

TEXAS COMMISSION ON FIRE PROTECTION

July 11, 2012, 10:00 a.m.

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

1. Roll call – 10:00 a.m. “(including consideration of whether to excuse absences).”
2. Adoption of April 12, 2012, and May 11, 2012, commission meeting minutes.
3. The Budget and Strategic Plan subcommittees will meet on July 11, 2012 during the commission meeting and may develop recommendations to be presented to the full commission including but not limited to, modifications to the agency operating budget, strategic plan and legislative appropriations request. The subcommittees may meet separately or together.
4. Report from the Budget and Strategic Plan subcommittees with discussion and possible action relating to any recommendations developed by these subcommittees.
5. Reports from fire service interest groups and agencies on matters relating to organizational purposes, functions, and objectives, including, but not limited to, the Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firemen’s and Fire Marshals’ Association of Texas, the Texas Association of Fire Educators, the Texas Forest Service, the National Fire Protection Association, Safe-D, and the State Fire Marshal’s Office.
6. Discussion and possible action concerning reports by the Commission representative to the Texas Fire School Advisory Board and by representatives of the Texas Engineering Extension Service (TEEX) regarding fire protection training provided by TEEX through its Emergency Services Training Institute (ESTI).
7. New matters from the commission, staff, or public regarding rulemaking which may be discussed in future commission meetings.
8. Discussion and possible action on future meeting dates.
9. Matters referred from the Fire Fighter Advisory Committee (FFAC), including, but not limited to:
 - A. Discussion and possible final adoption on proposed amendments, new sections, repeals and rule reviews as follows:
 1. Proposed amendments to 37 TAC, Chapter 427, Training Facility Certification, Subchapter C, Training Programs for On-Site and Distance Training Providers, including but not limited to, §427.305, Procedures for Testing Conducted by On-Site and Distance Training Providers.
 2. Proposed amendments to 37 TAC, Chapter 431, Fire Investigation, Subchapter A, Minimum Standards for Arson Investigator Certification, including but not limited to, §431.9, Minimum Standards for Master Arson Investigator Certification.
 3. Proposed amendments to 37 TAC, Chapter 437, Fees, including but not limited to, §437.15, International Fire Service Accreditation (IFSAC) Seal Fees.
 4. Proposed amendments to 37 TAC, Chapter 439, Examinations for Certification, Subchapter A, Examinations for On-Site Delivery Training, including but not limited to, §439.1, Requirements-General, and §439.11, Commission-Designated Performance Skill Evaluations.
 5. Proposed new, 37 TAC, Chapter 455, Minimum Standards for Wildland Fire Protection Certification, including but not limited to new §455.1, Minimum

Standards for Wildland Fire Protection Personnel, new §455.3, Minimum Standards for Basic Wildland Fire Protection Certification, new §455.5, Minimum Standards for Intermediate Wildland Fire Protection Certification, and new §455.7, Examination Requirements.

6. Proposed new, 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer, including but not limited to new §457.1, Incident Safety Officer Certification, new §457.3, Minimum Standards for Incident Safety Officer Certification, and new §457.5, Examination Requirements.
- B. Discussion and possible action on proposed amendments, new sections, repeals, and rule reviews as follows:
1. Proposed amendments to 37 TAC, Chapter 441, Continuing Education, including but not limited to, §441.3, Definitions, §441.5, Requirements, §441.7, Continuing Education for Structure Fire Protection Personnel, §441.9, Continuing Education for Aircraft Rescue Fire Fighting Personnel, §441.11, Continuing Education for Marine Fire Protection Personnel, §441.13, Continuing Education for Fire Inspector Personnel, §441.15, Continuing Education for Arson Investigator or Fire Investigator, §441.17, Continuing Education for Hazardous Materials Technician, §441.19, Continuing Education for Head of a Fire Department, §441.21, Continuing Education for Fire Service Instructor.
 2. Proposed amendments to 37 TAC, Chapter 421, Standards For Certification, including but not limited to, §421.17, Requirement to Maintain Certification.
 3. Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review of 37 TAC, Chapter 401, Practice and Procedure, Subchapter A, General Provisions and Definitions, including, but not limited to, §401.5, Delegation of Authority, §401.11, Conduct of Commission and Advisory Meetings, and §401.13, Computation of Time, Subchapter B, §401.17, Requirements, and §401.19, Petition for Adoption of Rules, Subchapter C, Examination Appeals Process, §401.21, Examination Challenge, and §401.123, Examination Waiver Request, Subchapter D, Disciplinary Proceedings, §401.31, Disciplinary Proceedings in Contested Cases, Subchapter E, §401.41, Preliminary Staff Conference, §401.43, Prehearing Conferences, §401.45, Interim Orders, §401.47, Appeal of an Interim Order, and §401.49, Prehearing Statements, Subchapter F, Contested Cases, §401.51, Preliminary Notice and Opportunity for Hearing, Subchapter H, Reinstatement, §401.117, Commission Action Possible upon Reinstatement, and Subchapter I, Notice and Processing Periods For Certificate Applications, 401.121, Purpose of Establishing Time Periods, §401.123, Notice of Deficiency, and §401.125 Processing Periods new Subchapter J, Charges For Public Records, §401.129, Charges for Public Records, and new Subchapter K, Historically Underutilized Businesses, §401.131, Historically Underutilized Businesses.
 4. Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review of 37 TAC, Chapter 403, Criminal Convictions and Eligibility for Certification, including, but not limited to, §403.1, Purpose, §403.3 Scope, §403.5, Access to Criminal History Record Information, §403.9, Mitigating Factors, §403.11, Procedures for Suspension, Revocation, or Denial of a Certificate to Persons with Criminal Backgrounds, and §403.15, Report of Convictions by an Individual or a Department.
 5. Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review and repeal of 37 TAC, Chapter 405, Charges For Public Records, including, but not limited to, §405.1, General Provisions Regarding Charges for Public Records, §405.3, Definitions, §405.5, Charges For Providing Copies of Public Information, §405.7, Access to Information Where Copies Are Not Requested, §405.9, Format for Copies of Public Information, §405.11, Estimates and Waivers of Public Information Charges, and §405.15, The Texas Commission on Fire Protection Charge Schedule.

6. Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review and repeal of 37 TAC, Chapter 407, Administration, including, but not limited to, §407.1 Historically Underutilized Businesses.
- C. Report from the Testing and Curriculum Committee with discussion and possible action on amendments to the Certification Curriculum Manual, regarding new Chapter 10, Fire Department Safety Officer Curriculum, reference list and curriculum outline.
10. Discussion and possible action pursuant to Section 2001.039, Texas Government Code with respect to the proposed rule review and consideration of re-adoption or repeal of the rules contained in the following Chapters of Title 37 Texas Administrative Code:
 - A. 37 TAC, Chapter 401-Practice and Procedure
 - B. 37 TAC, Chapter 403-Criminal Convictions and Eligibility for Certification
 - C. 37 TAC, Chapter 405-Charges for Public Records
 - D. 37 TAC, Chapter 407-Administration
 - E. 37 TAC, Chapter 431-Fire Investigation
 - F. 37 TAC, Chapter 433-Minimum Standards for Driver/Operator-Pumper
 - G. 37 TAC, Chapter 435-Fire Fighter Safety
 - H. 37 TAC, Chapter 437-Fees
 - I. 37 TAC, Chapter 443-Certification Curriculum Manual
 - J. 37 TAC, Chapter 445-Administrative Inspections and Penalties
 - K. 37 TAC, Chapter 447-Part-Time Fire Protection Employee
11. Discussion and possible action on proposed recommendations on fire fighter injury data collected for 2011 for inclusion in the annual report to be sent to the State Fire Marshal's Office.
12. Discussion and possible approval of the addition of classes or courses to the A List and B List for higher levels of certification.
13. Discussion and possible action on matters from the Executive Director.
 - A. Report on decisions of the Executive Director in contested cases and consent orders.
 - B. Status of division functions.
14. Executive session pursuant to Government Code, Section 551.074, for the discussion of personnel matters: the appoint, employment, compensation, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director, and the appointment, employment, reassignment, or duties of personnel acting on an Interim basis in this position.
15. Open session for further discussion and possible action regarding preceding agenda item.
16. Adjourn meeting.

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

1. Roll call – 10:00 a.m. “(including consideration of whether to excuse absences).”

2. Adoption of April 12, 2012, and May 11, 2012, commission meeting minutes.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer, Chris Connealy, at 10:00 a.m. called the April 12, 2012 meeting of the Texas Commission on Fire Protection to order at 1701 N. Congress Avenue, Room 1-104, Austin, Texas.

Attending	Les Bunte*	Elroy Carson**	Chris Connealy	Tony Cortes	Yusuf Farran
	Carl Giles	John Gillette	Jody Gonzalez	John Green	John McMakin
	Arthur Pertile, III**	Leonardo Perez	Steve Tull		

*absent entire meeting
**absent part of meeting

Staff	Don Wilson	Deborah Cowan	Tim Rutland	Mike Baker
	Paul Maldonado	Jim Crowson, Assistant Attorney General		

Guests	Cary Roccaforte	Pablo Ruiz	Wendell Burton	Mike Hunt	Cameron Kraener
	Scott Kerwood	Pat Ekiss	Bobby Copeland	Jason Collier	Larry Marcum
	Robert Fite	Ken Dozier	David Brannon	Roy McCleary	Thayer Smith
	Randy Safer	Jimmy Mullis	Melissa Wurzer	Betty Wilkes	Jim Reidy
	Dallas Reed	John Carlton	Frank Bengochea		

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| 1. Roll call | Secretary, John Gillette called roll and a quorum was present. |
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| 2. Adoption of Minutes | A motion to approve the minutes of the January 12, 2012 commission meeting minutes was made by Steve Tull and seconded by Leonardo Perez. The motion carried. |
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| 3. Budget and Strategic Plan Subcommittee Meeting | The subcommittees met together to review the agency's current budget and performance measures. |
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| 4. Subcommittee Reports | After discussion the commission scheduled a Strategic Plan workshop for May 11, 2012. |
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| 5. Reports from Fire Service Interest Groups | Brief reports were given by the Texas Fire Chief's Association, Texas State Association of Fire Fighters, Texas Forest Service, National Fire Protection Association and State Association of Fire and Emergency Districts (Safe-D). |
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| 6. Report from Fire Service School Advisory Board & TEEEX | No report given. |
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| 7. Appointment of Representative to the Fire Service School Advisory Board | A motion was made by Tony Cortes and seconded by Arthur Pertile, III to appoint Robert Fite, Fire Chief of the Georgetown Fire Department as the new commission representative to the Fire Service School Advisory Board. |
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| 8. New Matters | Nothing |
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9. Future meeting dates	The commission scheduled its next meeting July 11, 2012, beginning at 10:00 a.m.
10. Recognition of Hutto Fire Rescue	Presiding Officer, Chris Connealy and Executive Director, Don Wilson presented the Hutto Fire & Rescue a plaque in regards to Safety in the Fire Service, 16-Life Safety Initiatives-Everyone Goes Home Program.
11. Matters from Fire Fighter Advisory Committee	<p>A. 1. A motion to approve for final adoption the proposed amendments to 37 TAC, Chapter 421, §421.9 as discussed was made by Arthur Pertile, III and seconded by Carl Giles. The motion carried.</p> <p>2. A motion to approve for final adoption the proposed amendments to 37 TAC, Chapter 435, §435.1 as discussed was made by Leonardo Perez and seconded by John Gillette. The motion carried.</p> <p>B. 1. A motion to approve for publication the proposed amendments to 37 TAC, Chapter 427, §427.305 as discussed was made by Elroy Carson and seconded by John McMakin. The motion carried.</p> <p>2. A motion to approve for publication the proposed amendments to 37 TAC, Chapter 431, §431.9 as discussed was made by Jody Gonzalez and seconded by John Gillette. The motion carried.</p> <p>3. A motion to propose for publication the proposed amendments to 37 TAC, Chapter 437, §437.15 as discussed was made by Carl Giles and seconded by John McMakin. The motion carried.</p> <p>4. A motion to propose for publication the proposed amendments to 37 TAC, Chapter 439, §439.1 and §439.11 as discussed was made by Steve Tull and seconded by John Green. The motion carried.</p> <p>5. A motion to propose for publication new 37 TAC, Chapter 455, Minimum Standards for Wildland Fire Protection Certification, §§455.1, 455.3, 455.5, and 455.7 with changes as discussed was made by Leonardo Perez and seconded by Carl Giles. The motion carried.</p> <p>6. A motion to propose for publication new 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer, §§457.1, 457.3, and 457.5 as discussed was made by Yusuf Farran and seconded by Leonardo Perez. The motion carried.</p> <p>C. A motion to approve the recommended changes to the reference list for Basic Aircraft Rescue Fire Suppression Curriculum, the addition of "Course Phase Outlines, in Chapter 4 of the Fire Inspector Curriculum and "Course Phase Outlines" to Chapter 5 of the Fire Investigator Curriculum was made by Leonardo Perez and seconded by Carl Giles. The motion carried.</p>
12. 37 TAC, Chapter 449	After discussion, no action necessary.
13. Fire Fighter Injury Report Data	After discussion, no action necessary.

