procedures for conducting live fire training. The following requirements shall apply for all Live Fire Training Structure Evolutions conducted.

(1) The officer in charge or instructor will ensure that the water supply rate and duration for each individual Live Fire Training Structure Evolution is adequate to control and extinguish the training fire, the supplies necessary for backup lines to protect personnel, and any water needed to protect exposed property.

(2) The instructor-in-charge shall assign the following personnel:

(A) One instructor to each functional crew, which shall not exceed five students.

(B) One instructor to each backup line.

(C) Additional personnel to backup lines to provide mobility.

(D) One additional instructor for each additional functional assignment.

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

(4) A safety officer shall be appointed for all Live Fire Training Structure Evolutions. The safety officer shall have the authority, regardless of rank, to alter, suspend or control any aspect of the operations when, in his or her judgment, a potential or actual danger, accident, or unsafe condition exists. The safety officer shall not be assigned other duties that interfere with safety responsibilities.

(5) No person(s) shall play the role of a victim inside the building.

(6) Prior to the ignition of any fire, instructors shall ensure that all personal protective clothing and/or self-contained ~~[self-contained]~~ breathing apparatus are NFPA compliant and being worn in the proper manner.

(7) Prior to conducting any live fire training, a pre-burn briefing session shall be conducted. All participants shall be required to conduct a walk-through of the structure in order to have a knowledge of, and familiarity with, the layout of the building and to be able to facilitate any necessary evacuation of the building.

(8) A standard operating procedure shall be developed and utilized for Live Fire Training Structure Evolutions. The standard operating procedure shall include, but not be limited to:

(A) a Personal Alert Safety System (PASS). A PASS device shall be provided for all participating in live fire training and shall meet the requirements in §435.9 of this title (relating to Personal Alert Safety System (PASS));

(B) a Personnel Accountability System that complies with §435.13 of this title (relating to Personnel Accountability System) shall be utilized;

(C) an Incident Management System;

(D) use of personal protective clothing and self-contained breathing apparatus;

(E) an evacuation signal and procedure; and

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

§435.29. Federal Highway Administration Traffic Incident Management Program.

~~[(a) In an effort to improve firefighter safety in the State of Texas, all regulated entities will ensure that the Federal Highway Administration Traffic Incident Management program or an equivalent~~

course that is approved by the commission be completed as part of the continuing education required for certified fire protection personnel by December 1, 2020. Individuals will be credited with four hours of continuing education credit for completing this program.]

~~[(b) All regulated fire protection personnel must complete the Federal Highway Administration Traffic Incident Management program or an equivalent course that is approved by the commission prior to December 1, 2020.]~~

~~[(a) ~~[(e)]~~ All fire protection personnel [appointed after December 1, 2020] will be required to complete the Federal Highway Administration Traffic Incident Management program training or an equivalent course that is approved by the commission within one year of appointment to a **regulated entity** [fire department]. **Individuals will be credited with four hours of continuing education credit for completing this program.**~~

~~[(b) ~~[(d)]~~ Departments will report the completion of training through the commission's web-based [web based] reporting system.~~

~~[(c) ~~[(e)]~~ Failure to complete the Federal Highway Administration Traffic Incident Management program or an equivalent course that is approved by the commission before the required deadline will be considered a violation of continuing education rules found in Chapter 441 of this title (relating to Continuing Education).~~

§435.31. Firefighter Cancer Support Network Cancer Awareness Training Program.

(a) In an effort to improve firefighter safety in the State of Texas, all regulated entities will ensure that the Firefighter Cancer Support Network Cancer Awareness Training program be completed as part of the continuing education required for certified fire protection personnel by December 1, 2024 [2027]. Individuals will be credited with 2 hours of continuing education credit for completing this program.

(b) All regulated fire protection personnel must complete the Firefighter Cancer Support Network Cancer Awareness Training program prior to December 1, 2024 [2027].

(c) All fire protection personnel appointed after December 1, 2024 [2027], will be required to complete the Firefighter Cancer Support Network Cancer Awareness Training program training within one year of appointment to a fire department.

(d) Departments will report the completion of training through the commission's web-based reporting system.

(e) Failure to complete the Firefighter Cancer Support Network Cancer Awareness Training program before the required deadline will be considered a violation of continuing education rules found in Chapter 441 of this title (relating to Continuing Education).

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

A. Possible final adoption of the proposed amendments as follows:

10.37 Tex. Administrative Code, Part 13, Chapter 437, Fees.

CHAPTER**437 FEES****§437.1. Purpose and Scope.**

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

§437.3. Certification Application Processing Fees.

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

§437.5. Renewal Fees.

- (a) A non-refundable annual renewal fee of \$75 shall be assessed for each certified individual and certified training facility. If an individual or certified training facility holds more than one certificate, the commission may collect only one renewal fee of \$75, which will renew all certificates held by the individual or certified training facility.
- (b) A regulated employing entity shall pay the renewal fee for each individual who is required to possess certification as a condition of employment.
- (c) If a person re-enters the fire service whose certificate(s) has been expired for less than one year, the regulated entity must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fees, the certificates previously held by the individual, for which he or she continues to qualify, will be renewed.
- (d) If a person wishes to renew a certificate(s) which has been expired less than one year and the individual is not employed by a regulated employing entity as defined in subsection (b) of this section, the individual must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fee(s), the certificate(s) previously held by the individual, for whom he or she continues to qualify, will be renewed.
- (e) Nothing in this section shall prohibit an individual from paying a renewal fee for any certificate which he or she is qualified to hold providing the certificate is not required as a condition of employment.
- (f) Certification renewal information will be sent to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal information will be sent to certified training facilities at least 60 days prior to February 1 of each calendar year.
- (g) If renewal payment is submitted by mail, all certification renewal fees must be submitted with the renewal invoice to the commission.
- (h) All certification renewal fees must be paid on or before the last day of the certification period (see subsection (i) of this section) to avoid additional fee(s).
- (i) The certification period shall be a period not to exceed one year. The certification period for employees of regulated employing entities, and individuals holding certification is November 1 to October 31. The certification period of certified training facilities is February 1 to January 31.
- (j) All certification renewal fees received from one to 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$37.50 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.

(k) All certification renewal fees received more than 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$75 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.

(l) In addition to any non-refundable late fee(s) assessed for certification renewal, the commission may hold an informal conference to determine if any further action(s) is to be taken.

(m) An individual or entity may petition the commission for a waiver of the late fees required by this section if the person's certificate expired because of the individual or regulated employing entity's good faith clerical error, or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action.

(1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.

(2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order restoring the applicant to employment.

(n) An individual, who is a military service member, or returning from activation to military service, must notify the commission in writing if the individual wishes to renew an expired certification. Provided other qualifications for renewal are met, the individual will have any normally associated late fees waived and will be required to pay a renewal fee of \$75.

§437.7. Standards Manual and Certification Curriculum Manual Fees.

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

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

§437.11. Copying Fees.

(a) All photographic reproduction of records or documents in the files of the commission and prepared on standard office machines will be furnished for a fee.

(b) A fee will be charged for address and telephone number lists of fire service agencies.

(c) A fee will be charged for mailing peel-off labels of fire service agencies.

§437.13. Processing Fees for Test Application.

- (a) A non-refundable application processing fee of \$55 shall be charged for each examination.
- (b) A non-refundable application processing fee of \$35 shall be charged for each sectional examination.
- (c) Fees will be paid in advance with the application or the certified training provider may be invoiced or billed if previous arrangements have been approved by the commission in writing via mail, e-mail or fax.
 - (1) Any payment postmarked from 61 to 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee of one half the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.
 - (2) Any payment postmarked more than 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee in an amount equal to the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.
- (d) The test application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.
- (e) The test application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.

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

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

§437.17. Records Review Fees.

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

§437.19. Early Review Fees.

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

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

A. Possible final adoption of the proposed amendments as follows:

11.37 Tex. Administrative Code, Part 13, Chapter 439, Examination 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 sections: Inspector I, and Inspector II. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.

(h) An examination for Basic Structure Fire Protection and Intermediate Wildland Fire Protection shall consist of five sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, First Responder Operations, and Intermediate Wildland Fire Protection. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.

(i) All other state examinations consist of only one section.

(j) The individual who fails to pass a commission examination for state certification will be given one additional opportunity to pass the examination or section(s) thereof. This opportunity must be exercised within 180 days after the date of the first failure. An examinee who fails to pass the examination within the required time may not sit for the same examination again until the examinee has re-qualified by repeating the curriculum applicable to that examination.

(k) An individual may obtain a new certificate in a discipline which was previously held by passing a commission proficiency examination.

(l) If an individual who has never held certification in a discipline defined in §421.5 of this title (relating to Definitions), seeks certification in that discipline, the individual shall complete all certification requirements.

(m) If an individual completes a commission approved training program, or a program that has been evaluated and deemed equivalent to a certification curriculum approved by the commission, such as an out-of-state or military training program or a training program administered by the State Firemen's and Fire Marshals' Association of Texas, the individual may use only one of the following examination processes for certification:

(1) pass a commission examination; or

(2) submit documentation of the successful completion of the Pro Board examination process administered by the Texas A&M Engineering Extension Service; and

(3) meet any other certification requirements in order to become eligible for certification as fire protection personnel.