14. Matters from Executive Director
- a. Mr. Wilson informed commissioners there was only one contested case or consent order since the last commission meeting. No action necessary.
 - b. Mr. Wilson provided the commissioners information regarding division functions since the last commission meeting in January.
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15. Executive session
- Presiding Officer, Chris Connealy did not call for the Executive Session.
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16. Open session
- No action necessary.
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17. Adjournment
- A motion to adjourn was made by John McMakin and seconded by Elroy Carson. The motion carried.

Chris Connealy, Presiding Officer

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer, Chris Connealy, at 10:00 a.m. called the May 11, 2012 meeting of the Texas Commission on Fire Protection to order at 1701 N. Congress Avenue, Room 1-104, Austin, Texas.

Attending	Les Bunte*	Elroy Carson*	Chris Connealy	Tony Cortes*	Yusuf Farran**
	Carl Giles	John Gillette**	Jody Gonzalez	John Green	John McMakin*
	Arthur Pertile, III	Leonardo Perez	Steve Tull		
					*absent entire meeting
					**absent part of meeting

Staff	Don Wilson	Deborah Cowan	Tim Rutland	Mike Baker	Mollie Clakley	Alma Craig
	Mary Hunt	Paul Maldonado	Jim Crowson, Assistant Attorney General			

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| 1. Roll call | Chris Connealy, Presiding Officer called roll and a quorum was present. |
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| 2. Strategic Plan Discussion | Commissioners and staff conducted a workshop discussing aspects of the agency's Strategic Plan for 2013-2017. |
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| 3. Strategic Plan Finalization | A motion was made by Jody Gonzalez and seconded by Leonardo Perez to authorize the Presiding Officer, on behalf of all commissioners to finalize the agency's Strategic Plan per the discussion during the meeting. The motion carried. |
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| 4. Adjournment | A motion to adjourn was made by Steve Tull and seconded by John Green. The motion carried. |
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Chris Connealy, Presiding Officer

- 3. The Budget and Strategic Plan subcommittees will meet on July 11, 2012 during the commission meeting and may develop recommendations to be presented to the full commission including but not limited to, modifications to the agency operating budget, strategic plan and legislative appropriations request. The subcommittees may meet separately or together.**

Texas Commission on Fire Protection

Fiscal Year 2012 - Operating Budget

Updated: 06/19/12

Thru: May 31, 2012

Summary

Goals:	FY12 Budget	FY12 Expended	Balance	%
Education, Information and Assistance	48,778	36,583	12,194	
Fire Department Standards	1,058,569	778,977	279,592	
Indirect Administration	447,372	334,708	112,664	
Merit Budget				
1001 - Salaries & Wages:	1,554,718	1,150,267	404,451	26%
Education, Information and Assistance	500.00	360	140	
Fire Department Standards	49,595.60	33,396	16,200	
Indirect Administration	13,505.00	11,165	2,340	
1002 - Other Personnel Costs	63,600.60	44,921	18,680	29%
Education, Information and Assistance	0	0	0	
Fire Department Standards	2,578	2,521	57	
Indirect Administration	24,761	16,775	7,986	
2001 - Professional Fees and Services:	27,339	19,296	8,043	29%
Education, Information and Assistance	4,356	1,579	2,777	
Fire Department Standards	16,243	5,565	10,678	
Indirect Administration	3,173	1,308	1,865	
2003 - Consumable Supplies:	23,772	8,451	15,321	64%
Education, Information and Assistance	386	218	167	
Fire Department Standards	24,384	18,058	6,325	
Indirect Administration	2,699	1,529	1,170	
2004 - Utilities:	27,468	19,806	7,662	28%
Education, Information and Assistance	0	0	0	
Fire Department Standards	49,596	36,963	12,633	
Indirect Administration	22,887	18,387	4,500	
2005 - Travel:	72,483	55,350	17,133	24%
Education, Information and Assistance	480	55	425	
Fire Department Standards	2,136	1,602	534	
Indirect Administration	832	832	0	
2006 - Rent - Building (storage):	3,448	2,489	960	28%
Education, Information and Assistance	641	343	298	
Fire Department Standards	12,568	7,889	4,679	
Indirect Administration	6,675	2,401	4,274	
2007 - Rent - Machine and Other:	19,885	10,633	9,252	47%
Education, Information and Assistance	2,316	1,730	586	
Fire Department Standards	43,190	31,148	12,042	
Indirect Administration	38,828	31,590	7,238	
2009 - Other Operating Expense:	84,335	64,468	19,866	24%
Education, Information and Assistance	0	0	0	
Fire Department Standards	20,132	20,132	0	
Indirect Administration	0	0	0	
4000 - Grants:	20,132	20,132	0	0%
Education, Information and Assistance	4,205	2,549	1,656	
Fire Department Standards	0	0	0	
Indirect Administration	0	0	0	
5000 - Capital Expenditures:	4,205	2,549	1,656	39%
TOTAL - ALL EXPENDITURES	1,901,385	1,398,362	503,023	26%

Texas Commission on Fire Protection
Fiscal Year 2012 - Operating Budget

Thru: May 31, 2012

Goal A: Education, Info and Assistance

	Library	IT	Grants	Total	%
Budget:	48,778	0	0	48,778	0
Expended:	36,583	0	0	36,583	
1001 - Balance Salaries & Wages:	12,194	0	0	12,194	25%
Other Personnel Costs:					
7017- One-Time Merit	0	0	0	0	
7022- Longevity Pay	360	0	0	360	
7023- Lump Sum Termination	0	0	0	0	
Budget:	500	0	0	500	0
Expended:	360	0	0	360	
1002 - Balance Other Personnel Costs	140	0	0	140	28%
Professional Fees and Services:					
7242- Consulting Services - IT Computer	0	0	0	0	
7245- Financial & Accounting Services	0	0	0	0	
7253- Other Professional Fees (EAP)	0	0	0	0	
7274- Temporary Employment Agencies	0	0	0	0	
7275- Computer Programming Services	0	0	0	0	
Budget:	0	0	0	0	0
Expended:	0	0	0	0	
2001 - Balance Professional Fees and Services:	0	0	0	0	#DIV/0!
Budget:	356	4,000	0	4,356	0
Expended:	152	1,427	0	1,579	
2003 - (7300) Balance Consumable Supplies:	204	2,573	0	2,777	64%
Utilities:					
7501- Electricity	0	0	0	0	
7503- Telecommunications-Long Distance	0	0	0	0	
7504- Telecommunications-Monthly Charge	218	0	0	218	
7514- Telecommunications-Maint & Repair	0	0	0	0	
7516- Telecommunications-Other Charges (reg voice/internet)	0	0	0	0	
7517- Telecommunications Equipment-Expensed	0	0	0	0	
Budget:	386	0	0	386	0
Expended:	218	0	0	218	
2004 - Balance Utilities:	167	0	0	167	43%
Travel:					
7101- Travel I/S - Public Transportation Fares	0	0	0	0	
7102- Mileage	0	0	0	0	
7104- Travel I/S - Actual Expense Overnight	0	0	0	0	
7105- Travel I/S - Incidental Expenses	0	0	0	0	
7106- Travel I/S - Meals & Lodging	0	0	0	0	
7107- Travel I/S - Non-Overnight Travel (Meals)	0	0	0	0	
7110- Travel I/S - Board Member Meals & Lodging	0	0	0	0	
7111- Travel OOS - Public Transportation Fares	0	0	0	0	
7112- Travel OOS - Mileage	0	0	0	0	
7115- Travel OOS - Incidental Expenses	0	0	0	0	
7116- Travel OOS - Meals, Lodging Allowable	0	0	0	0	
7135- Travel I/S - State Occupancy Tax	0	0	0	0	
7136- Travel I/S - State Occupancy Tax Galveston	0	0	0	0	
Budget:	0	0	0	0	0
Expended:	0	0	0	0	
2005 - Balance Travel:	0	0	0	0	#DIV/0!
Budget:	480	0	0	480	0.00
Expended:	55	0	0	55	
2006 - (7470) Balance Rent - Building (storage):	425	0	0	425	89%

Texas Commission on Fire Protection
Fiscal Year 2012 - Operating Budget

Thru: May 31, 2012

Goal A: Education, Info and Assistance

	Library	IT	Grants	Total	%
Rent - Machine and Other:					
7406- Rental - Furnishings & Equipment (copier)	251	0		251	
7411- Rental - Computer Equipment	92	0		92	
Budget:	641	0	0	641	0
Expended:	343	0	0	343	
2007 - Balance Rent - Machine and Other:	298	0	0	298	47%
Other Operating Expense:					
7042- ERS Insurance Payment	366	0		366	
7201- Membership Dues	225	0		225	
7203- Registration Fees-Employee Training	22	0		22	
7295 Fees & Other Charges (DPS) (7210)	0	0		0	
7211- Awards	0	0		0	
7216- Insurance Premiums - appvd by oag	0	0		0	
7262- Maint & Repair - Computer Software	0	0		0	
7267- Maint & Repair - Computer Equipment	0	0		0	
7273- Reproduction & Printing	24	0		24	
7276- Communication Services (T-1 Line)	69	0		69	
7281- Advertising Services	0	0		0	
7286- Freight & Delivery Services	0	0		0	
7291- Postage & Postal Services	434	0		434	
7299- Purchased Contracted Services	5	0		5	
7303- Subscriptions, Periodicals and Info Services	0	0		0	
7312- Medical Supplies	0	0		0	
7330- Parts -equip, furn	0	0		0	
7334- Furnishings & Equipment -Expensed	4	0		4	
7335- Parts -Computer Equipment - Expensed	0	0		0	
7354- Bldg Remodel - State Leased -Expensed	0	0		0	
7367- Personal Property - Maint & Repair	0	0		0	
7374- Personal Property-Furn & Equip - Controlled	0	0		0	
7377- Computer Equipment - Expensed	0	0		0	
7378- Computer Equipment - Controlled	0	0		0	
7379- Computer Equipment - Cap (>1,000)	0	0		0	
7380- Computer Software - Expensed	525	0		525	
7382- Books - Expensed	0	0		0	
7806- Interest on Delayed Payment	0	0		0	
7947- Workers Compensation Transfer (SORM)	0	0		0	
7953- SWCAP payment/cost allocation	0	0		0	
7961- STS Transfers-Telecommunications (TexAn)	57	0		57	
Budget:	2,316	0	0	2,316	0
Expended:	1,730	0	0	1,730	
2009 - Balance Other Operating Expense:	586	0	0	586	25%
Grants:					
7312- Medical Supplies	0	0		0	
7623- Grants- Community Serv. Programs	0	0		0	
7701- Loans to Political Subdivisions	0	0		0	
Budget:	0	0	0	0	0
Expended:	0	0	0	0	
4000 - Balance Grants:	0	0	0	0	#DIV/0!
Capital Expenditures:					
7354- Remodeling of Bldg-State Owned - Capitalized	0	0		0	
7389- Books, Pre-Recorded Ref Material - Capitalized	2,549	0		2,549	
Budget:	4,205	0	0	4,205	0
Expended:	2,549	0	0	2,549	
5000 - Balance Capital Expenditures:	1,656	0	0	1,656	39%
Budget:	57,662	4,000	0	61,662	
Expended:	41,990	1,427	0	43,416	
TOTAL BALANCE	15,672	2,573	0	18,246	30%

Texas Commission on Fire Protection

Fiscal Year 2012 - Operating Budget

Thru: May 31, 2012

Goal B: Fire Department Standards

	Standards								
	Mgmt	Complnc	Cert	Testing	Curr Dev	Admin	Total	%	
	Budget:	54,298	432,142	200,110	198,363	44,659	128,996	1,058,569	0
	Expended:	34,297	321,523	148,628	148,269	33,450	92,810	778,977	
1001 - Balance Salaries & Wages:	20,001	110,619	51,482	50,095	11,209	36,186	279,592	26%	
Other Personnel Costs:									
7017- One-Time Merit	0	0	0	0	0	0	0	0	
7022- Longevity Pay	100	5,900	4,080	4,420	340	2,540	17,380		
7023- Lump Sum Termination	16,016	0	0	0	0	0	16,016		
7030- Employee Incentive Bonus	0	0	0	0	0	0	0		
	Budget:	26,116	8,060	5,500	5,900	460	3,560	49,596	0
	Expended:	16,116	5,900	4,080	4,420	340	2,540	33,396	
1002 - Balance Other Personnel Costs	10,000	2,160	1,420	1,480	120	1,020	16,200	33%	
Professional Fees and Services:									
7242- Consulting Services - IT Computer	0	0	0	0	0	0	0	0	
7245- Financial & Accounting Services	0	0	0	0	0	0	0	0	
7253- Other Professional Fees (EAP)	0	0	0	0	0	0	0	0	
7274- Temporary Employment Agencies	0	0	0	2,521	0	0	2,521		
7275- Computer Programming Services	0	0	0	0	0	0	0	0	
	Budget:	0	0	0	2,578	0	0	2,578	0
	Expended:	0	0	0	2,521	0	2,521		
2001 - Balance Professional Fees and Services	0	0	0	57	0	0	57	2%	
	Budget:	3,568	500	8,400	3,675	100	0	16,243	0
	Expended:	2,959	223	48	2,334	0	5,565		
2003 - (7300) Balance Consumable Supplies:	609	277	8,352	1,341	100	0	10,678	66%	
Utilities:									
7501- Electricity	0	0	0	0	0	0	0	0	
7503- Telecommunications-Long Distance	0	0	0	0	0	0	0	0	
7504- Telecommunications-Monthly Charge	4,317	2,790	0	0	0	0	7,107		
7514- Telecommunications-Maint & Repair	0	0	0	0	0	0	0	0	
7516- Telecommunications-Other Charges (reg voice/int)	0	10,951	0	0	0	0	10,951		
7517- Telecommunications Equipment-Expensed	0	0	0	0	0	0	0	0	
	Budget:	8,868	15,516	0	0	0	24,384	0	
	Expended:	4,317	13,741	0	0	0	18,058		
2004 - Balance Utilities:	4,551	1,775	0	0	0	0	6,325	26%	
Travel:									
7101- Travel I/S - Public Transportation Fares	0	9,329	338	2,319	0	0	11,985		
7102- Mileage	38	3,267	341	438	0	0	4,084		
7104- Travel I/S - Actual Expense Overnight	10	0	0	0	0	0	10		
7105- Travel I/S - Incidental Expenses	9	5,202	211	1,429	0	0	6,851		
7106- Travel I/S - Meals & Lodging	325	8,436	692	1,918	0	0	11,371		
7107- Travel I/S - Non-Overnight Travel (Meals)	9	480	18	0	0	0	507		
7110- Travel I/S - Board Member Meals & Lodging	0	0	0	0	0	0	0		
7111- Travel OOS - Public Transportation Fares	0	0	0	1,310	0	0	1,310		
7112- Travel OOS - Mileage	0	0	0	0	0	0	0		
7114- Travel OOS -	0	0	0	303	0	0	303		
7115- Travel OOS - Incidental Expenses	0	0	0	62	0	0	62		
7116- Travel OOS - Meals, Lodging Allowable	0	0	0	380	0	0	380		
7135- Travel I/S - State Occupancy Tax	3	89	3	5	0	0	99		
7136- Travel I/S - State Occupancy Tax Galveston	0	0	0	0	0	0	0		
	Budget:	394	37,728	1,603	9,871	0	49,596	0	
	Expended:	394	26,802	1,603	8,164	0	36,963		
2005 - Balance Travel:	0	10,926	0	1,707	0	0	12,633	25%	
7462- Rent office space - building		1,602					1,602		
	Budget:	0	2,136	0	0	0	2,136	0	
	Expended:	0	1,602	0	0	0	1,602		
2006 - Balance Rent - Building :	0	534	0	0	0	0	534	25%	

Texas Commission on Fire Protection

Fiscal Year 2012 - Operating Budget

Thru: May 31, 2012

Goal B: Fire Department Standards

	Standards							%
	Mgmt	Complnc	Cert	Testing	Curr Dev	Admin	Total	
Rent - Machine and Other:								
7406- Rental - Furnishings & Equipment (copier)	5,773	0	0	0	0		5,773	
7411- Rental - Computer Equipment	2,116	0	0	0	0		2,116	
Budget:	12,568	0	0	0	0		12,568	0
Expended:	7,889	0	0	0	0		7,889	
2007 - Balance Rent - Machine and Other:	4,679	0	0	0	0		4,679	37%
Other Operating Expense:								
7042- ERS Insurance Payment	143	3,073	1,486	1,332	334	791	7,160	
7201- Membership Dues	0	0	0	0	0		0	
7203- Registration Fees-Employee Training	497	460	250	150	0		1,357	
7210- Fees & Other Charges (DPS)	0	0	16	0	0		16	
7211- Awards	0	0	0	0	0		0	
7216- Insurance Premiums - appvd by oag	0	250	0	0	0		250	
7262- Maint & Repair - Computer Software	0	0	0	0	0		0	
7267- Maint & Repair - Computer Equipment	0	0	0	862	0		862	
7273- Reproduction & Printing	543	153	20	0	0		716	
7276- Communication Services (T-1 Line)	2,288	0	0	0	0		2,288	
7281- Advertising Services	0	0	0	0	0		0	
7286- Freight & Delivery Services	0	0	0	5,433	0		5,433	
7291- Postage & Postal Services	9,991	349	0	0	0		10,340	
7299- Purchased Contracted Services	111	0	0	0	0		111	
7303- Subscriptions, Periodicals and Info Services	0	0	0	0	0		0	
7312- Medical Supplies	0	0	0	0	0		0	
7330- Parts -equip, furn	0	0	0	0	0		0	
7334- Furnishings & Equipment -Expensed	1,192	0	0	0	0		1,192	
7335- Parts -Computer Equipment - Expensed	0	0	0	0	0		0	
7354- Bldg Remodel - State Leased -Expensed	0	0	0	0	0		0	
7367- Personal Property - Maint & Repair	0	0	105	0	0		105	
7374- Personal Property-Furn & Equip - Controlled	0	0	0	0	0		0	
7377- Computer Equipment - Expensed	0	0	0	0	0		0	
7378- Computer Equipment - Controlled	0	0	0	0	0		0	
7379- Computer Equipment - Cap (>1,000)	0	0	0	0	0		0	
7380- Computer Software - Expensed	0	0	0	0	0		0	
7382- Books - Expensed	0	0	0	0	0		0	
7806- Interest on Delayed Payment	0	2	0	0	0		2	
7947- Workers Compensation Transfer (SORM)	0	0	0	0	0		0	
7953- SWCAP payment/cost allocation	0	0	0	0	0		0	
7961- STS Transfers-Telecommunications (TexAn)	1,317	0	0	0	0		1,317	
Budget:	24,300	4,759	2,061	10,333	447	1,290	43,190	0.00
Expended:	16,082	4,287	1,877	7,777	334	791	31,148	
2009 - Balance Other Operating Expense:	8,217	473	184	2,556	112	499	12,042	28%
Grants:								
7312- Medical Supplies								
7623- Grants- Community Serv. Programs								
7701- Loans to Political Subdivisions								
Budget:	0	0	20,132	0	0	0	20,132	0
Expended:	0	0	20,132	0	0	0	20,132	
4000 - Balance Grants:	0	0	0	0	0	0	0	0%
Capital Expenditures:								
7312- Medical Supplies	0	0	0	0	0		0	
7354- Remodeling of Bldg-State Owned - Capitalized	0	0	0	0	0		0	
7389- Books, Pre-Recorded Ref Material - Capitalized	0	0	0	0	0		0	
Budget:	0	0	0	0	0	0	0	0
Expended:	0	0	0	0	0	0	0	
5000 - Balance Capital Expenditures:	0	0	0	0	0	0	0	#DIV/0!
Budget:	130,110	500,841	237,806	230,721	45,666	133,846	1,278,991	0
Expended:	82,053	374,079	176,368	173,485	34,124	96,141	936,250	
TOTAL BALANCE	48,057	126,763	61,438	57,236	11,541	37,705	342,740	27%

Texas Commission on Fire Protection
Fiscal Year 2012 - Operating Budget

Thru: May 31, 2012

Goal C: Indirect Administration

	Exec Office	Supp Svcs	Commis	Total	%
Budget:	348,093	99,279		447,372	0
Expended:	261,070	73,638	0	334,708	
1001 - Balance Salaries & Wages:	87,023	25,641	0	112,664	25%
Other Personnel Costs:					
7004- Non-Permanent Full-Time Employee	0	0	0	0	
7017- One-Time Merit	0	0	0	0	
7022- Longevity Pay	4,060	2,540	0	6,600	
7023- Lump Sum Termination	0	0	0	0	
7984- Unemployment/TWC	0	4,565	0	4,565	
Budget:	5,380	8,125		13,505	0
Expended:	4,060	7,105	0	11,165	
1002 - Balance Other Personnel Costs	1,320	1,020	0	2,340	17%
Professional Fees and Services:					
7242- Consulting Services - IT Computer	0	9,569	0	9,569	
7245- Financial & Accounting Services	0	1,250	0	1,250	
7253- Other Professional Fees (EAP)	659	0	0	659	
7274- Temporary Employment Agencies	0	5,297	0	5,297	
7275- Computer Programming Services	0	0	0	0	
Budget:	659	24,102		24,761	0
Expended:	659	16,116	0	16,775	
2001 - Balance Professional Fees and Services:	0	7,986	0	7,986	32%
Budget:	773	2,400		3,173	0
Expended:	203	1,105	0	1,308	
2003 - (7300) Balance Consumable Supplies:	570	1,295	0	1,865	59%
Utilities:					
7501- Electricity	0	0	0	0	
7503- Telecommunications-Long Distance	0	0	0	0	
7504- Telecommunications-Monthly Charge	0	1,529	0	1,529	
7514- Telecommunications-Maint & Repair	0	0	0	0	
7516- Telecommunications-Other Charges (reg voice/internet)	0	0	0	0	
7517- Telecommunications equipment - Expensed	0	0	0	0	
Budget:	0	2,699	0	2,699	0
Expended:	0	1,529	0	1,529	
2004 - Balance Utilities:	0	1,170	0	1,170	43%
Travel:					
7101- Travel I/S - Public Transportation Fares	1,317	0	4,560	5,878	
7102- Mileage	0	43	6,790	6,834	
7104- Travel I/S - Actual Expense Overnight	218	0	0	218	
7105- Travel I/S - Incidental Expenses	345	0	397	742	
7106- Travel I/S - Meals & Lodging	400	-12	0	388	
7107- Travel I/S - Non-Overnight Travel (Meals)	85	0	36	121	
7110- Travel I/S - Board Member Meals & Lodging	0	0	4,168	4,168	
7111- Travel OOS - Public Transportation Fares	0	0	0	0	
7112- Travel OOS - Mileage	0	0	0	0	
7115- Travel OOS - Incidental Expenses	0	0	0	0	
7116- Travel OOS - Meals, Lodging Allowable	0	0	0	0	
7135- Travel I/S - State Occupancy Tax	13	0	26	39	
7136- Travel I/S - State Occupancy Tax Galveston	0	0	0	0	
Budget:	2,378	31	20,478	22,887	0.00
Expended:	2,378	31	15,978	18,387	
2005 - Balance Travel:	0	0	4,500	4,500	20%
Budget:	240	592		832	0