(4) An individual cannot use a combination of the two examination processes in this subsection from a single commission approved class for certification. An individual who chooses to submit to the commission examination process may not utilize the other process toward certification.

(n) An individual or entity may petition the commission for a waiver of the examination required by this section if the person's certificate expired because of the individual's or employing entity's good faith clerical error or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action. All required renewal fees including applicable late fees, and all required continuing education must be submitted before the waiver request may be considered.

(1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with

commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.

(2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order, ruling or agreement restoring the applicant to employment.

§439.3. Definitions.

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

(1) Certificate of Completion--A statement by the provider of training certifying that an individual has successfully completed a commission-approved certification curriculum or phase program for a particular discipline, including having been evaluated by field examiners on performance skills identified by the commission. The certificate of completion qualifies an individual to take an original certification examination. The certificate expires two years from the date of completion. If an individual does not take the certification examination prior to the expiration of the certificate of completion, he or she must again complete the curriculum in order to obtain a new certificate of completion.

(2) Curriculum--The competencies established by the commission as a minimum requirement for certification in a particular discipline.

(3) Designee--An entity or individual approved by commission staff to administer commission certification examinations and/or performance skills in accordance with this chapter.

(4) Eligibility--A determination of whether or not an individual has met the requirements set by the commission and would therefore be allowed to take a commission examination.

(5) Endorsement of eligibility--A statement testifying to the fact that an individual has met all requirements specified by the commission and is qualified to take a commission examination. An endorsement of eligibility will be issued by a member of the commission staff.

(6) Examination--A state test which an examinee must pass as one of the requirements for certification.

(7) Examinee--An individual who has met the commission requirements and therefore qualifies to take the commission examination.

(8) Field examiner--An individual authorized to evaluate performance skills in commission approved curricula. The field examiner must possess a Fire Instructor Certification or other instructor qualification as allowed by §427.307(h) and (i) of this title (relating to On-Site and Distance Training Provider Staff Requirements) for Wildland courses only, complete the on-line commission field examiner course, and sign an agreement to comply with the commission's testing procedures. The field examiner must be approved by the commission to instruct all subject areas identified in the curriculum that he or she will be evaluating. The field examiner must repeat the examiner course every two years and submit a new Letter of Intent.

(9) Lead Examiner--A member of the commission staff or a designee who has been assigned by the commission to administer a commission examination.

(10) Letter of Intent--A statement, signed by an individual applying to the commission for field examiner status, that he or she is familiar with the commission's examination procedures, and agrees to abide by the policies and guidelines as set out in Chapter 439 of this title (relating to Examinations for Certification).

(11) Sectional examination—A test that covers one section of a multiple section examination.

§439.5. Procedures.

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

(b) All application processing fees due to the commission must be paid in a timely manner. Late payments shall be assessed a late fee in accordance with §437.13 of this title (relating to Processing Fees for Test Application).

(c) Each examination must be administered by a lead examiner.

(d) The lead examiner must:

(1) ensure that the tests remain secure and that the examination is conducted under conditions warranting honest results;

(2) monitor the examination while in progress;

(3) control entrance to and exit from the test site;

(4) assign or re-assign seating; and

(5) bar admission to or dismiss any examinee who fails to comply with any of the applicable provisions of this chapter.

(e) All official grading and notification must come from the commission or its designee. The preliminary test results shall be made available within seven (7) business days after completion of the examination.

§439.7. Eligibility.

(a) An examination may not be taken by an individual who currently holds an active certificate from the commission in the discipline to which the examination pertains, unless required by the commission in a disciplinary matter, or test scores have expired and the individual is testing for IFSAC seals.

(b) An individual who passes an examination and is not certified in that discipline, will not be allowed to test again if the original examination grade is still active, unless required by the commission in a disciplinary matter.

(c) In order to qualify for a commission examination, the examinee must:

(1) meet or exceed the minimum requirements set by the commission as a prerequisite for the specified examination;

(2) submit a test application, meet any other prerequisite requirements, and submit the appropriate application processing fee(s);

(3) receive from the commission an "Endorsement of Eligibility" letter and provide this letter to the lead examiner;

(4) bring to the test site, and display upon request, a current and valid government issued identification which contains the name and photograph of the examinee;

(5) report on time to the proper location; and

(6) comply with all the written and verbal instructions of the lead examiner.

(d) No examinee shall be permitted to:

(1) violate any of the fraud provisions of this section;

(2) disrupt the examination;

(3) bring into the examination site any books, notes, or other written materials related to the content of the examination;

(4) refer to, use, or possess any such written material at the examination site;

(5) give or receive answers or communicate in any manner with another examinee during the examination;

(6) communicate at any time or in any way, the contents of an examination to another person for the purpose of assisting or preparing a person to take the examination;

(7) steal, copy, or reproduce any part of the examination;

(8) engage in any deceptive or fraudulent act either during an examination or to gain admission to it;

(9) solicit, encourage, direct, assist, or aid another person to violate any provision of this section; or

(10) bring into the examination site any electronic devices.

(e) No person shall be permitted to sit for any commission examination who has an outstanding debt owed to the commission.

§439.9. Grading.

(a) If performance skills are required as a part of the examination, the examinee must demonstrate performance skill objectives in a manner consistent with performance skill evaluation forms provided by the Commission. The evaluation format for a particular performance skill will determine the requirements for passage of the skill. Each performance skill evaluation form will require successful completion of one of the following formats:

(1) all mandatory tasks; or

(2) an accumulation of points to obtain a passing score as indicated on the skill sheet; 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.

(e) The training facility must maintain records (electronic or paper) of skills testing on each examinee. Test results must be recorded and saved on the applicable performance skill sheets provided in the commission Curriculum Skills Manual, and must include all information called for on the skill sheet.

(f) For certification disciplines in which an IDLH environment may exist, all skill testing participants shall have available for use NFPA compliant PPE and SCBA as defined in §435.1 of this title (relating to Protective Clothing) and §435.3 of this title (relating to Self-Contained Breathing Apparatus).

§439.13. Special Accommodations for Testing.

(a) Special accommodation testing is for those individuals that have a documented disability which may hamper their success on a Texas Commission on Fire Protection written examination. Some accommodations that can be allowed are:

(1) A testing room to oneself (examinee is allowed to read the questions out loud to him or herself). To accommodate the request the examinee will have to test in the Commission's Austin headquarters location or any location deemed appropriate by the Commission.

(2) The test to be split in two with up to an hour break in between (no access to the first half of the examination will be allowed during or after the break). To accommodate the request the examinee will have to test in the commission's Austin headquarters location or any location deemed appropriate by the Commission.

(3) The questions to be printed in a larger font (approximately 7% larger).

(4) The test to be copied on off-white paper (i.e., cream colored).

(5) The use of highlighters or a highlighter sheet.

(6) Any requests that changes the condition of the examination or the examination process.

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

Source Note: The provisions of this §439.13 adopted to be effective November 2, 2011, 36 TexReg 7363

§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. The maximum possible number of pilot questions will be 10% of the number of exam questions, rounded up.

(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
Combined Basic Structure FP	Hazardous Materials Awareness	25		
	Hazardous Materials Operations	25		
	Firefighter I	100		
	Firefighter II	75		

	TOTAL	225	25	4.5 Hours
<u>Sectioned Basic Structure FP</u>	<u>Hazardous Materials Awareness</u>	<u>50</u>	<u>3</u>	<u>1.0 Hour</u>
	<u>Hazardous Materials Operations</u>	<u>50</u>	<u>5</u>	<u>1.0 Hour</u>
	<u>Firefighter I</u>	<u>100</u>	<u>10</u>	<u>2.0 Hour</u>
	<u>Firefighter II</u>	<u>75</u>	<u>8</u>	<u>1.5 Hours</u>
	<u>TOTAL</u>	<u>275</u>	<u>26</u>	<u>5.5 Hours</u>
Basic Fire Inspector	Inspector I	50		
	Inspector II	50		
	TOTAL	100	15	2.0 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	<u>50</u> [25]	3	<u>1.0 Hour</u> [30 Minutes]
	31 to 100	50	5	1.0 Hour
	101 to 200	75	8	1.5 Hours
	201 to 300	100	10	2.0 Hours
	301 to 400	125	13	2.5 Hours
	401 or More	150	15	3.0 Hours

CHAPTER 439
EXAMINATIONS FOR CERTIFICATION
SUBCHAPTER B
EXAMINATIONS FOR DISTANCE TRAINING

§439.201. Requirements—General.

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

§439.205. Performance Skill Evaluation.

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

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

A. Possible final adoption of the proposed amendments as follows:

12. 37 Tex. Administrative Code, Part 13, Chapter 463, Advisory Committees.

CHAPTER 463
ADVISORY COMMITTEES
SUBCHAPTER A
PRACTICE AND PROCEDURES

§463.1. PURPOSE AND OBJECTIVES.

(a) The Texas Commission on Fire Protection (TCFP) is organized to aid in the protection of lives and property of Texas citizens through the development and enforcement of recognized professional standards for individuals and the fire service. To achieve the goals of TCFP, each committee will evaluate, make recommendations, and issue reports to the Commission on any issue in the committee's purview. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee.

(b) The **Commission** [~~commission~~] has established a Firefighter Advisory Committee, Curriculum and Testing Committee, and Health and Wellness Committee. The committee's purpose, eligibility, terms, and meeting procedures are identified in the following subchapters.

§463.3. GENERAL.

(a) [The Chairperson of the Commission, by and with the approval of the] **The** Commission, shall approve all committees [~~and appoint all Committee Chairs~~]. [~~Committee Chairs are responsible for selecting committee members, which are then presented to the Commission for final approval.~~]

(b) [~~The Chairperson of the Commission, with the approval of the~~] **The** Commission, may convene additional committees that are deemed to be in the best interest of the Texas Commission on Fire Protection (TCFP) and its mission.

(c) All committees shall be subject to, and governed by, these bylaws.

(d) [~~The Chairperson of the Commission, by and with the approval of the Commission,~~] **The approved committee shall elect a member of their committee as the chairperson** [~~will appoint the chairs, who serve at the pleasure of the Commission~~] who [~~and~~] may remain in this position for two (2) years before reappointment or until such time as a new person is appointed as the **Chairperson** [~~chair~~].

(e) Committees should be composed of a reasonable odd number of members, with a minimum of nine and a maximum of 15 members.

(f) The committees shall meet at least twice each calendar year at the call of either the committee **chairperson** [~~chair~~] or the Commission.

(g) All committees shall be reviewed for relevance by the Commission every odd year and will either be renewed or discontinued.

(h) Committee **chairpersons** [Chairs] may form ad hoc **working groups** [committees], when in the judgment of the Chair, it will enhance or provide guidance for a specific purpose and time limit/period. Committee **chairpersons** [Chairs] may determine **working group** [committee] selection, but membership is limited only to the ad hoc **working group** [committee] and will disband once the purpose has been met.

(i) Every October each **committee chairperson** [Committee Chair] will present to the Commission an end of year status report.

CHAPTER 463

ADVISORY COMMITTEES

SUBCHAPTER B

FIREFIGHTER ADVISORY COMMITTEE

§463.201. PURPOSE.

The Firefighter Advisory Committee's purpose is to assist the **Commission** [~~commission~~] in matters relating to fire protection personnel, fire departments, along with suggested guidance to volunteer firefighters and volunteer fire departments. The committee shall periodically review **Commission** [~~commission~~] rules relating to fire protection personnel, fire departments, other firefighters, and organizations subject to the regulation of TCFP and recommend changes in the rules when applicable. The committee shall be composed of **a minimum** nine members appointed by the **Commission** [~~commission~~]. Six members of the committee must be certified fire protection personnel who collectively represent various areas in the field of fire protection. Three members of the committee must be certified instructors of fire protection personnel. At least one member of the committee must be a volunteer fire chief or volunteer firefighter.

§463.203. ELIGIBILITY.

(a) Any person, association, corporation, partnership, or other entity having an interest in the above-recited objectives shall be eligible for membership.

(b) Committee composition should have representatives from each fire protection stakeholder group, with consideration on department size, region, and mission.

(c) **Vacant positions will be announced by TCFP and interested, qualified candidates may apply for committee appointments. A candidate selection committee may be formed to assist in the application process and may make recommendations for appointments. The list of candidates will then be presented to the Commission during their next meeting for consideration. The Commission will appoint committee members and select alternates at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed. Terms shall begin following Commission approval. Interim appointments may be made to complete vacated, un-expired terms.** [~~Interested, qualified candidates may apply for committee appointments between January 1 – March 31 of each year. The list of candidates will then be presented to the Commission during their April meeting for consideration. Each October, the Commission will appoint committee members and select alternates at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed. Terms shall begin in January following approval.~~]

§463.205. TERMS.

~~One-third of~~ **Committee** ~~committee~~ members **shall** ~~should~~ be appointed ~~annually~~ to serve six (6) year terms of office, with the intent to stagger and to ensure continuity of membership from year to year. Committee members serve six-year terms and may serve consecutively; however, after a second six-year term, the member will not be eligible for another term until after a lapse of two years.

§463.207. MEETINGS.

(a) Committee **chairpersons** ~~Chairs~~, or a designated Committee member when the **chairperson** ~~Chair~~ is unavailable, shall conduct all committee meetings.

(b) Committee meetings should be held in Austin, Texas. Committee meetings cannot be held outside of the state of Texas.

(c) Committees shall post meeting times, locations, and agendas with the Secretary of State in accordance with the Open Meetings Act, Texas Government Code Chapter 551. Committees shall keep minutes in accordance with the Open Meetings Act. When feasible, **committees** ~~Committees~~ may allow members of the public to participate in a meeting from a remote location by videoconference call pursuant to Texas Government Code §551.127(k) to encourage access and participation throughout the state.

(d) Committee **chairpersons** ~~chairs~~ may limit discussion times, if in the opinion of the **chairperson** ~~Chair~~, it is warranted. Participants who fail to follow the above rules may be subject to removal from the meeting.

(e) Committees may meet by videoconference calls, but only if they follow requirements of Texas Government Code §551.127. The committee must still have a physical location for the public to attend. The member presiding over the meeting must attend in person, while other members and staff may attend remotely.

§463.209. LIMITATION OF POWERS.

No action by any **committee** ~~Committee~~ **chairperson** ~~Chair~~ or its members shall be binding upon, or constitute an expression of, the policy of TCFP until it has been approved or ratified by the Commission. It shall be the function of the committees to evaluate, to make recommendations, and to report only to the Commission. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee.

§463.211. TESTIMONY.

Once committee action has been approved by both the Chairperson of the Commission and the Commission, testimony and/or presentations may be given and made before stakeholders, governmental agencies, or any other entity as deemed appropriate by the Chairperson of the Commission.

§463.213. EXPULSION.

After written notice and a hearing before the Commission, any Committee member may be expelled from a **committee** ~~Committee~~ for conduct that is unbecoming or prejudicial to the aims or repute

of TCFP or expelled for lack of attendance, **unless excused**, to more than half of the scheduled **committee** [Committee] meetings in a calendar year.

CHAPTER 463
ADVISORY COMMITTEES
SUBCHAPTER C
CURRICULUM AND TESTING COMMITTEE

§463.301. PURPOSE.

The purpose of the Curriculum and Testing Committee is to develop and review curricula, test questions, procedures, and the testing process leading to certifications based on applicable NFPA standards, while maintaining compliance with the accreditation process, as required by the International Fire Service Accreditation Congress (IFSAC) when applicable to **fire protection personnel** ~~[paid firefighters]~~. Meetings determining final exam development and review (test questions) should be closed meetings per Texas Government Code §551.088 and comply with the requirements of the Open Meetings Act, Texas Government Code Chapter 551.

§463.303. ELIGIBILITY.

(a) Any person, association, corporation, partnership, or other entity having an interest in the above-recited objectives shall be eligible for membership.

(b) Committee composition should have representatives from each fire protection stakeholder group, with consideration on department size, region, and mission.

(c) Vacant positions will be announced by TCFP and interested, qualified candidates may apply for committee appointments. A candidate selection committee may be formed to assist in the application process and may make recommendations for appointments. The list of candidates will then be presented to the Commission during their next meeting for consideration. The Commission will appoint committee members and select alternates at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed. Terms shall begin in following approval. Interim appointments may be made to complete vacated un-expired terms. ~~[Interested, qualified candidates may apply for committee appointments between January 1– March 31 of each year. The list of candidates will then be presented to the Commission during their April meeting for consideration. Each October, the Commission will appoint committee members and select alternates at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed. Terms shall begin in January following approval.]~~

§463.305. TERMS.

~~[One-third of committee]~~ **Committee** members **shall** ~~[should]~~ be appointed ~~[annually]~~ to serve six (6) year terms of office, with the intent to stagger and to ensure continuity of membership from year to year. Committee members serve six-year terms and may serve consecutively; however, after a second six-year term, the member will not be eligible for another term until after a lapse of two years.

§463.307. MEETINGS.

(a) Committee **chairpersons** [~~Chairs~~], or a designated Committee member when the **chairperson** [~~Chair~~] is unavailable, shall conduct all committee meetings.

(b) Committee meetings should be held in Austin, Texas. Committee meetings cannot be held outside of the state of Texas.

(c) Committees shall post meeting times, locations, and agendas with the Secretary of State in accordance with the Open Meetings Act, Texas Government Code Chapter 551. Committees shall keep minutes in accordance with the Open Meetings Act. When feasible, **committees** [~~Committees~~] may allow members of the public to participate in a meeting from a remote location by videoconference call pursuant to Texas Government Code §551.127(k) to encourage access and participation throughout the state.

(d) Committee **Chairpersons** [~~chairs~~] may limit discussion times, if in the opinion of the **Chairperson** [~~Chair~~], it is warranted. Participants who fail to follow the above rules may be subject to removal from the meeting.