Texas Commission on Fire Protection
Fiscal Year 2012 - Operating Budget

Thru: May 31, 2012

Goal C: Indirect Administration

	Exec Office	Supp Svcs	Commis	Total	%
Expended:	240	592	0	832	
2006 - (7470) Balance Rent - Building (storage):	0	0	0	0	0%
Rent - Machine and Other:					
7406- Rental - Furnishings & Equipment (copier)	0	1,757	0	1,757	
7411- Rental - Computer Equipment	0	644	0	644	
Budget:	0	6,675		6,675	0
Expended:	0	2,401	0	2,401	
2007 - Balance Rent - Machine and Other:	0	4,274	0	4,274	64%
Other Operating Expense:					
7042- ERS Insurance Payment	2,554	675	0	3,229	
7201- Membership Dues	0	0	0	0	
7203- Registration Fees-Employee Training	0	430	0	430	
7210- Fees & Other Charges (DPS)	0	0	0	0	
7211- Awards	149	0	0	149	
7216- Insurance Premiums - appvd by oag	0	0	0	0	
7262- Maint & Repair - Computer Software	0	0	0	0	
7266- Maint & Repair - Building	0	0	0	0	
7267- Maint & Repair - Computer Equipment	0	0	0	0	
7273- Reproduction & Printing	80	236	0	315	
7276- Communication Services (T-1 Line)	2,000	481	0	2,481	
7281- Advertising Services	0	0	0	0	
7286- Freight & Delivery Services	0	0	0	0	
7291- Postage & Postal Services	0	3,041	0	3,041	
7299- Purchased Contracted Services	0	34	0	34	
7303- Subscriptions, Periodicals and Info Services	0	0	0	0	
7312- Medical Supplies	0	0	0	0	
7330- Parts -equip, furn	0	152	0	152	
7334- Furnishings & Equipment -Expensed	0	207	0	207	
7335- Parts -Computer Equipment - Expensed	61	55	0	116	
7354- Bldg Remodel - State Leased -Expensed	17,909	0	0	17,909	
7367- Personal Property - Maint & Repair	0	0	0	0	
7374- Personal Property-Furn & Equip - Controlled	0	0	0	0	
7377- Computer Equipment - Expensed	0	100	0	100	
7378- Computer Equipment - Controlled	0	0	0	0	
7379- Computer Equipment - Cap (>1,000)	0	0	0	0	
7380- Computer Software - Expensed	433	0	0	433	
7382- Books - Expensed	0	105	0	105	
7806- Interest on Delayed Payment	0	0	0	0	
7947- Workers Compensation Transfer (SORM)	0	2,490	0	2,490	
7953- SWCAP payment/cost allocation	0	0	0	0	
7961- STS Transfers-Telecommunications (TexAn)	0	401	0	401	
Budget:	23,185	15,644		38,828	0.00
Expended:	23,185	8,405	0	31,590	
2009 - Balance Other Operating Expense:	0	7,238	0	7,238	19%
Capital Expenditures:					
7387- computer Software-expensed > 1,000	0	0	0	0	
7389- Books, Pre-Recorded Ref Material - Capitalized	0	0	0	0	
Budget:	0			0	0
Expended:	0	0	0	0	
5000 - Balance Capital Expenditures:	0	0	0	0	#DIV/0!
Budget:	380,708	159,547	20,478	560,732	0
Expended:	291,795	110,922	15,978	418,695	
TOTAL - BALANCE	88,913	48,624	4,500	142,037	25%

Key	Division	FY12 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	FY12 YTD Sum	FY12 Target	% Target ytd/tar	Measures/Explanation
Output:		<i>A quantifiable indicator of the number of goods or services an agency produces</i>							
<input type="checkbox"/>	Lib	01-01-01:01	169	174	143	486	800	61%	Number of requests from fire department and other entities for agency training and education resources.
						Cumulative			Lower than target
<input type="checkbox"/>	Lib	01-01-01:02	36	91	71	198	175	113%	Number of research requests for agency information resource center.
						Cumulative			Exceeded target
<input type="checkbox"/>	Std	02-01-01:01	236	263	339	838	600	140%	Number of inspections of regulated entities.
						Cumulative			Exceeds target which is desired
<input type="checkbox"/>	Std	02-01-01:02	1,850	2,091	2,184	6,125	8,750	70%	Number of new certifications issued to individuals.
						Cumulative			On track to meet target
<input type="checkbox"/>	Std	02-01-01:03	26,909	717	307	27,933	28,840	97%	Number of certifications renewed (individuals).
						Cumulative			Within target
<input type="checkbox"/>	Std	02-01-01:04	2,314	2,078	2,501	6,893	8,442	82%	Number of individuals examined.
						Cumulative			On track to meet target
<input type="checkbox"/>	Adm	04-01-01:01	31,957	11,175	2,259	45,391	13,000	349%	Dollar value of HUB contacts awarded.
						Cumulative			Higher than target which is desired
Explanatory:		<i>(Annual) An indicator of factors, agency resources, or requests received that affect a state entity's performance.</i>							
<input type="checkbox"/>	Fin	01-02-01:01				0	N/A	N/A	Amount available to fire departments for loans and grants.
						Cumulative			Program transferred to Texas Forest Service.
<input type="checkbox"/>	Fin	01-02-01:02				0	N/A	N/A	Amount requested by fire departments for loans and grants.
						Cumulative			Program transferred to Texas Forest Service.
<input type="checkbox"/>	Std	02-01-01:01	91.62%	91.48%	92.32%	92.32%	90.0%	103%	Pass Rate (Percent)
						Non-Cumulative			Higher than target
<input checked="" type="checkbox"/>	Std	02-01-01:02	28,397	29,113	29,826	29,826	29,800	100%	Number of fire service personnel certified by the Commission.
						Non-Cumulative			Meets target
<input type="checkbox"/>	Std	02-01-01:03	242	472	237	237	185	128%	Number of fire service training facilities certified by the Commission.
						Non-Cumulative			Exceeded target.

Cumulative Measure: A measure for which one quarter's performance can be added to a previous quarter's performance to obtain year-to-date performance; otherwise, a measure is non-cumulative.

Non-Cumulative Measure: A measure which, in order to determine year-to-date performance, must be calculated for the entire reporting period and not on the basis of adding together the performance from separate reporting periods

Key	Division	FY12 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	FY12 YTD Sum	FY12 Target	% Target ytd/tar	Measures/Explanation
Efficiency <i>A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units</i>									
<input type="checkbox"/>	Std	02-01-01:01	1.66	18.22	21.54	21.54	6	359%	Average certification cost per individual certificate issued. above target but fluctuates greatly during the year
Non-Cumulative									
<input type="checkbox"/>	Std	02-01-01:02	2	2.24	2.29	2.29	2.5	92%	Average certification cost per facility certificate issued. Lower than target which is desired
Non-Cumulative									
<input type="checkbox"/>	Std	02-01-01:03	92.00	92.12	78.89	78.79	95	83%	Percentage of new individual certificates issued within 10 days. Lower than target but fluctuates through the year
Non-Cumulative									
<input type="checkbox"/>	Std	02-01-01:05	23.68	26.04	21.7	21.70	85	26%	Average cost per exam administered. Lower than target but will fluctuate during the year.
Non-Cumulative									
Outcome (Annual) <i>A quantifiable indicator of the public and customer benefits from an agency's actions</i>									
<input checked="" type="checkbox"/>	Fin	01-02:01				0.0%	N/A	N/A	Percent of total amount requested for loans/grants compared with requests awarded. Program transferred to Texas Forest Service.
Non-Cumulative									
<input checked="" type="checkbox"/>	Std	02-01:01	93%	92%	90%	90.4%	95%	95%	Percent of inspected certificate holders with no recent violations. Within target
Non-Cumulative									
<input type="checkbox"/>	Fin	04-01:01	48%	24%	10%	10.0%	10%	100%	Percent of total dollar value of purchasing contracts awarded to HUBs. On target.
Non-Cumulative									

Note: Explanations are provided for measures that are 5% or more off target.

4. **Reports from the Budget and Strategic Plan subcommittees with discussion and possible action relating to any recommendations developed by these subcommittees.**

5. **Reports from fire service interest groups and agencies on matters relating to organizational purposes, functions, and objectives, including, but not limited to, the Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firemen's and Fire Marshals' Association of Texas, the Texas Association of Fire Educators, the Texas Forest Service, the National Fire Protection Association, Safe-D, and the State Fire Marshal's Office.**

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

- 7. New matters from the commission, staff, or public regarding rulemaking which may be discussed in future commission meetings.**

8. Discussion and possible action on future meeting dates.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 1. **Proposed amendments to 37 TAC, Chapter 427, Training Facility Certification, Subchapter C, Training programs for On-Site and Distance Training Providers, including but not limited to, §427.305, Procedures for Testing Conducted by On-Site and Distance Training Providers.**

Chapter 427

TRAINING FACILITY CERTIFICATION

SUBCHAPTER C

TRAINING PROGRAMS FOR ON-SITE AND DISTANCE TRAINING PROVIDERS

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

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

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

- (a) When seeking training approvals, a training provider, whether on-site or distance, shall certify that it has provided the resources described in §427.1(f) of this title.
- (b) All training for certification must be approved by the Commission. A training provider must submit to the Commission a completed Training Prior Approval Form at least 20 days prior to the proposed start date of the training.
- (c) The provider of training will receive from the Commission the following documents.
 - (1) A Notice of Course Approval. This document will serve as notification that the course has been approved by the Commission and will contain the approval number assigned by the Commission and the course I.D. number.
 - (2) An Application for Testing Form, when applicable.
 - (3) A Certificate of Completion Form. This document must be completed by the training provider and issued to each student when the student has successfully completed the applicable curriculum.
 - (4) Commission-designated skills envelope when applicable.
- (d) Approved courses are subject to audit by Commission staff at any time. Any deviation from the approved start-and-end date of the class, periodic and final test schedule, field examiners or the substitution of one instructor for another (this does not apply to an instructor already approved for the course) must be reported to the Commission within three business days of the deviation.

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

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

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

- (a) The chief training officer of a training facility, as a minimum, must possess Fire Service Instructor III certification.
- (b) All training instructors (except guest instructors) must possess fire instructor certification. The instructor(s) must be certified in the applicable discipline or be approved by the commission to instruct in the applicable subject.
- (c) The lead instructor, as a minimum, shall possess a Fire Service Instructor II certification and must be certified by the commission in the applicable discipline.
- (d) Guest instructors are not required to be certified as instructors. A guest instructor is defined as an individual with special knowledge, skill, and expertise in a specific subject area who has the ability to enhance the effectiveness of the training. Guest instructors shall teach under the endorsement of the lead instructor.
- (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) Hold a Fire Service Instructor II 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's degree with the following:
 - (A) twelve semester hours of education instructional courses, and
 - (B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.
- (g) In order to teach an instructor certification training course for Fire Service Instructor II or III, an individual must hold one of the following three qualifications:
 - (1) Hold a Fire Service Instructor III 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's degree with the following:
 - (A) twelve semester hours of education instructional courses, and
 - (B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible action on proposed amendments, new sections, repeals, and rule reviews as follows:**
 2. **Proposed amendments to 37 TAC, Chapter 431, Fire Investigation, Subchapter A, Minimum Standards for Arson Investigator Certification, including but not limited to, §431.9, Minimum Standards for Master Arson Investigator Certification.**

CHAPTER 431

FIRE INVESTIGATION

Subchapter A

MINIMUM STANDARDS FOR ARSON INVESTIGATOR CERTIFICATION

§431.1. Minimum Standards for Arson Investigation Personnel.

- (a) Fire protection personnel who are assigned 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 Officer Standards and Education 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 by the Commission as a Basic Arson Investigator an individual must:

- (1) possess a current basic peace officer's license from the Texas Commission on Law Enforcement Officer Standards and Education 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 Officer Standards and Education (TCLEOSE) 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 Officer Standards & Education (TCLEOSE) 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's[associate]** degree, **either of** which includes at least 18 college semester hours in fire science subjects **or criminal justice subjects related to fire and or arson investigation.**
- (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 certificate. To obtain a printed certificate the individual must make application to the commission to include confirmation of commission.

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

- (a) Individuals holding a current commission Arson Investigator certification received prior to March 10, 2003 may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Investigator by making application to the commission for the IFSAC seal and paying applicable fees.
- (b) 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.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 3. **Proposed amendments to 37 TAC, Chapter 437, Fees, including but not limited to, §437.15, International Fire Service Accreditation (IFSAC) Seal Fees.**

CHAPTER 437

FEES

§437.1. Purpose and Scope.

- (a) The purpose of this chapter is to set forth requirements governing the fees charged for the issuance of certificates to fire protection personnel, to establish the procedures for the collection of annual renewal fees and copying fees as prescribed by the Government Code, §419.025 and §419.026, and commission rule.
- (b) This chapter shall govern all proceedings before and dealing with the commission concerning certification fees, renewal fees, and copying 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.

§437.3. Certification Fees.

- (a) A non-refundable application 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 fee to file a new application.
- (b) The regulated employing entity shall be responsible for all certification fees required as a condition of appointment.
- (c) Nothing in this section shall prohibit an individual from paying a certification 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) Any person who holds a certificate, and is no longer employed by an entity that is regulated by the Commission may submit in writing, a request, together with the required fee to receive a one-time certificate stating the level of certification in each discipline held by the person on the date that person left employment pursuant to the Texas Government Code, §419.033(b).

Multiple certifications may be listed on the one-time certificate. The one-time fee for the one-time certificate shall be limited to the maximum amount allowed by §419.033(b) of the Texas Government Code.

- (e) A facility that provides basic level training for any discipline for which the Commission has established a Basic Curriculum must be certified by the Commission. The training facility will be charged a separate certification fee for each discipline.

§437.5. Renewal Fees.

- (a) A non-refundable annual renewal fee of \$85 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 \$85, which will renew all certificates held by the individual or certified training facility.
- (b) A regulated employing entity shall pay the renewal fee for all certificates which a person must possess 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 reapplies for 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 statements will be mailed to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal statements will be mailed to certified training facilities at least 60 days prior to February 1 of each calendar year.
- (g) All certification renewal fees must be returned with the renewal statement to the Commission.
- (h) All certification renewal fees must be paid on or before the renewal date posted on the certification renewal statement 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 renewal date posted on the renewal notice will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$42.50 in addition to the renewal fee for each individual for which a renewal fee was due.
- (k) All certification renewal fees received more than 30 days after the renewal date posted on the renewal notice will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$85 in addition to the renewal fee for each individual 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. 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 restoring the applicant to employment.
- (n) An individual, upon returning from activation to military service, whose certification has expired, must notify the Commission in writing. The individual will have any normally associated late fees waived and will be required to pay a renewal fee of \$85.