(e) Committees may meet by videoconference calls, but only if they follow requirements of Texas Government Code §551.127. The committee must still have a physical location for the public to attend. The member presiding over the meeting must attend in person, while other members and staff may attend remotely.

§463.309. LIMITATION OF POWERS.

No action by any **committee chairperson** [~~Committee Chair~~] or its members shall be binding upon, or constitute an expression of, the policy of TCFP until it has been approved or ratified by the Commission. It shall be the function of the committees to evaluate, to make recommendations, and to report only to the Commission. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee.

§463.311. TESTIMONY.

Once committee action has been approved by both the Chairperson of the Commission and the Commission, testimony and/or presentations may be given and made before stakeholders, governmental agencies, or any other entity as deemed appropriate by the Chairperson of the Commission.

§463.313. EXPULSION.

After written notice and a hearing before the Commission, any Committee member may be expelled [~~from a Committee~~] for conduct that is unbecoming or prejudicial to the aims or repute of TCFP or expelled for lack of attendance, **unless excused**, to more than half of the scheduled **committee** [~~Committee~~] meetings in a calendar year.

CHAPTER 463
ADVISORY COMMITTEES
SUBCHAPTER D
HEALTH AND WELLNESS COMMITTEE

§463.401. PURPOSE.

The purpose of the Health and Wellness Committee is to provide factual data and practical guidance regarding key areas of health and wellness to educate, inform, and facilitate the development of action guides for individuals and departments.

§463.403. ELIGIBILITY.

(a) Any person, association, corporation, partnership, or other entity having an interest in the above-recited objectives shall be eligible for membership.

(b) Committee composition should have representatives from each fire protection stakeholder group, with emphasis on department size, region, and mission.

(c) **Vacant positions will be announced by TCFP and interested, qualified candidates may apply for committee appointments. A candidate selection committee may be formed to assist in the application process and may make recommendations for appointments. The list of candidates will then be presented to the Commission during their next meeting for consideration. The Commission will appoint committee members and select alternates at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed. Terms shall begin in following approval. Interim appointments may be made to complete vacated un-expired terms.** [~~Interested, **qualified** candidates may apply for committee appointments between January 1– March 31 of each year. The list of candidates will then be presented to the Commission during their April meeting for consideration. Each October, the Commission will appoint committee members and select alternates at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed. Terms shall begin in January following approval.~~]

§463.405. TERMS.

[~~One-third of~~ **Committee** [~~committee~~] members **shall** [~~should~~] be appointed [~~annually~~] to serve six (6) year terms of office, with the intent to stagger and to ensure continuity of membership from year to year. Committee members serve six-year terms and may serve consecutively; however, after a second six-year term, the member will not be eligible for another term until after a lapse of two years.

§463.407. MEETINGS.

(a) Committee **chairpersons** [~~Chairs~~], or a designated Committee member when the **chairperson** [~~Chair~~] is unavailable, shall conduct all committee meetings.

(b) Committee meetings should be held in Austin, Texas. Committee meetings cannot be held outside of the state of Texas.

(c) Committees shall post meeting times, locations, and agendas with the Secretary of State in accordance with the Open Meetings Act, Texas Government Code Chapter 551. Committees shall keep minutes in accordance with the Open Meetings Act. When feasible, **committees** [~~Committees~~] may allow members of the public to participate in a meeting from a remote location by videoconference call pursuant to Texas Government Code §551.127(k) to encourage access and participation throughout the state.

(d) Committee **chairpersons** [~~chairs~~] may limit discussion times, if in the opinion of the **chairperson** [~~Chair~~], it is warranted. Participants who fail to follow the above rules may be subject to removal from the meeting.

(e) Committees may meet by videoconference calls, but only if they follow requirements of Texas Government Code §551.127. The committee must still have a physical location for the public to attend. The member presiding over the meeting must attend in person, while other members and staff may attend remotely.

§463.409. LIMITATION OF POWERS.

No action by any Committee **Chairperson** [~~Chair~~] or its members shall be binding upon, or constitute an expression of, the policy of TCFP until it has been approved or ratified by the Commission. It shall be the function of the committees to evaluate, to make recommendations, and to report only to the Commission. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee.

§463.411. TESTIMONY.

Once committee action has been approved by both the Chairperson of the Commission and the Commission, testimony and/or presentations may be given and made before stakeholders, governmental agencies, or any other entity as deemed appropriate by the Chairperson of the Commission.

§463.413. EXPULSION.

After written notice and a hearing before the Commission, any Committee member may be expelled [~~from a Committee~~] for conduct that is unbecoming or prejudicial to the aims or repute of TCFP or expelled for lack of attendance, **unless excused**, to more than half of the scheduled Committee meetings in a calendar year.

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

B. Proposed amendments regarding rule review of the following:

1. 37 Tex. Administrative Code, Part 13, 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.

Source Note: The provisions of this §441.1 adopted to be effective November 1, 1998, 23 TexReg 10903.

§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.

Source Note: The provisions of this §441.3 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective October 11, 2000, 25 TexReg 10190; amended to be effective March 8, 2001, 26 TexReg 2046; amended to be effective December 24, 2002, 27 TexReg 12008; amended to be effective November 8, 2005, 30 TexReg 7239; amended to be effective March 27, 2006, 31 TexReg 2701; amended to be effective December 18, 2012, 37 TexReg 9783

§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. Of the 18 hours, two hours shall be a review of the most recent TCFP injury report, with a focus on the top three leading causes of injuries during the reporting 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.

Source Note: *The provisions of this §441.5 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective October 11, 2000, 25 TexReg 10190; amended to be effective June 26, 2001, 26 TexReg 4734; amended to be effective July 29, 2002, 27 TexReg 6726; amended to be effective December 24, 2002, 27 TexReg 12008; amended to be effective May 26, 2005, 30 TexReg 3037; amended to be effective November 8, 2005, 30 TexReg 7239; amended to be effective March 27, 2006, 31 TexReg 2701; amended to be effective March 7, 2007, 32 TexReg 1099; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 26, 2015, 40 TexReg 8344; amended to be effective Feb. 10, 2016; 40 TexReg 980; amended to be effective November 25, 2021, 46 TexReg 7897*

§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.

Source Note: *The provisions of this §441.7 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 10, 2014, 39 TexReg 8742*

§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.

Source Note: *The provisions of this §441.9 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective December 24, 2002, 27 TexReg 12008; amended to be effective May 21, 2006, 31 TexReg 3905*

§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.

Source Note: The provisions of this §441.11 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 10, 2014, 39 TexReg 8742

§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.

Source Note: The provisions of this §441.13 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 10, 2014, 39 TexReg 8742

§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.

Source Note: The provisions of this §441.15 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 10, 2014, 39 TexReg 8742

§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.

Source Note: The provisions of this §441.17 adopted to be effective November 1, 1998, 23 TexReg 10903; amended to be effective December 24, 2002, 27 TexReg 12008; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 10, 2014, 39 TexReg 8742

§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.

Source Note: The provisions of this §441.19 adopted to be effective May 23, 1999, 24 TexReg 3864; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 10, 2014, 39 TexReg 8742; amended to be effective August 26, 2015, 40 TexReg 5344

§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.

Source Note: The provisions of this §441.21 adopted to be effective July 27, 2005, 30 TexReg 4217; amended to be effective December 18, 2012, 37 TexReg 9783; amended to be effective November 10, 2014, 39 TexReg 8742

§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.

Source Note: The provisions of this §441.23 adopted to be effective February 28, 2013, 38 TexReg 1220; amended to be effective May 20, 2014, 39 TexReg 3876

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

B. Proposed amendments regarding rule review of the following:

2. 37 Tex. Administrative Code, Part 13, Chapter 443, Certification Curriculum Manual.

CHAPTER 443
CERTIFICATION CURRICULUM MANUAL

§443.1. Approval by an ~~[the Fire Fighter]~~ Advisory Committee.

~~[(a) All proposals for new or revised curricula and training programs must be submitted to the Fire Fighter Advisory Committee for approval.]~~

~~[(b) The Fire Fighter Advisory Committee may:]~~

~~[(1) submit proposals to a subcommittee formed of members of the Fire Fighter Advisory Committee for study and review before approval; or]~~

~~[(2) submit proposals to an advisory committee formed of members of the fire service who are recommended by the Fire Fighter Advisory Committee and appointed by the commission to report to the Fire Fighter Advisory Committee, for study and review before approval.]~~

~~[(c)] All proposals approved by the Fire Fighter Advisory Committee shall be placed on the next scheduled meeting agenda of the Texas Commission on Fire Protection.~~

Source Note: The provisions of this §443.1 adopted to be effective November 1, 1998, 23 TexReg 10904; amended to be effective August 23, 2017, 42 TexReg 4141

§443.3. Approval by the Texas Commission on Fire Protection.

(a) All proposals for new or revised curricula and training programs approved ~~[by the Fire Fighter Advisory Committee]~~ must receive final approval by the Texas Commission on Fire Protection.