§437.7. Standards Manual and Certification Curriculum Manual Fees.

- (a) Current versions of the Standards Manual for Fire Protection Personnel and Certification Curriculum Manual are available on the commission's website.
- (b) The Commission does not provide printed copies of the manuals. A printed copy of the Commission's standards may be obtained from Thomson West, 610 Opperman Drive, Eagan, MN 55123, by requesting "Title 37, Public Safety and Corrections" of the Texas Administrative Code. The web address for Thomson West is www.west.thomson.com.

§437.11. Copying Fees.

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

§437.13. Processing Fees for Test Application.

- (a) A non-refundable application processing fee of \$85 shall be charged for each examination.
- (b) Fees will be paid in advance with the application or the provider of training may be invoiced or billed if previous arrangements have been made with the Commission.

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

A non-refundable ~~\$15~~[\$10.00] fee shall be charged for each IFSAC seal issued by the commission effective October 1, 2012.

§437.17. Records Review Fees.

- (a) A non-refundable fee of \$35 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 certificate from the State Firemen's and Fire Marshals' Association of Texas.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 4. **Proposed amendments to 37 TAC, Chapter 439, Examinations for Certification, Subchapter A, Examinations for On-Site Delivery Training, including but not limited to, §439.1, Requirements-General, and §439.11, Commission-Designated Performance Skill Evaluations.**

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 the Commission and International Fire Service Accreditation Congress (IFSAC) regulations. It is incumbent upon Commission staff, committee members, training officers and field examiners to maintain the integrity of any state examination (or portion thereof) for which they are responsible.
- (b) Exams will be based on curricula as currently adopted in the Commission's Certification Curriculum Manual.
- (c) Commission examinations that receive a passing grade shall expire two years from the date of the examination.
- (d) The Commission shall prescribe the content of any certification examination that tests the knowledge and/or skill of the examinee concerning the discipline addressed by the examination.
 - (1) An examination based on Chapter 1, "Basic Fire Suppression Curriculum" as identified in the Certification Curriculum Manual may consist of four sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, and First Responder Operations.
 - (2) An examination based on Chapter 4, "Basic Fire Inspector Curriculum" as identified in the Certification Curriculum Manual may consist of three sections: Inspector I, Inspector II, and Plan Examiner I.
 - (3) An examination based on the applicable chapters for "Basic Fire Suppression Curriculum" and "Wildland Fire Protection Curriculum" in the Certification Curriculum Manual shall consist of five sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, First Responder Operations, and Intermediate Wildland Fire Protection.**
 - (4)**~~(3)~~ All other state examinations consist of only one section.
 - (5)**~~(4)~~ The Head of Department examination will be based on NFPA 1021, Chapter 7.
- (e) The individual who fails to pass a Commission examination for state certification will be given one additional opportunity to pass the examination or section thereof. This opportunity must be exercised within 180 days after the date of the first failure. An individual who passes the applicable state certification examination but fails to pass a section thereof for an IFSAC seal(s) will be given one additional opportunity to pass the section thereof. This opportunity

- must be exercised within two years after the date of the first attempt. 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.
- (f) An individual may obtain a new certificate in a discipline which was previously held by passing a Commission proficiency examination.
 - (g) 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.
 - (h) If an individual completes an approved training 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 must pass a Commission examination for certification status and meet any other certification requirements in order to become eligible for certification by the Commission as fire protection personnel.
 - (i) 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 signed statement 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 will be on a form provided by the Commission and is to be completed and signed by the provider of training and issued to the individual upon successful completion of the training. The certificate of completion must, as a minimum, identify the provider of training, the course I.D. number, the course approval number, date issued, curriculum name, training officer, and the name of the person completing the course. The certificate of completion qualifies an individual to take an original certification examination.
- (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 the standards division director 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 signed 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, 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.

§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.
- (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 until 30 days before the expiration date of the previous examination unless required by the Commission in a disciplinary matter.
- (c) In order to qualify for a Commission examination, the examinee must:
 - (1) meet or exceed the minimum requirements set by the Commission as a prerequisite for the specified examination;
 - (2) submit a test application with documentation showing completion of a Commission-approved curriculum and any other prerequisite requirements, along with the appropriate application processing fee(s).
 - (3) receive from the Commission an "Endorsement of Eligibility" letter and provide this letter to the lead examiner.
 - (4) bring to the test site, and display upon request, state 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 of at least 70%; or
 - (3) a combination of both paragraphs (1) and (2) of this subsection.
- (b) The minimum passing score on each examination or section thereof as outlined in §439.1(d) of this title (relating to Requirements--General) 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. The provider of training will receive from the Commission, with the course approval notice, one envelope for each subject area as identified in the applicable curriculum.
- (b) During the course of instruction, the training provider shall test for competency, the Commission-designated performance skills. The skill evaluations may be scheduled at any time during the course, but must 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 form. 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.
- (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) The training facility must maintain records (electronic or paper) of skills testing on each examinee. The records must reflect the results of the evaluation of skills, the dates the

evaluation of skills took place, and the names of the field examiners who conducted the evaluations.

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

§439.13. Special Accommodations for Testing.

- (a) Special accommodation testing is for those individuals that have a documented disability which may hamper their success on a Texas Commission on Fire Protection written examination. Some accommodations that can be allowed are:
- (1) A testing room to oneself (examinee is allowed to read the questions out loud to him or her self). 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 change the condition of the examination or the examination process.
- (b) If the applicant is seeking a special accommodation test, the applicant must submit written documentation of the disability and a written statement as to which of the allowable accommodations is being requested. The applicant may ask for accommodations not listed above. The request will be reviewed and the applicant will receive a written response regarding the Commission's position on the request.

§439.19. Number of Test Questions.

- (a) Each examination may have two types of questions: pilot and active. Pilot questions are new questions placed on the examination for statistical purposes only. These questions do not count against an examinee if answered incorrectly.
- (b) The number of questions on the state examination will be based upon the number of recommended hours in the particular curriculum or section being tested. The standard is outlined below:

Recommended Hours	No. Questions	Maximum No. Pilot Questions	Time Allowed
30 or less	25	5	30 minutes
31-100	50	5	1 hour
101-200	75	10	1.5 hours
201-300	100	15	2 hours
301-400	125	20	2.5 hours
401 or more	150	25	3 hours

- (c) The Head of Department examination will consist of 50 active questions, with the option of adding up to five pilot questions, for a maximum time allotment of one hour.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 5. **Proposed new, 37 TAC, Chapter 455, Minimum Standards for Wildland Fire Protection Certification, including but not limited to new §455.1, Minimum Standards for Wildland Fire Protection Personnel, new §455.3, Minimum Standards for Basic Wildland Fire Protection Certification, new §455.5, Minimum Standards for Intermediate Wildland Fire Protection Certification, and new §455.7, Examination Requirements.**

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).

§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 Protection Curriculum, as specified in the applicable chapter of the commission's Certification Curriculum Manual; or
 - (B) completion of the following Texas Forest Service/National Wildfire Coordinating Group courses:
 - (i) S-130: Firefighter Training
 - (ii) S-190: Introduction to Wildland Fire Behavior
 - (iii) L-180: Human Factors on the Fireline
 - (iv) L-100: Introduction to the Incident Command System, or an equivalent basic incident command system course such as NIMS IS-100
- (3) The commission examination requirement is waived for individuals who have completed the training requirements in paragraph (2)(A) or (B) of this section and apply for certification by August 31, 2013. After this date, individuals must successfully pass the commission examination prior to applying for certification.

§455.5. Minimum Standards for Intermediate Wildland Fire Protection Certification

(a) 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) individuals who hold Structure Fire Protection certification issued by the commission must complete the Texas Forest Service/National Wildfire Coordinating Group course G-131: Wildland Training (FFT1) for Structural Firefighters or the Texas Forest Service/National Wildfire Coordinating Group courses S-131 and S-133, including the associated position task book as adopted by the Texas Forest Service/NWCG 310-1/NFPA 1051 latest edition, and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification), or

(3) individuals who hold a State Fireman's and Fire Marshal's Association Advanced Accredited certification issued prior to January 1, 2012, or a State Fireman's and Fire Marshal's Association Firefighter II certification issued on or after January 1, 2012, must complete the Texas Forest Service/National Wildfire Coordinating Group course G-131: Wildland Training (FFT1) for Structural Firefighters or the Texas Forest Service/National Wildfire Coordinating Group courses S-131 and S-133, including the associated position task book as adopted by the Texas Forest Service/NWCG 310-1/NFPA 1051 latest edition, and successfully pass a commission examination which includes both Basic Structure Fire Protection and Intermediate Wildland Fire Protection, as specified in Chapter 439 of this title.

(b) The Commission examination requirement is waived for individuals in subsection (a)(2) of this section who have completed the training requirement and apply for certification by August 31, 2013. After this date, individuals must successfully pass the commission examination prior to applying for certification.

(c) The application processing fee for the initial examination is waived for individuals in subsection (a)(3) of this section who have completed the training requirement and submit the application for the commission examination by August 31, 2013. After this date, the application processing fee for examinations will be required.

(d) The application processing fee for the certification is not waived for individuals in subsection (c) of this section.

§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 Texas Commission on Fire Protection must meet all requirements regarding application for initial certification.

From: AL ST
Sent: Sunday, May 06, 2012 11:49 PM
To: Timothy Rutland
Subject: RE: wildland cert comments

Mr Rutledge,

Thank you for your quick reply.

First...my background: Univ of Houston BBA in accounting with a 25 year career as a CPA prior to entering the fire service; 11 years with a small rural dept in Brazoria Co, Demijohn VFD, now asst chief there; 6 years with CyFair VFD, now a Lt with their training Division; 2 years as a fulltime paid Lt with Eastex FD in Harris Co, currently the Training Officer; 2 years and currently part time EMT-B with Danbury EMS in Brazoria Co; 2 years as commissioner/treasurer with Brazoria Co ESD #3; 7 years and currently seasonal wildland FF with Texas Midcoast Refuge System, US Fish & Wildlife Service. My certifications: TCFP-Basic FF, Hazmat Tech, Instructor 2, Officer 2, Driver Operator; SFFMA-Advanced Accredited FF, Instructor 1, Certified Coordinator; NWCG-FFT2 (redcard); Texas Forestry Service: pending certs (since summer, 2011) for FF1, ENOP, All Hazards, & ENGB.

Please consider the following comments, previously partially submitted to members of the committee considering creation of a TCFP Wildland FF certification:

Currently the TFS has an extensive and specific credentialing program mirroring the NWCG certifications for various wildland firefighting certifications including completions of Position Task Books. The TFS does not give credit for completing the NFA or other online S130/S190 courses or any non-TFS instructor led courses toward their credentials. Any 'voluntary' certification obtained through compliance with TCFP certification, if not coordinated with and recognized by the TFS, will be completely useless toward credentialing with the TFS. The current SFFMA Wildland FF certification is an example of that as it is not recognized for credentialing with the TFS or the NWCG.

The NWCG wildland courses have always been scarce and the TFS courses are no exception with a limited number of adjunct instructors authorized to conduct the courses. The TFS is currently swamped with credentialing applications because of the initiation of the Crosswalk program for structure firefighters. I am still waiting for credentialing after having originally submitted applications in June, 2011. It is my understanding that there is a single TFS committee that meets once a month to consider all of the credentialing applications submitted from the entire state. They must review the applications as well as the Position Task Books for every applicant. Hundreds, if not thousands, of firefighters throughout the state are attempting to become credentialed which has created a bottleneck. The program is being tweaked on an ongoing basis.

I would encourage the Committee at the very least to postpone any requirements or procedures for creating or obtaining a TCFP Wildland Firefighter certification until after the TFS has stabilized its program and to interject discussions of the TCFP program into the TFS program for reciprocity. A very real possibility exists that instituting a TCFP program will create a duplication of training and testing for the TFS and NWCG. It would make sense also to permanently incorporate the NWCG standards and courses for credentialing as acceptable prerequisites for any TCFP Wildland FF certifications. I also encourage eliminating post-2013 TCFP testing for certification for anyone who has

attained credentialling with the TFS or NWCG (much like recognition of IFSAC seals for structural FF's from other states).

The TCFP will allow holders of SFFMA Advanced, now FF1 and FF2, certificates to 'challenge' the TCFP state test. It seems the TCFP is making similar rules for this Wildland FF certification. What is the point of requiring an additional test for the TCFP when certification by the TFS or NWCG has already been obtained which include the exact same standards as what is being considered for TCFP certification..with a 'grandfather' clause to 2013? Also, if a TCFP Wildland FF certification is obtained, does the TCFP yet know if the TFS or NWCG recognize it as valid credentialling? So far the entire process instituted recently by the TFS has been confusing and conducted without sufficient resources. It makes much more sense for the TCFP to obtain absolute reciprocity of certifications between it's proposed certification and those of the TFS and the NWCG. Non-employees of the Federal agencies using NWCG guidelines are not eligible for inclusion in the IQCS system which tracks federal wildland training progress and issues certifications; and along with the TFS are not allowed to obtain the arduous 'redcard' credentials for recognition of physical ability to perform and participate in state and Federal wildland incidents.

The SFFMA and TCFP have a long history of competition and cooperation with mutual distrust. The TCFP is bringing the TFS and the NWCG into the fray with this proposed new certification. If the TFS and NWCG do not agree to recognize a TCFP Wildland certification, it is virtually useless. If the TCFP must retest everyone who have TFS and NWCG certifications who want a TCFP certification, then what does that say to the TFS and NWCG?

I urge this alphabet soup of agencies to get together and formally agree upon one wildland standard, curriculum and certification recognition before any other certifications are created or offered.

Thank you for considering my opinion.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 6. **Proposed new, 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer, including but not limited to new §457.1, Incident Safety Officer Certification, new §457.3, Minimum Standards for Incident Safety Officer Certification, and new §457.5, Examination Requirements.**

Chapter 457

MINIMUM STANDARDS FOR INCIDENT SAFETY OFFICER

§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).

§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 a commission-approved Incident Safety Officer curriculum as specified in the applicable chapter of the commission's Certification Curriculum Manual; or
 - (B) completion of the National Fire Academy Incident Safety Officer course; or
 - (C) completion of the Fire Department Safety Officers Association Incident Safety Officer course; or
 - (D) 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 be equivalent to, or exceeds the commission-approved Incident Safety Officer curriculum.
- (4) The commission examination requirement is waived for individuals who have completed one of the training programs in paragraph (3)(B) - (D) of this section and apply for certification by August 31, 2013. After this date, individuals must successfully pass the commission examination prior to applying for certification.

§457.5. Examination Requirements.

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.

From: rdavis
Sent: Thursday, May 03, 2012 1:10 PM
To: Mike Baker
Subject: Incident Safety Officer

I am commenting on the proposed Incident Safety Officer Certification In the proposed requirements Fire Officer I is listed as a requirement we feel That Instead the requirement should read Firefighter Intermediate certification through TCFP This would require at least four years experience and I feel that experience is more valuable to the position than Fire Officer I cert which would be completely unrelated to the position. The position of ISO is much better served with realworld experience than a class better suited to Administrative duties. Finally I also feel that with the fire service as a whole Putting increased emphasis in firefighter safety now would not be the time to make it harder to be a Incident Safety Officer. Thank you for your service. I can be contacted at [REDACTED] if needed. I appreciate your consideration on this matter and hope that my comments will be beneficial

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

B. Discussion and possible action on proposed amendments, new sections, repeals, and rule reviews as follows:

- 1. Proposed amendments to 37 TAC, Chapter 441, Continuing Education, including but not limited to, §441.3, Definitions, §441.5, Requirements, §441.7, Continuing Education for Structure Fire Protection Personnel, §441.9, Continuing Education for Aircraft Rescue Fire Fighting Personnel, §441.11, Continuing Education for Marine Fire Protection Personnel, §441.13, Continuing Education for Fire Inspector Personnel, §441.15, Continuing Education for Arson Investigator or Fire Investigator, §441.17, Continuing Education for Hazardous Materials Technician, §441.19, Continuing Education for Head of a Fire Department, §441.21, Continuing Education for Fire Service Instructor.**

CHAPTER 441

CONTINUING EDUCATION

§441.1. Objective.

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

§441.3. Definitions.

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

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

§441.5. Requirements.

- (a) Continuing education shall be required in order to renew certification. ~~[which has a continuing education requirement stated in this chapter.]~~
- (b) The continuing education requirement for renewal ~~of certification~~ shall consist of a minimum of ~~18~~**20** hours of training to be conducted during the certification period. ~~[Only 20 total hours of continuing education shall be required to renew all Texas Commission on Fire Protection certificates if any individual holds more than one certificate, except as provided in §441.17 of this title (relating to Continuing Education for Hazardous Materials Technician).]~~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**~~[Track A]~~ 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** ~~[the appropriate chapter of the commission's Certification Curriculum Manual]~~ may be counted toward the ~~[20-~~

- ~~hour~~ continuing education requirement for **a particular certification**. ~~[Track A]~~
- (f) There shall be no "hour per subject limit" placed on **Level 2** ~~[Track B]~~ 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**. ~~[application]~~ 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, through its Fire Service Standards and Certification Division director. 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 of the illness or injury that cumulatively lasts six months or longer, which is provided by the individual and the individual's treating physician or by documentation of 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 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**. ~~[at the time of renewal.]~~ An example of documentation of continuing education training may include, but not be limited to a Certificate of Completion, a college or training facility transcript, a fire department training roster, etc. Commission staff will review and may approve or disapprove such documentation of training in accordance with applicable commission rules and/or procedures. The training for a resident of Texas at the time the

continuing education training is conducted shall be administered by a commission instructor, commission certified training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The training for a nonresident of Texas, shall be delivered by a state fire academy, a fire department training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The individual must submit training documentation to the commission for evaluation of the equivalency of the training required by this chapter. The individual certificate holder is responsible for maintaining all of his/her training records for a period of three years from the date of the training.

- (n) If an individual has completed a commission approved academy in the 12 months prior to his or her certification expiration date, a copy of that certificate of completion will be acceptable documentation of continuing education for that certification renewal period.

§441.7. Continuing Education for Structure Fire Protection Personnel.

- (a) **A minimum of two hours of continuing ~~[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 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 either Level 1,~~[Track A]~~Level 2,~~[Track B]~~ or a combination of the two.

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

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

§441.11. Continuing Education for Marine Fire Protection Personnel.

- (a) **A minimum of two hours of continuing ~~[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 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 either Level 1, ~~[Track A]~~Level 2, ~~[Track B]~~ or a combination of the two.

§441.13. Continuing Education for Fire Inspection Personnel.

- (a) **A minimum of two hours of continuing ~~[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 fire inspection personnel **and who are appointed to fire inspection duties.**

- (b) Subjects selected to satisfy the continuing education requirement may be selected from either **Level 1,** ~~[Track A]~~ **Level 2,** ~~[Track B]~~ or a combination of the two.

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

- (a) **A minimum of two hours of continuing** ~~[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 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 either **Level 1,** ~~[Track A]~~ **Level 2,** ~~[Track B]~~ or a combination of the two.

§441.17. Continuing Education for Hazardous Materials Technician.

- (a) **Eight** ~~[Ten]~~ 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 either **Level 1,** ~~[Track A or]~~ **Level 2,** ~~[Track B]~~ or a combination of the two.

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

- (a) **A minimum of two hours of continuing** ~~[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.**

- (b) Subjects selected to satisfy the continuing education requirement may be selected from either **Level 1,** ~~[Track A]~~ **Level 2,** ~~[Track B]~~ or a combination of the two.

§441.21. Continuing Education for Fire Service Instructor.

- (a) **A minimum of two hours of continuing** ~~[Continuing]~~ education **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 either **Level 1,** ~~[Track A or]~~ **Level 2,** ~~[Track B]~~ or a combination of the two.

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

B. Discussion and possible action on proposed amendments, new sections, repeals and rule reviews as follows:

2. Proposed amendments to 37 TAC, Chapter 421, Standards For Certification, including but not limited to, §421.17, Requirement to Maintain Certification.

CHAPTER 421

STANDARDS FOR CERTIFICATION

§421.1. Procedures for Meetings.

- (a) Time and place. The Fire Fighter Advisory Committee and the Curriculum and Testing Committee shall meet at such time and place in the State of Texas as they deem proper. The Fire Fighter Advisory Committee shall meet at least twice each calendar year.
- (b) Meeting called. Meetings shall be called by the chairman, by the Commission, or upon the written request of five members.
- (c) Quorum. A majority of members shall constitute a quorum.
- (d) Members. The Fire Fighter Advisory Committee shall consist of nine members appointed by the Commission. The Curriculum and Testing Committee shall consist of members appointed by the Commission upon the recommendation of the Fire Fighter Advisory Committee. Committee members serve at the will of the Commission.
- (e) Officers. Officers of the Fire Fighter Advisory Committee and the Curriculum and Testing Committee shall consist of a chairman, vice-chairman, and secretary. Each committee shall elect its officers from the appointed members at its first meeting and thereafter at its first meeting following January 1 of each year or upon the vacancy of an office.
- (f) Responsibility. The Fire Fighter Advisory Committee shall review Commission rules relating to fire protection personnel and fire departments and recommend changes in the rules to the Commission.
- (g) Effective Date. Rules shall become effective no sooner than 20 days after filing with the Texas Register for final adoption. The committee or Commission may recommend a later effective date.
- (h) 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.

§421.3. Minimum Standards Set by the Commission.

- (a) General statement. It shall be clearly understood that the specified minimum standards herein described 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) 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.
- (8) 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.
- (9) 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.

- (10) 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.
- (11) 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.
- (12) 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.

§421.5. Definitions.

The following words and terms, when used in this 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, §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(b) of this title, if applicable, but has not yet been certified. (See Texas Government Code, §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 Texas Commission on Fire Protection certification 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.
- (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 the Texas Government Code, §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 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.
- (21) 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.

- (22) 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.
- (23) High school--A school accredited as a high school by the Texas Education Agency or equivalent accreditation agency from another jurisdiction.
- (24) 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.
- (25) 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.
- (26) 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)
- (27) Lead instructor--An individual qualified as an instructor to deliver fire protection training.
- (28) 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 herein defined.
- (29) 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).
- (30) Non-self-serving affidavit--A sworn document executed by someone other than the individual seeking certification.
- (31) Participating volunteer fire fighter--An individual who voluntarily seeks certification and regulation by the Commission under the Government Code, Chapter 419, Subchapter D.
- (32) Participating volunteer fire service organization--A fire department that voluntarily seeks regulation by the Commission under the Government Code, Chapter 419, Subchapter D.
- (33) 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.
- (34) 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.
- (35) 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: embraces a geographical area with a defined boundary;
 - (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.

(36) Reciprocity for IFSAC seals--Valid documentation of accreditation from the International Fire Service Accreditation Congress used for TCFP certification may only be used for obtaining an initial certification.

- (37) 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.
- (38) 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.
- (39) 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.
- (40) Trainee--An individual who is participating in a Commission approved training program.
- (41) 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.
- (42) Volunteer fire service organization--A volunteer fire department or organization not under mandatory regulation by the Texas Commission on Fire Protection.
- (43) 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 Texas Commission on Fire Protection 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 Emergency Care Attendant (ECA) as specified by the Department of State Health Services (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 Texas Department of State Health Services (DSHS) or the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE). 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.

§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.

§421.11. Requirement To Be Certified Within One Year.

- (a) 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.

§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.

§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.

§421.17. Requirement to Maintain Certification.

- (a) All full-time or part-time employees of a fire department or local government who are 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's standards manual.
- (c) An individual whose certificate has been expired for one year or longer may not renew the certificate that was 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) The Commission will provide proof of current certification to individuals whose certification has been renewed.

(e) All certificate holders are subject to the requirements of Section 57.491 of the Texas Education Code regarding license renewal and default on student loans.

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

B. Discussion and possible action on proposed amendments, new sections, repeals and rule reviews as follows:

3. **Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review of 37 TAC, Chapter 401, Practice and Procedure, Subchapter A, General Provisions and Definitions, including, but not limited to, §401.5, Delegation of Authority, §401.11, Conduct of Commission and Advisory Meetings, and §401.13, Computation of Time, Subchapter B, §401.17, Requirements, and §401.19, Petition for Adoption of Rules, Subchapter C, Examination Appeals Process, §401.21, Examination Challenge, and §401.123, Examination Waiver Request, Subchapter D, Disciplinary Proceedings, §401.31, Disciplinary Proceedings in Contested Cases, Subchapter E, §401.41, Preliminary Staff Conference, §401.43, Prehearing Conferences, §401.45, Interim Orders, §401.47, Appeal of an Interim Order, and §401.49, Prehearing Statements, Subchapter F, Contested Cases, §401.51, Preliminary Notice and Opportunity for Hearing, Subchapter H, Reinstatement, §401.117, Commission Action Possible upon Reinstatement, and Subchapter I, Notice and Processing Periods For Certificate Applications, 401.121, Purpose of Establishing Time Periods, §401.123, Notice of Deficiency, and §401.125 Processing Periods new Subchapter J, Charges For Public Records, §401.129, Charges for Public Records, and new Subchapter K, Historically Underutilized Businesses, §401.131, Historically Underutilized Businesses.**

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 Texas Commission on Fire Protection 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 effective January 2, 1998. To the extent that any provision of this chapter is in conflict with SOAH Rules of Procedures, the SOAH rules shall control.