(b) Proposals not approved by the commission ~~may~~ **may** ~~shall~~ be sent back to ~~a~~ **a** ~~[the]~~ committee for further development. The commission shall indicate to the committee the reasons that the proposals were not approved.

Source Note: The provisions of this §443.3 adopted to be effective November 1, 1998, 23 TexReg 10904; amended to be effective August 23, 2017, 42 TexReg 4141

§443.5. Effective Date of New or Revised Curricula and Training Programs Required by Law or Rule.

(a) New curricula and training programs will become effective on January 1 of the year following final approval by the commission or on the date specified by the commission.

(b) Changes to curricula and training programs will become effective on January 1 of the year following final approval by the commission or on the date specified by the commission.

(c) Changes to curricula and training programs which involve reference materials will become effective on January 1 of the year following final approval by the commission or on the date specified by the commission, ~~[as recommended by the Fire Fighter Advisory Committee,]~~ depending on the impact the change will have on the curricula or training programs.

(d) Changes to curricula and training programs that involve a safety consideration as determined by the Fire Fighter Advisory Committee shall become effective immediately following final approval by the commission.

Source Note: The provisions of this §443.5 adopted to be effective November 1, 1998, 23 TexReg 10904; amended to be effective March 1, 1999, 24 TexReg 791; amended to be effective August 23, 2017, 42 TexReg 4141

§443.7. Effective Date of New or Revised Curricula and Training Programs Which Are Voluntary.

(a) New curricula and training programs will become effective on the date [~~recommended by the Fire Fighter Advisory Committee and~~] specified by the commission.

(b) Changes to curricula and training programs will become effective on the date [~~recommended by the Fire Fighter Advisory Committee and~~] specified by the commission.

(c) Changes to curricula and training programs that involve a safety consideration as determined by the Fire Fighter Advisory Committee shall become effective immediately following final approval by the commission.

Source Note: The provisions of this §443.7 adopted to be effective November 1, 1998, 23 TexReg 10904; amended to be effective August 23, 2017, 42 TexReg 4141

§443.9. National Fire Protection Association Standard.

(a) All curricula and training programs must, as a minimum, meet the standards, to include manipulative skills objectives and knowledge objectives, of the current NFPA standard pertaining to the discipline, if such a standard exists and subject to subsection (c) of this section.

(b) New curricula and training programs presented to the **commission** [~~Fire Fighter Advisory Committee~~] must, as a minimum, meet the standards of the current edition of the applicable NFPA standard for the discipline, if such a standard exists.

(c) If a NFPA standard is adopted or an existing NFPA standard is revised, all curricula and training programs must meet the standards of the new or revised applicable NFPA standard within three years of the official adoption date of the applicable NFPA standard.

Source Note: The provisions of this §443.9 adopted to be effective November 1, 1998, 23 TexReg 10904; amended to be effective February 17, 2004, 29 TexReg 1415; amended to be effective August 23, 2017, 42 TexReg 4141

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

B. Proposed amendments regarding rule review of the following:

3. 37 Tex. Administrative Code, Part 13, Chapter 447, Part-Time Fire Protection.

CHAPTER 447

PART-TIME FIRE PROTECTION EMPLOYEE

§447.1. Minimum Standards for Part-Time Fire Protection Employees.

(a) Regulated entities that appoint part-time fire protection employees are subject to the same Commission rules that apply to fire departments as defined in §421.5(18) of this title.

(b) Part-time fire protection employees are subject to the same Commission rules that apply to full-time fire protection personnel.

Source Note: The provisions of this §447.1 adopted to be effective November 1, 1998, 23 TexReg 10906; amended to be effective December 24, 2002, 27 TexReg 12008; amended to be effective July 19, 2007, 32 TexReg 4447

§447.3. Minimum Standards for Higher Levels of Part-Time Certification.

Part-time persons seeking higher levels of certification must complete the same requirements as full-time fire protection personnel. Years of experience for part-time fire personnel shall be in calendar years.

Source Note: The provisions of this §447.3 adopted to be effective November 1, 1998, 23 TexReg 10906; amended to be effective July 19, 2007, 32 TexReg 4447

§447.5. Permissible Hours of Work for Part-Time Fire Protection Employees.

(a) Part-time fire protection employees may not:

(1) work more than 24 hours a week or average more than approximately 24 hours a week during a work cycle for any one fire department; or

(2) work more than 500 hours in a calendar year in fire suppression duties for any one fire department.

(b) Part-time fire protection employees may work on a temporary (fill-in) basis for a fire protection personnel who is absent from work due to vacation, illness, injury, or administrative leave.

(1) The hours worked in a temporary position shall not be counted when computing the hours worked in subsection (a)(1) of this section.

(2) If the hours worked in a temporary position are in fire suppression related duties, the hours worked shall be counted when computing the hours worked in subsection (a)(2) of this section.

Source Note: The provisions of this §447.5 adopted to be effective November 1, 1998, 23 TexReg 10906

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

B. Proposed amendments regarding rule review of the following:

4. 37 Tex. Administrative Code, Part 13, Chapter 455, Minimum Standards for Wildland Fire Protection Certification.

CHAPTER 455

MINIMUM STANDARDS FOR WILDLAND FIRE PROTECTION CERTIFICATION

§455.1. Minimum Standards for Wildland Fire Protection Personnel.

(a) A wildland fire fighter is defined as an individual whose assigned function is suppression of fires in the wildland or wildland-urban interface setting.

(b) Individuals holding Wildland Fire Protection certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).

(c) All Wildland Fire Protection certifications issued by the commission and referenced in this chapter are voluntary.

Source Note: The provisions of this §455.1 adopted to be effective August 20, 2012, 37 TexReg 6315

§455.3. Minimum Standards for Basic Wildland Fire Protection Certification.

In order to be certified as Basic Wildland Fire Protection personnel, an individual must:

(1) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as Wildland Fire Fighter Level I; or

(2) complete a commission approved Basic Wildland Fire Protection program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Basic Wildland Fire Protection training program shall consist of one of the following:

(A) completion of the commission approved Basic Wildland Fire Fighter training program, as specified in the applicable chapter of the commission's Certification Curriculum Manual; or

(B) completion of the following National Wildfire Coordinating Group (NWCG) courses:

(i) S-130: Firefighter Training;

(ii) S-190: Introduction to Wildland Fire Behavior;

(iii) L-180: Human Factors on the Fireline; and

(iv) I-100: Introduction to the Incident Command System, or an equivalent basic incident command system course such as NIMS IS-100; or

(C) Completion of a Texas A&M Forest Service approved online Hybrid (I-100, S-130, S-190 & L-180) with in-person test and field day.

Source Note: The provisions of this §455.3 adopted to be effective August 20, 2012, 37 TexReg 6315; amended to be effective January 5, 2014, 38 TexReg 9628; amended to be effective November 26, 2015,

40 TexReg 8344; amended to be effective August 23, 2017, 42 TexReg 4142; amended to be effective March 14, 2022; 47 TexReg 1300;

§455.5. Minimum Standards for Intermediate Wildland Fire Protection Certification.

In order to be certified as Intermediate Wildland Fire Protection personnel, an individual must:

- (1) hold Basic Wildland Fire Protection certification issued by the commission; and
- (2) complete the associated position task book as adopted by the National Wildfire Coordinating Group (NWCG) 310-1. Proof of completion of the position task book must be from the Texas Intrastate Fire Mutual Aid System (TIFMAS) (e.g. task book approval form or TIFMAS card); and
- (3) individual who hold Structure Fire Protection certification issued by the commission must complete a commission approved Intermediate Wildland Fire Protection program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Intermediate Wildland Fire Protection training program shall consist of one of the following:

- (A) completion of the commission approved Intermediate Wildland Fire Fighter Curriculum, as specified in the applicable chapter of the commission's Certification Curriculum Manual; or

- (B) completion of the NWCG course G-131: Wildland Training (FFT1) for Structural Fire Fighters; or

- (C) completion of the NWCG courses S-131 and S-133 prior to October 2016, or only S-131 after October 2016; or

- (4) individuals who hold a State Firemen's and Fire Marshals' Association Advanced Accredited certification issued prior to January 1, 2012, or a State Firemen's and Fire Marshals' Association Firefighter II certification issued on or after January 1, 2012, must complete a commission approved Intermediate Wildland Fire Protection program and successfully pass the commission examination which includes both Basic Structure Fire Protection and Intermediate Wildland Fire Protection, as specified in Chapter 439 of this title. An approved Intermediate Wildland Fire Protection training program shall consist of one of the following:

- (A) completion of the commission approved Intermediate Wildland Fire Fighter Curriculum, as specified in the applicable chapter of the commission's Certification Curriculum Manual; or

- (B) completion of the NWCG course G-131: Wildland Training (FFT1) for Structural Fire Fighters; or

- (C) completion of the NWCG courses S-131 and S-133 prior to October 2016, or only S-131 after October 2016.

Source Note: *The provisions of this §455.5 adopted to be effective August 20, 2012, 37 TexReg 6315; amended to be effective January 5, 2014, 38 TexReg 9628; amended to be effective November 18, 2018, 43 TexReg 7559*

§455.7. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Wildland Fire Protection Certification.

(b) Persons seeking a commission certification referenced in this chapter who do not currently hold a certification issued by the commission must meet all requirements regarding application for initial certification.

Source Note: *The provisions of this §455.7 adopted to be effective August 20, 2012, 37 TexReg 6315; amended to be effective January 5, 2014, 38 TexReg 9628*

12. Proposed rule review for the following:

A. 37 TAC, Chapter 449, Head of 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 paragraph (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 paragraph (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 paragraph (4) of this subsection, with two years of affidavit time counted as one year of experience; or
- (6) document a combined total of five years of experience using:
- (A) full-time experience while holding a commission certification as referenced in paragraph (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 paragraph (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 paragraph (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 paragraph (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 paragraph (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 appointment as the 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.

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; or
 - (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 paragraph (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 paragraph (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 paragraph (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).

12. Proposed rule review for the following:

B. 37 TAC, Chapter 451, Fire Officer.

CHAPTER 451**FIRE OFFICER****SUBCHAPTER A****MINIMUM STANDARDS FOR FIRE OFFICER I****§451.1. Fire Officer I Certification.**

A Fire Officer I is defined as an individual who may supervise fire personnel during emergency and non-emergency work periods; serve in a public relations capacity with members of the community; implement departmental policies and procedures at the unit level; secure fire scenes and perform fire investigations to determine preliminary cause; conduct pre-incident planning; supervise emergency operations; or ensure a safe working environment for all personnel.

Source Note: The provisions of this §451.1 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective December 27, 2001, 26 TexReg 10621; amended to be effective July 29, 2002, 27 TexReg 6727

§451.3. Minimum Standards for Fire Officer I Certification.

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

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

(2) hold Fire Service Instructor I certification through the commission; and

(A) possess valid documentation as a Fire Fighter II and Fire Officer I from either:

(i) the International Fire Service Accreditation Congress; or

(ii) 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

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

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

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

(iii) successful completion of 12 college semester hours consisting of the following courses or their equivalent:

(I) Fire Prevention Codes and Inspections, 3 semester hours;

- (II) Fire and Arson Investigation I or II, 3 semester hours;
- (III) Fire Administration I, 3 semester hours; and
- (IV) Firefighting Strategies and Tactics I or II, 3 semester hours.

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

(c) College courses will be considered equivalent if the course description is substantially similar to the course description contained in the Workforce Education Course Manual (WECM) from the Texas Higher Education Coordinating Board.

Source Note: The provisions of this §451.3 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective July 29, 2002, 27 TexReg 6727; amended to be effective September 2, 2003, 28 TexReg 7403; amended to be effective March 27, 2006, 31 TexReg 2701; amended to be effective December 3, 2006, 31 TexReg 9620; amended to be effective November 28, 2007, 32 TexReg 8532; amended to be effective February 21, 2012, 37 TexReg 912; amended to be effective March 2, 2014, 39 TexReg 1171

§451.5. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer I certification.

(b) Individuals will be permitted to take the Commission examination for Fire Officer I certification by documenting the following: Structure Fire Protection Personnel certification and Fire Service Instructor certification through the Commission or the equivalent IFSAC seals, and completing a Commission-approved Fire Officer I curriculum.

Source Note: The provisions of this §451.5 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective March 10, 2003, 28 TexReg 2125; amended to be effective December 3, 2006, 31 TexReg 9620; amended to be effective August 10, 2009, 34 TexReg 5415; amended to be effective February 17, 2010, 35 TexReg 1289

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

Individuals completing a commission approved Fire Officer I program, documenting an IFSAC seal for Fire Fighter II and Instructor I, and passing the applicable state examination may be granted an IFSAC seal as a Fire Officer I by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

Source Note: The provisions of this §451.7 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective March 10, 2003, 28 TexReg 2125; amended to be effective March 2, 2005, 30 TexReg 1089; amended to be effective December 3, 2006, 31 TexReg 9620; amended to be effective August 26, 2015, 40 TexReg 5345; amended to be effective November 23, 2016, 41 TexReg 9162

CHAPTER 451
FIRE OFFICER
SUBCHAPTER B
MINIMUM STANDARDS FOR FIRE OFFICER II

§451.201. Fire Officer II Certification.

A Fire Officer II is defined as an individual who may evaluate the performance of personnel; deliver public education programs; prepare budget requests, news releases, and policy changes; conduct inspections and investigations; supervise multi-unit emergency operations; and identify unsafe work environments and take preventive action; or review injury, accident, and health exposure reports. Individuals who perform inspections must comply with Chapter 429 of this title (relating to Minimum Standards for Fire Inspectors). Individuals who perform investigations must comply with Chapter 431 of this title (relating to Fire Investigation).

Source Note: The provisions of this §451.201 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective December 27, 2001, 26 TexReg 10621; amended to be effective July 29, 2002, 27 TexReg 6727

§451.203. Minimum Standards for Fire Officer II Certification.

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

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

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

(3) hold, as a minimum, Fire Service Instructor I certification through the commission; and

(A) possess valid documentation as Fire Officer II; from either:

(i) the International Fire Service Accreditation Congress; or

(ii) 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

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

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

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

(iii) successful completion of 15 college semester hours consisting of the following courses or their equivalent:

- (I) Fire Prevention Codes and Inspections, 3 semester hours;
- (II) Fire and Arson Investigation I or II, 3 semester hours;
- (III) Fire Administration I, 3 semester hours;
- (IV) Fire Administration II or Company Fire Officer, 3 semester hours; and
- (V) Firefighting Strategies and Tactics I or II, 3 semester hours.

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

(c) College courses will be considered equivalent if the course description is substantially similar to the course description contained in the Workforce Education Course Manual (WECM) from the Texas Higher Education Coordinating Board.

Source Note: The provisions of this §451.203 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective July 29, 2002, 27 TexReg 6727; amended to be effective September 2, 2003, 28 TexReg 7403; amended to be effective May 26, 2005, 30 TexReg 3037; amended to be effective March 27, 2006, 31 TexReg 2701; amended to be effective December 3, 2006, 31 TexReg 9620; amended to be effective November 28, 2007, 32 TexReg 8532; amended to be effective February 21, 2012, 37 TexReg 913; amended to be effective March 2, 2014, 39 TexReg 1171

§451.205. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer II certification.

(b) Individuals will be permitted to take the Commission examination for Fire Officer II certification by documenting the following: Structure Fire Protection Personnel certification, Fire Service Instructor certification and Fire Officer I certification through the Commission or the equivalent IFSAC seals, and completing a Commission-approved Fire Officer II curriculum.

Source Note: The provisions of this §451.205 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective March 10, 2003, 28 TexReg 2125; amended to be effective December 3, 2006, 31 TexReg 9620; amended to be effective August 10, 2009, 34 TexReg 5415; amended to be effective February 17, 2010, 35 TexReg 1289

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

Individuals completing a commission approved Fire Officer II program; documenting IFSAC seals for Fire Fighter II, Instructor I and Fire Officer I; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer II by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

Source Note: The provisions of this §451.207 adopted to be effective February 1, 2001, 25 TexReg 10750; amended to be effective March 10, 2003, 28 TexReg 2125; amended to be effective March 2, 2005, 30 TexReg 1089; amended to be effective December 3, 2006, 31 TexReg 9620; amended to be effective November 28, 2007, 32 TexReg 8532; amended to be effective August 26, 2015, 40 TexReg 5345; amended to be effective November 23, 2016, 41 TexReg 9162

CHAPTER 451
FIRE OFFICER
SUBCHAPTER C
MINIMUM STANDARDS FOR FIRE OFFICER III

§451.301. Fire Officer III Certification.

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

Source Note: The provisions of this §451.301 adopted to be effective February 28, 2013, 38 TexReg 1220

§451.303. Minimum Standards for Fire Officer III Certification.

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

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

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

(3) hold, as a minimum, Fire Service Instructor II certification through the commission; and

(4) document completion of ICS-300: Intermediate Incident Command System; and

(5) possess valid documentation as a Fire Officer III from either:

(A) the International Fire Service Accreditation Congress; or

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

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

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

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

(C) successful completion of 15 college semester hours of upper level coursework from a four-year regionally accredited institution in any of the following subject areas:

- (i) Administration/Management;
- (ii) Budget/Finance;
- (iii) Planning/Organization;
- (iv) Leadership/Ethics;
- (v) Risk Management;
- (vi) Safety and Health;
- (vii) Community Risk Reduction; or

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

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

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

Source Note: The provisions of this §451.303 adopted to be effective February 28, 2013, 38 TexReg 1220; amended to be effective March 2, 2014, 39 TexReg 1171; amended to be effective September 1, 2014, 39 TexReg 6876; amended to be effective February 18, 2018, 43 TexReg 779

§451.305. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer III certification.

(b) Individuals will be permitted to take the commission examination for Fire Officer III certification by documenting the following: Structure Fire Protection Personnel certification, Fire Service Instructor II certification and Fire Officer II certification through the commission or the equivalent IFSAC seals, and completing a commission approved Fire Officer III program.