§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 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) Executive Director--The 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) Presiding Officer--The chairman, the acting chairman, the executive director, or a duly authorized hearings officer.
- (23) Proceeding--Any hearing, investigation, inquiry, or other fact-finding or decision-making procedure, including the denial of relief or the dismissal of a complaint.
- (24) 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.

§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 executive director or designee.

§401.7. Construction.

- (a) A provision of a rule referring to the commission, the executive director, or a provision 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 executive director if the matter is within the jurisdiction of the executive director.
- (b) Unless otherwise provided by law, any duty imposed on the commission, the chairman, or the 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 executive director, shall be construed to also apply to the duly authorized representative of the commission, the chairman, or the executive director.

§401.9. Records of Official Action.

All official acts of the commission or the executive director shall be evidenced by a recorded or written record. Official action of the commission or the executive director shall not be bound or prejudiced by any informal statement or opinion made by any member of the commission, the executive director, or the employees of the agency.

§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[meeting] or **fire fighter** advisory committee meeting shall complete registration cards which shall be made available at the entry to the place where the commission's 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 that issues 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 ~~[General Counsel and] Executive Director~~, ~~Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286~~. Such requests should be submitted at least **15**~~[30]~~ days in advance of commission **or fire fighter advisory committee** meetings. ~~[, but in no event less than 15 days.]~~ The decision whether to place a matter on an agenda for discussion before the full commission, or alternatively before **the fire fighter advisory committee** ~~[a commission advisory committee]~~, or with designated staff members, shall be within the discretion of the appropriate presiding officer.

§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 ~~[by mail]~~ under §401.61 of this title (relating to Record) is deemed to have been notified on the date ~~[on]~~ which notice is **sent** ~~[mailed]~~.
- (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 **executive** director **or designee**, upon the following conditions:
- (1) A written motion must be duly filed with the **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.

§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.

Subchapter B

RULEMAKING PROCEEDINGS

§401.17. Requirements.

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

§401.19. Petition for Adoption of Rules.

- (a) Any person may petition the **commission** ~~[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 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; 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** ~~[Commission]~~ and any other interested person of the reasons and arguments on which the petitioner is relying.
- (c) The executive director shall direct that the petition for adoption of rules be placed on the next agenda for discussion by the **commission** ~~[Commission]~~ or **the fire fighter** ~~[an]~~ 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** ~~[Commission]~~ staff may request submission of additional information from the applicant to comply with the requirements of subsection (b) of this section.

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 for an informal conference to the Fire Service Standards and Certification division director 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 [~~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 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 [~~Commission~~] staff. If the examinee rejects the proposed agreement, the examinee must request a formal administrative hearing as described in Subchapter F of this chapter (relating to Contested Cases) within 30 days of the action complained of.

§401.23. Examination Waiver Request.

- (a) An individual who is required to take a commission [~~Commission~~] examination [~~pursuant to §439.15 of this title (relating to Testing for Proof of Proficiency) or §439.17 of this title (relating to Testing for Certification Status)~~] may petition the commission [~~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 [~~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 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 [~~Commission~~] staff. If the examinee rejects the proposed agreement, the applicant must request a formal administrative hearing as described in Subchapter F of this chapter (relating to Contested Cases) within 30 days of the action complained of.

SUBCHAPTER D
DISCIPLINARY PROCEEDINGS

§401.31. Disciplinary Proceedings in Contested Cases.

- (a) If the **commission** [~~Commission~~] staff recommends administrative penalties or any other sanction pursuant to Chapter 445 of this title (relating to Administrative Inspections and Penalties) or §401.105 of this title, (relating to Administrative Penalties) for alleged violations of laws or rules administered or enforced by the **commission** [~~Commission~~] and its staff, the respondent may request a preliminary staff conference in accordance with §401.41 of this title (relating to Preliminary Staff Conference).
- (b) 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 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** [~~Commission~~] staff. If the respondent rejects the proposed agreement, the respondent must request 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.

SUBCHAPTER E

PREHEARING PROCEEDINGS

§401.41. Preliminary Staff Conference.

- (a) **General.** After receipt of preliminary 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, pursuant to the Government Code, §419.906(c) and §2001.056.
- (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 ~~staff~~ legal counsel.
- (c) **Informal Proceedings.** The conference shall be informal, and will not follow procedure established in Subchapter F of this chapter (relating to Contested Cases) 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 restitution, remedial actions, or such reasonable restrictions that may be in the public interest. Recommendations for administrative penalties or monetary forfeitures shall be made in accordance with §401.105 of this title (relating to Administrative Penalties). 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 (relating to Contested Cases).
- (f) **Approval of Consent Order.** Following acceptance and execution of the settlement agreement recommended by staff, said proposed agreement shall be submitted to the executive director for approval. If the order is approved, it shall be signed by the 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.

§401.43. Prehearing Conferences.

The presiding hearings officer shall schedule prehearing conferences as necessary for the efficient management of the proceedings. The presiding hearings officer shall conduct prehearing conferences for any appropriate purpose, including consideration of the following:

- (1) motions and other preliminary matters related to the proceeding, including notice, discovery, and procedural schedules;
- (2) settlement of the case, or clarification and simplification of the issues;
- (3) the necessity or desirability of amended pleadings;
- (4) the possibility of obtaining stipulations that would avoid the unnecessary introduction of evidence;
- (5) evidentiary matters, including a request for interim relief;
- (6) the specific procedures to be followed at the hearing;
- (7) the scheduling of the hearing on the merits; and
- (8) any other matters as may assist the disposition of the proceeding in a fair and efficient manner.

§401.45. Interim Orders.

The presiding hearings officer shall issue orders covering procedural and discovery matters, requests for interim relief, and such other matters as may aid in the conduct of the hearing and efficient and fair disposition of the proceeding. Interim orders may be written or stated orally on the record.

§401.47. Appeal of an Interim Order.

- (a) Availability of Appeal. Appeals are available for any order of the presiding hearings officer that immediately prejudices a substantial or material right of a party, or materially affects the course of the hearing, other than evidentiary rulings. Interim orders shall not be subject to exceptions or applications for rehearing prior to issuance of a report of a hearing officer.
- (b) Procedure for Appeal. If the presiding hearings officer intends to reduce an oral ruling to a written order, the presiding hearings officer shall so indicate on the record at the time of the oral ruling and shall promptly issue the written order. Any appeal to the executive director as to matters within his or her jurisdiction shall be filed within five working days of the issuance of the written order or the appealable oral ruling. The appeal shall be served on all parties by hand delivery, facsimile transmission, or by overnight courier delivery.
- (c) Contents. An appeal shall specify the reasons why the interim order is unjustified or improper.
- (d) Responses. Any response to an appeal shall be filed within five working days of the filing of the appeal.
- (e) Motions for Stay. Pending a ruling by the executive director, the presiding hearings officer may, upon motion, grant a stay of the interim order. A motion for a stay shall

specify the basis for a stay. Good cause shall be shown for granting a stay. The mere filing of an appeal shall not stay the interim order or the procedural schedule.

- (f) Denial. The executive director shall rule on the interim order within 20 days of the filing of the appeal. If the executive director does not rule on the appeal within 20 days of its filing, or extend the time for ruling, the interim order is deemed approved and any granted stay is lifted. The appeal may be carried with the underlying case provided the executive director does not act upon the appeal within the time provided in this section.
- (g) Reconsideration. The presiding hearings officer may treat an appeal as a motion for reconsideration and may withdraw or modify the order under appeal prior to a decision on the appeal.

§401.49. Prehearing Statements.

- (a) Prehearing Statements Required. Each party shall file a prehearing statement no later than three days before the start of a hearing unless the presiding officer determines that such a requirement would add unjustified burden and expense to the proceeding, or that a different deadline should be imposed. The presiding hearings officer may impose sanctions provided in §401.103 of this title (relating to Discovery Sanctions) against any party who fails to comply with the requirement that a prehearing statement be filed.
- (b) Contents of Prehearing Statement. Unless otherwise provided by order of the presiding hearings officer, the prehearing statement shall contain the following information:
 - (1) a concise statement of the party's position in the proceeding;
 - (2) a concise statement of each question of fact, law, or policy the party considers at issue;
 - (3) a concise statement of the party's position on each issue identified pursuant to paragraph (2) of this subsection;
 - (4) a statement of issues that have been resolved by agreement of the parties, including agreements that do not include all parties; and
 - (5) a statement as to any requirement set forth in the prehearing order that cannot be complied with, the reasons for noncompliance, and such other information as will aid in achieving an orderly disposition of the proceeding.

SUBCHAPTER F

CONTESTED CASES

§401.51. Preliminary Notice and Opportunity for Hearing.

- (a) 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 effective **November 26, 2008** [~~January 2, 1998~~].
- (b) Preliminary Notice. A revocation, suspension, annulment, or withdrawal of a certificate or license is not effective unless, before the institution of agency 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, as required by Government Code, §2001.054(c).
- (c) Staff Conference. The holder of the certificate may request a conference with ~~[the]~~ **commission** [~~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, pursuant to the Government Code, §419.906(c) and §2001.056, and the procedures provided in §401.41 of this title (relating to Preliminary Staff Conference).
- (d) Request for Hearing. Except as otherwise provided by law, if an applicant's original application or request for certificate is denied, he or she shall have 30 days from the date of denial to make a written request for a hearing, and if so requested, the hearing will be granted and the provisions of the APA and this chapter with regard to contested cases shall apply.

§401.53. Notice of Hearing.

- (a) Notice in a contested case shall comply with the APA, §2001.051 and §2001.052.
- (b) Deposit in the United States mails of a registered or certified letter, return receipt requested, containing a notice of a hearing in compliance with the requirements specified in this rule, or containing a copy of any decision or order addressed to the affected party or the attorney of record for the party at the party's last known address, shall constitute notice of the hearing or of such decision or order. The date of deposit as herein provided is the date of the act, after which any designated period begins to run as provided in §401.13 of this title (relating to Computation of Time).

§401.55. Hearings Officer.

- (a) The executive director may designate and appoint a hearings officer to act on his or her behalf in conducting any hearing or proceeding held under this chapter and to prepare proposals for decision on those hearings.
- (b) The hearings officer has the authority to administer oaths; call and examine witnesses; issue subpoenas; make rulings on motions, admissibility of evidence, and amendments to pleadings; maintain decorum; schedule and recess the proceedings from day to day; and make any other orders as justice requires.

- (c) If the hearings officer is unable to continue presiding over a case at any time before the final decision, another officer will be appointed who shall perform any remaining function without the necessity of repeating any previous proceedings.

§ 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 ten calendar days of the date of the proposal for decision.
- (c) Replies to exceptions shall be filed within 20 calendar days of the date of the proposal for decision.
- (d) All disagreements with the factual finds of the proposal for decision must be made in the parties' exceptions to the proposal for decision or be waived.
- (e) 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.

§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 executive director and either adopted or modified and adopted. An order issued by the hearings officer may be modified or vacated only for reasons of policy, with the reasons and legal basis clearly stated in writing. All final decisions or orders of the commission or the 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.

§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 bear the expense thereof in accordance with the usual and customary charges of a court reporter. Should two or more parties make such request, the cost shall be borne on a pro rata basis. This section does not limit the agency to a stenographic record of proceedings.

§401.63. Appeals to the Commission.

- (a) In general. Any party aggrieved of a final decision or order of the 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 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.

- (b) **Standard of Review.** The review of decisions of the executive director by the commission shall be based on the substantial evidence rule. In reviewing any final decision or order of the executive director, the commission may consider the record in the contested case developed before the executive director or the assigned examiner, and may not consider evidence not presented to or officially noticed by the executive director or the hearings officer. A party may apply to the commission to present additional evidence. If the commission is satisfied that the additional evidence is material and that there were good reasons for the failure to present it in the proceeding before the executive director, the commission may order that additional evidence be taken before the assigned hearings officer on conditions set by the commission. The executive director may change his or her findings and decision by reason of the additional evidence and shall file the additional evidence and any changes, new findings, or decisions with the commission.
- (c) **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 executive director.

§401.65. Suspension of Orders.

Pending appeal and final disposition of a matter, the commission, for good cause, may suspend the effectiveness of the executive director's orders. A request for hearing does not of itself stay an official act or order unless the official act or order is stayed by controlling law.