Source Note: The provisions of this §451.305 adopted to be effective February 28, 2013, 38 TexReg 1220

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

Individuals completing a commission approved Fire Officer III program; documenting IFSAC seals for Fire Fighter II, Instructor II and Fire Officer II; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer III by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

Source Note: The provisions of this §451.307 adopted to be effective August 9, 2016, 41 TexReg 5766; amended to be effective February 18, 2018, 43 TexReg 779

CHAPTER 451

FIRE OFFICER

SUBCHAPTER D

MINIMUM STANDARDS FOR FIRE OFFICER IV

§451.401. Fire Officer IV Certification.

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

Source Note: The provisions of this §451.401 adopted to be effective February 28, 2013, 38 TexReg 1220

§451.403. Minimum Standards for Fire Officer IV Certification.

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

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

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

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

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

(A) the International Fire Service Accreditation Congress; or

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

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

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

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

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

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

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

Source Note: The provisions of this §451.403 adopted to be effective February 28, 2013, 38 TexReg 1220; amended to be effective March 2, 2014, 39 TexReg 1171; amended to be effective September 1, 2014, 39 TexReg 6876; amended to be effective February 18, 2018, 43 TexReg 779

§451.405. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer IV certification.

(b) Individuals will be permitted to take the commission examination for Fire Officer IV certification by documenting the following: Structure Fire Protection Personnel certification and Fire Officer III certification through the commission or the equivalent IFSAC seals, and completing a commission approved Fire Officer IV program.

Source Note: The provisions of this §451.405 adopted to be effective February 28, 2013, 38 TexReg 1220

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

Individuals completing a commission approved Fire Officer IV program; documenting IFSAC seals for Fire Fighter II, Instructor II and Fire Officer III; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer IV by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

Source Note: The provisions of this §451.407 adopted to be effective August 9, 2016, 41 TexReg 5766; amended to be effective February 18, 2018, 43 TexReg 779

12. Proposed rule review for the following:

C. 37 TAC, Chapter 453, Hazardous Materials.

CHAPTER 453
HAZARDOUS MATERIALS
SUBCHAPTER A
MINIMUM STANDARDS FOR HAZARDOUS MATERIALS TECHNICIAN

§453.1. Hazardous Materials Technician Certification.

(a) A Hazardous Materials Technician is defined as an individual who performs emergency response to an occurrence which results in, or is likely to result in, an uncontrolled release of a hazardous substance where there is a potential safety or health hazard (i.e., fire, explosion, or chemical exposure). A Hazardous Materials Technician responds to such occurrences and is expected to perform work to handle and control (stop, confine, or extinguish) actual or potential leaks or spills. The Hazardous Materials Technician assumes a more aggressive role than a first responder at the operations level, in that the Hazardous Materials Technician will approach the point of release. The Hazardous Materials Technician is expected to use specialized Chemical Protective Clothing (CPC) and specialized control equipment.

(b) All individuals holding a Hazardous Materials Technician Certification shall be required to comply with the continuing education requirements in §441.17 of this title (relating to Continuing Education for Hazardous Materials Technician).

§453.3. Minimum Standards for Hazardous Materials Technician Certification.

In order to be certified as a Hazardous Materials Technician an individual must:

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

(2) possess valid documentation as a Hazardous Materials Technician from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1 of this title (relating to Requirements—General); or

(3) complete a commission approved Hazardous Materials Technician training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Hazardous Materials Technician program must consist of one of the following:

(A) completion of an in-state Hazardous Materials Technician training program that meets the requirements of the applicable NFPA standard, is conducted by a commission certified training provider and approved through the commission's training prior approval system; or

(B) completion of an out-of-state and/or military training program that has been submitted to the commission for evaluation and found to meet or exceed the NFPA standard for Hazardous Materials Technician.

§453.5. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive a Hazardous Materials Technician Certification.

(b) Individuals will be permitted to take the commission examination for Hazardous Materials Technician by documenting completion of Hazardous Materials Awareness and Operations to include Mission-Specific Competencies for Personal Protective Equipment and Product Control level training under the current NFPA standard and completing a commission approved Hazardous Materials Technician training program.

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

Individuals completing a commission approved Hazardous Materials Technician training program, documenting an IFSAC seal for Hazardous Materials Awareness Level Personnel; and

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

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

(3) upon passing the applicable state examination, may be granted an IFSAC seal as a Hazardous Materials Technician by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

CHAPTER 453
HAZARDOUS MATERIALS
SUBCHAPTER B
MINIMUM STANDARDS FOR HAZARDOUS MATERIALS INCIDENT COMMANDER

§453.201. Hazardous Materials Incident Commander Certification.

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

§453.203. Minimum Standards for Hazardous Materials Incident Commander.

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

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

§453.205. Examination Requirements.

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

Operations to include Mission-Specific Competencies for Personal Protective Equipment and Product Control level training under the current standard and completing a commission approved Hazardous Materials Incident Commander training program.

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

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

- (1) Hazardous Materials Awareness Level Personnel; and
- (2) Hazardous Materials Operations Level Responders, including the Mission-Specific Competencies for Personal Protective Equipment and Product Control under the current edition; or
- (3) NFPA 472 Hazardous Materials Operations prior to the 2008 edition; and
- (4) upon passing the applicable state examination, may be granted an IFSAC seal for Hazardous Materials Incident Commander by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.

12. Proposed rule review for the following:

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

CHAPTER 457

MINIMUM STANDARDS FOR INCIDENT SAFETY OFFICER CERTIFICATION

§457.1. Incident Safety Officer Certification.

(a) An Incident Safety Officer is defined as a member of the command staff responsible for monitoring and assessing safety hazards or unsafe situations and for developing measures for ensuring personnel safety at an incident.

(b) All individuals holding an Incident Safety Officer certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).

(c) All Safety Officer certifications issued by the commission and referenced in this chapter are voluntary.

Source Note: The provisions of this §457.1 adopted to be effective August 20, 2012, 37 TexReg 6316

§457.3. Minimum Standards for Incident Safety Officer Certification.

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

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

Source Note: The provisions of this §457.3 adopted to be effective August 20, 2012, 37 TexReg 6316; amended to be effective March 2, 2014, 39 TexReg 1173; amended to be effective November 10, 2014, 39 TexReg 8743; amended to be effective January 26, 2017, 42 TexReg 244;

§457.5. Examination Requirements.

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive an Incident Safety Officer certification, unless otherwise specified in this chapter.

(b) Individuals will be permitted to take the commission examination for Incident Safety Officer certification by documenting Fire Officer I certification through the commission or the equivalent IFSAC seal, and completing a commission approved Incident Safety Officer training program.

Source Note: The provisions of this §457.5 adopted to be effective August 20, 2012, 37 TexReg 6316; amended to be effective August 5, 2013, 38 TexReg 4909; amended to be effective January 26, 2017, 42 TexReg 244;

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

Individuals completing a commission approved Incident Safety Officer program; documenting Fire Fighter II, Instructor I and Fire Officer I seals and passing the applicable state examination, may be granted an IFSAC seal for Incident Safety Officer by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.

Source Note: The provisions of this §457.7 adopted to be effective May 20, 2018; 43 TexReg 3105; amended to be effective December 2, 2019, 44 TexReg 7414

13. Matters from the Agency Chief.

- A. Update regarding agency duties and responsibilities.**

13. Matters from the Agency Chief.**B. Decisions of Agency Chief in contested cases and consent orders.**

13. Matters from the Agency Chief.

C. Status regarding division functions:

- 1. Training Approval & Testing – test administered, training approvals, record reviews and online training audits**
- 2. Certification & Professional Development – training applications, IFSAC seals issued, certifications issued, training facilities, curriculum development, library resource requests**
- 3. Compliance – biennial inspections, compliance officers training, issues involving regulated entities**
- 4. Information Technology – public website design, FARM and FIDO improvements, CAPPS (Central Accounting Payroll/Personnel System), IT security policy, service requests**

Commission Quarterly Report

Training Approval and Testing Section

- **Test Administration, Training Approvals, Record Reviews, and Training Audits Statistics – 4th Quarter, FY 2022**
 - **Test Administration** –5916 exams were administrated during this quarter with a pass rate of 83.05%. ****26,485 FY YTD ****
 - **Training Approvals** – Total of **913 training approvals** were submitted with start dates during this quarter in the commission’s Training Facility Management System.
 - **Record Reviews – Ninety (90) record reviews** for equivalency were conducted (of those, 25 SFFMA). **Four (4)** of the reviews are pending awaiting additional information. Two hundred-thirty-one (231) Qual#s were issued in the Training Facility Management System.
 - **Training and Skill Testing Audits – Fourteen (14) online audits** conducted during the 4th quarter. Out of the 14, 7 of the audits had no deficiencies noted. The other 7 had deficiencies that ranged from No Syllabus, Course Schedule Inst Info not on Syllabus, Skills Examiners Textbook info No Online Access Skills Not Complete. All deficiencies were corrected.
 - **Two (2) additional testing centers** were added as approved TCFP online testing centers **(Texas Tech and TSTC – Sweetwater)**.

- **Activities for the Next Quarter**
 - Continue working to establish online testing centers in areas where availability is lacking or limited. We have numerous testing centers that have begun the process to partner with TCFP to administer online exams.

	Q1	Q2	Q3	Q4
<u>Certification/Renewal:</u>				
Professional Development Training Applications	5278	2902	2508	2612
<u>Issued:</u> IFSAC Seals	2406	2152	2253	2405
TCFP Certifications	2610	3894	2602	2337
Criminal History	616	623	771	798
Medical documents:	687	1113	785	806
Confirmation of Commissions (Peace Officer)	33	41	45	29
Service time applications	135	72	140	109
<u>Renewals:</u> Department Personnel	37066	144	33	13
Certified Training Facilities	0	214	0	0
Individual Certified Holders	5727	195	114	75
Registered Seals: IFSAC	1436	625	2263	539
TEEX Proboard	363	332	292	314
Total number of Training Facilities	560	361	574	585

Quarterly Report – Curriculum Development

June 2022-August 2022

Scheduled Maintenance

- Testing and Curriculum System Shut Down – July 1st-July 24th

Meetings (via Zoom)

- Technical Rescue – Rope Ad-Hoc Committee – July 1st
- Technical Rescue – Vehicle Ad-Hoc Committee – August 1st
- IFSAC Board of Governors Meeting – August 3rd
- IFSAC Committee on Site Teams – August 10th
- Technical Rescue – Rope Ad-Hoc Committee – August 22nd
- Investigator Ad-Hoc Committee – August 29th
- Fire Marshal Ad-Hoc Committee – August 30th

Meetings (TCFP)

- Technical Rescue – Vehicle Ad-Hoc Committee June 2nd-3rd
- Curriculum and Testing Committee June 21st-22nd
- Investigator Ad-Hoc Committee August 2nd
- Fire Marshal Ad-Hoc Committee August 3rd-4th
- Technical Rescue – Water – August 31st -1st

Meetings: Detail

- **Technical Rescue – Rope Ad-Hoc Committee – July 1st Zoom**
 - **Assignment Progress Check**
 - Curriculum
 - Skills

- Test Questions
- **Technical Rescue – Vehicle Ad-Hoc Committee – August 1st**
 - **Assignment Progress Check**
 - Curriculum
 - Skills
 - Test Questions
- **IFSAC Board of Governors Meeting – August 3rd**
 - Questions and Answers regarding Fire Marshal Core and Missions specific Correlations sheets and how they relate to the curriculum.
 - Fire Marshal Ad-Hoc Committee wanted to clarify if all sections of the Mission specific would need to be included in the curriculum.
- **IFSAC Committee on Site Teams – August 10th**
 - Review of Site Team policies and procedures
- **Technical Rescue – Rope Ad-Hoc Committee – August 22nd**
 - Progress check and review of Curriculum Manual
 - Progress check and review of Skills Manual
 - Progress check and review of Test Questions
- **Investigator Ad-Hoc Committee – August 29th**
 - Review of Pilot questions
 - Outlined updates to Skills Manual
- **Fire Marshal Ad-Hoc Committee – August 30th**
 - Progress check and review of Curriculum Manual
 - Progress check and review of Skills Manual
 - Progress check and review of Test Questions
- **Technical Rescue – Vehicle Ad-Hoc Committee June 2nd-3rd**
 - Progress check and review of Curriculum Manual
 - Progress check and review of Skills Manual
 - Progress check and review of Test Questions
- **Curriculum and Testing Committee June 21st-22nd**
 - Review of Instructor Standards
 - Update of new curriculum
 - Technical Rescue – Vehicle Extraction Ad-Hoc Committee Postponed
 - Review Test questions
 - Review Testing and Curriculum July Shut Down
- **Investigator Ad-Hoc Committee August 2nd**
 - Finalized areas to updated in Skills Manual
- **Fire Marshal Ad-Hoc Committee August 3rd-4th**
 - Finalize Curriculum Manual
 - Finalize of Skills Manual
 - Finalize Test Questions
 - Finalize Texas Administrative Code 469
- **Technical Rescue – Water – August 31st -1st**
 - Finalize Curriculum Manual

- Finalize of Skills Manual
- Finalize Test Questions
- Finalize Texas Administrative Code 467

Test Development and Test Bank Maintenance

- Updated IFSAC Correlation Sheets – July
- Audit FARM System – July
 - Test Bank
 - Skills
 - Correlation Sheets
- Updated test bank references to reflect NFPA updates for the following disciplines:
 - Hazmat Awareness – Test Questions update and Corrections
 - Investigator – Pilot Questions Reviewed
 - Fire Fighter I and Fire Fighter II - Test Questions update and Corrections

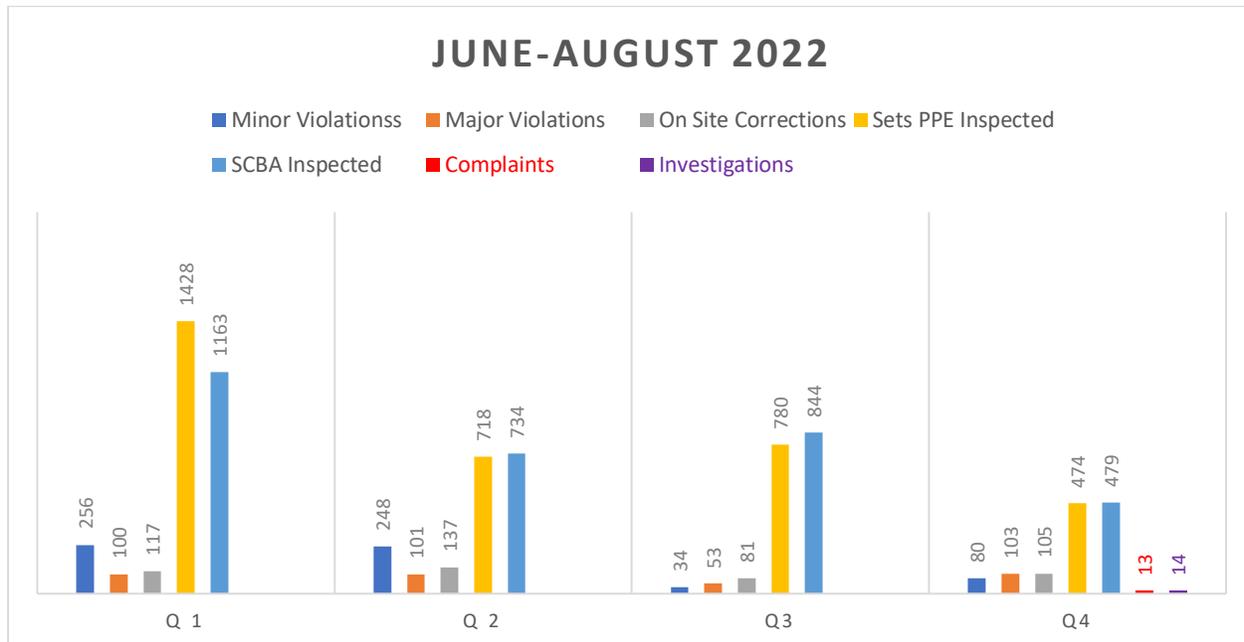
Conferences

NFPA Conference June 6th-9th

TEEX Conference July 24th

Commission Quarterly Report Compliance Division

Compliance Inspection Activity statistics:



The Texas fire service experienced some of the most challenging conditions on record with historic drought, near record temperatures, one of the worst wildfire seasons on record, and many with reduced resources and personnel capabilities, the compliance division, attempting to be a good fire service partner seeing these unique circumstances suspended inspections for the month of August.

Coordinated, scheduled, extended invitations, & attended the following regional meetings.

- Region 2-San Angelo, Amarillo
- Region 3- Wichita Falls
- Region 7- Mc Allen, Corpus Christi, San Antonio
- Region 1- Leander

Worked with testing to coordinate and proctor exams

Staffed EOC at the request of TIFMAS

Tabletop exercise at SOC

Inspection files forwarded to compliance chief for further action: 4

Working with IT on technology solutions and enhancements including those affected by the upcoming 37 TAC 435 rule changes.

Quarterly training three days of intense training on all aspects of PPE, led by leading PPE manufacturers and one of the “Big 7 departments”.

Continued mentor-based training for new compliance officers

IT quarterly report:

- TCFP Websites and Web Applications Uptime 99.5%
- Optimized database queries in readiness for renewal
- Improved database indexes in readiness for renewal
- Updated all website SSL certificates
- New logo implemented on all web applications
- FionaCore
 - Bug fixes
 - Added new features
- FARM/ FIDO
 - Added new features
 - Bug fixes
 - Test banks rebased
- DOCs
 - Performance updates
 - Features updated
- Website tools
 - Fileuploads added
 - Emailblast reimaged
- Addressed 375 Service Requests (Tickets)

14. Personnel matters regarding the appointment, employment, compensation, evaluation, reassignment, and duties of the Agency Chief.

15. Adjourn meeting.