§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.

SUBCHAPTER G

CONDUCT AND DECORUM, SANCTIONS, AND PENALTIES

§401.101. Conduct and Decorum.

- (a) Standard of conduct during adjudicative proceedings.
 - (1) The hearings officer and the party representative should refer to the Texas Disciplinary Rules of Professional Conduct for guidance, regardless of whether all participants are licensed attorneys (Texas State Bar Rules, Article 10, §9).
 - (2) Party representatives shall maintain high standards of professionalism during the administrative process and promote an atmosphere of civility and fairness.
 - (3) A party representative shall use these rules for legitimate purposes and not for dilatory purposes or to harass or intimidate other participants.
- (b) Exclusion or disqualification of party representatives.
 - (1) Contemptuous conduct. A hearings officer may exclude or disqualify a party representative from participating in an agency hearing for contemptuous conduct. The hearings officer shall warn the party representative prior to exclusion, if possible. Contemptuous conduct includes:
 - (A) actual or threatened physical assault of any participant to the proceeding;
 - (B) knowingly or recklessly making a false statement of material fact or law to the hearings officer;
 - (C) counseling or assisting a witness to testify falsely;
 - (D) knowingly or recklessly offering or using false evidence;
 - (E) filing a frivolous or knowingly false pleading or other document, or filing a frivolous or knowingly false defense. A frivolous filing is one:
 - (i) primarily for the purpose of harassing or maliciously injuring another person; or
 - (ii) for which the party representative is unable to make a good faith argument for an extension, modification, or reversal of existing law;
 - (F) paying, offering to pay, or acquiescing in a payment or offer of payment to a witness based on the content of the witness' testimony or the outcome of the proceeding;
 - (G) continually violating an established rule of agency procedure or of evidence;
 - (H) raising superfluous objections or otherwise unreasonably delaying the proceeding or increasing the costs or other burden of the proceeding;

- (I) misrepresenting, mischaracterizing, or misquoting facts or law to gain unfair advantage;
 - (J) except as otherwise permitted by law, communicating or causing someone else to communicate with the hearings officer without the knowledge and consent of opposing party representatives in order to gain unfair advantage or to influence the proceeding;
 - (K) using vulgar or abusive language during the proceeding; and
 - (L) engaging in disruptive conduct.
- (2) Conflicts of interest. A hearings officer may disqualify a party representative from participating in a proceeding if the hearings officer decides that the party representative has a conflict of interest. Conflicts of interest can be, but are not limited to, the following:
- (A) when a party representative who previously acted as a public officer or employee on a matter later attempts to represent a private client on the same matter, unless the appropriate government agency consents;
 - (B) when a party representative who serves as a public officer or employee on a matter negotiates for private employment with a party or party representative involved in the same matter;
 - (C) when a party representative who serves as a public officer or employee participates in a matter involving a former private client whom he or she represented on the same matter, unless no one may legally act in the attorney's stead;
 - (D) when an attorney engages in the practice of law while under suspension or in violation of a disciplinary order or judgment; and
 - (E) any other conflict of interest that, in the opinion of the hearings officer, offends the dignity and decorum of the proceeding.
- (3) Procedures for excluding or disqualifying a party representative.
- (A) Notice. The hearings officer shall state the specific reason for excluding or disqualifying a party representative on the record or in a written order. The hearings officer shall notify the affected party and representative of the exclusion or disqualification personally or by certified mail.
 - (B) Reasonable time for substitution. After the hearings officer has excluded or disqualified a party representative, the affected party or party representative shall have reasonable time to appeal to the executive director. If the exclusion or disqualification order is sustained, the party shall have a reasonable time to substitute a new representative. In determining a reasonable time, the hearings officer shall consider the right of opposing parties to have the proceeding resolved without undue delay. The hearings officer may therefore align the affected party with another party in interest instead of permitting a substitution.
 - (C) Appeal of exclusion or disqualification. A party or party representative may appeal the exclusion (if it is for a period of more than eight hours) or

disqualification to the executive director pursuant to §401.47 of this title (relating to Appeal of an Interim Order).

- (D) No further participation. After being disqualified from the proceeding, a party representative may not provide further assistance, either directly or indirectly, to any party with regard to the proceeding, except to the extent reasonably necessary to make an appeal of the disqualification order pursuant to §401.47 (relating to Appeal of an Interim Order) of this title and to complete the withdrawal and substitution of a new party representative.
- (E) No recusal. The exclusion or disqualification of a party representative by a hearings officer is not a ground for recusal of the hearings officer in the same or any subsequent proceeding.

§401.103. Discovery Sanctions.

- (a) After notice and opportunity for hearing, an order imposing sanctions, as are just, may be issued by the hearings officer for failure to comply with a discovery order or subpoena issued pursuant to a Commission for deposition or production of books, records, papers, or other objects. The order imposing sanctions may:
 - (1) disallow any further discovery of any kind or of a particular kind of disobedient party;
 - (2) require the party, the party's representative, or both to obey the discovery order;
 - (3) require the party, the party's representative, or both to pay reasonable expenses, including attorney fees, incurred by reason of the party's noncompliance;
 - (4) direct that the matters regarding which the discovery order was made shall be deemed established in accordance with the claim of the party obtaining the order;
 - (5) refuse to allow the disobedient party to support or oppose designated claims or defenses or prohibit the party from introducing designated matters into evidence;
 - (6) strike pleadings or parts thereof or abate further proceedings until the order is obeyed; or
 - (7) dismiss the action or proceeding or any part thereof or render a decision by default against the disobedient party.
- (b) Appellate Review. Any discovery order or subpoena and any order imposing sanctions issued by the hearings officer is subject to review by an appeal to the executive director in accordance with §401.47 of this title (relating to Appeal of an Interim Order).

§401.105. Administrative Penalties.

- (a) The commission, acting through the 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 thereunder, as provided by Government Code, §419.906.
- (b) In determining the amount of the administrative penalty or monetary forfeiture the 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.

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.

§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.

§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.

§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;** ~~[and]~~

~~[(5) require monitoring of the applicant's work activity as specified by the commission.]~~

- (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.**

§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 executive director may authorize an exception to this rule.

SUBCHAPTER I

NOTICE AND PROCESSING PERIODS FOR CERTIFICATE APPLICATIONS

§401.121. Purpose of Establishing Time Periods.

In order to minimize delays [~~which hamper small businesses and other enterprises~~], this subchapter **establishes** [~~established~~] time periods within which the Texas Commission on Fire Protection 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.

§401.123. Notice of Deficiency.

~~[(a) — Manner of Notice.]~~Written notice that an application is [~~complete or~~] deficient must be mailed to the applicant or delivered by such means as will reasonably provide actual notice.

~~[(b) — Written Notice Not Required. Written notice that an application is complete shall not be required under this subchapter if an application is approved and a license issued during the notice period.]~~

§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 [~~immediately~~] issue written notice **in accordance with §401.123** 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 [~~within 30 days of its original receipt~~]. 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.
- ~~[(c) — Application disapproved. The agency may disapprove an application that is not complete within 30 days of its original receipt by the agency.]~~

§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 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 executive director.
- (c) Decision. An appeal filed under this section shall be decided in the applicant's favor if the 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 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 Appeals to the Commission).
- (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.

SUBCHAPTER J**CHARGES FOR PUBLIC RECORDS****§401.129. Charges for Public Records.**

- (a) The Texas Commission on Fire Protection 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 Texas Commission on Fire Protection 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 executive director may waive or reduce a charge for copies when furnishing the information benefits to the general public.**

SUBCHAPTER K**HISTORICALLY UNDERUTILIZED BUSINESSES****§401.131. Historically Underutilized Businesses.**

The Texas Commission on Fire Protection 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.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - B. **Discussion and possible action on proposed amendments, new sections, repeals and rule reviews as follows:**
 4. **Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review of 37 TAC, Chapter 403, Criminal Convictions and Eligibility for Certification, including, but not limited to, §403.1, Purpose, §403.3 Scope, §403.5, Access to Criminal History Record Information, §403.9, Mitigating Factors, §403.11, Procedures for Suspension, Revocation, or Denial of a Certificate to Persons with Criminal Backgrounds, and §403.15, Report of Convictions by an Individual or a Department.**

Chapter 403

CRIMINAL CONVICTIONS AND ELIGIBILITY FOR CERTIFICATION

§403.1. Purpose.

- (a) The purpose of this chapter is to establish **policy, procedures**~~[guidelines]~~ and criteria on the eligibility of persons with a criminal conviction for a certificate or renewal of a certificate issued by the Texas Commission on Fire Protection (the **commission**~~[Commission]~~) and to establish procedures for suspension, probation, revocation, or denial of a certificate held or applied for by persons with a criminal conviction pursuant to Chapter 53, Texas Occupations Code.
- (b) The duties and responsibilities of persons who hold certifications issued by the **commission** ~~[Commission]~~ each involve matters that directly relate to public safety, specifically to the reduction of loss of life and property from fire. Thus, conduct involving the injury to a person or the destruction of property by fire, relates directly to the fitness of the individual to be fire protection personnel. Fire protection personnel often have access to areas not generally open to the public. The public relies on the honesty, trustworthiness, and reliability of persons certified by the **commission**~~[Commission]~~. Thus, crimes involving moral turpitude, including, but not limited to, fraud and dishonesty, are directly relevant. In addition, the ability of such persons to function unimpaired by alcohol or the illegal use of drugs, in dangerous or potentially dangerous circumstances, including, but not limited to, the operation of emergency vehicles is paramount in light of the duty to protect the health and safety of the public.

§403.3. Scope.

- (a) The **policy and procedures**~~[guidelines]~~ established in this chapter apply to a person who holds or applies for any certificate issued under the **commission's**~~[Commission's]~~ regulatory authority contained in Government Code, Chapter 419.
- (b) When a person is charged with, or 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 engages in conduct 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, 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**~~[Commission]~~ may consider the person's conduct even though a final conviction has not occurred and may:
- (1) deny to 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**~~[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**~~[Commission]~~, the **commission** ~~[Commission]~~ may:
- (1) deny to 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**. [Commission.]

§403.5. Access to Criminal History Record Information.

- (a) Criminal history record. The **commission**[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**[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**. [Commission.]
- (c) Early review. A fire department that employs a person regulated by the **commission**[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** [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 **submitting the required forms and fee(s)**. [~~providing the person's full name, date of birth and any additional identifying information requested by the Commission.~~] A decision based on an early review does not bind the **commission** [Commission] if there is a change in circumstances.

§403.7. Criminal Convictions Guidelines.

- (a) The following crimes are considered to relate directly to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of persons certified by the commission:
 - (1) offenses under the Government Code, Chapter 419, relating to the Texas Commission on Fire Protection;
 - (2) offenses under the Texas Transportation Code Title 6 Roadways, which are punishable by fines greater than \$200, or imprisonment, or both fine and imprisonment;
 - (3) offenses under the Health and Safety Code, Chapter 481, concerning controlled substances;
 - (4) offenses under the Health and Safety Code, Chapter 483, concerning dangerous drugs;
 - (5) offenses under the following titles of the Texas Penal Code:
 - (A) Title 5-offenses against the person;
 - (B) Title 6-offenses against the family;
 - (C) Title 7-offenses against property;
 - (D) Title 8-offenses against public administration;
 - (E) Title 9-offenses against public order and decency;

(F) Title 10-offenses against public health, safety and morals;

(G) Title 11-offenses involving organized crime; and

(H) Title 4-inchoate offenses Chapter 15 preparatory offenses to any of the offenses in this section;

(6) the offenses listed in this subsection are not inclusive, in that the commission may consider other particular crimes in special cases in order to promote the intent of the statutes administered by the commission.

(b) In all cases the commission shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring the certificate issued by the commission;

(3) the extent to which the certificate might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the certificate holder;

(5) the level and nature of supervision of the person by others; and

(6) the level and nature of access to public, commercial, and residential properties, including access after regular business hours and access to areas not open to the general public.

§403.9. Mitigating Factors.

(a) In addition to the factors that must be considered under §403.7 of this title (relating to Criminal Convictions Guidelines), in determining the present fitness of a person who has been convicted of a crime, the **commission**~~[Commission]~~ shall consider the following evidence:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness, including letters of recommendation from:

(A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other persons in contact with the convicted person.

(b) It shall be the responsibility of the applicant to the extent possible to secure and provide to the commission **as required** the recommendations of prosecution, law enforcement, and correctional authorities as required by statute and these rules upon request by the commission staff. The applicant shall **upon request** also furnish:

(1) a copy of the indictment, information or complaint;

(2) a copy of the judgement(s) or order(s) of the court adjudicating guilt, granting probation, community supervision, deferred adjudication, or discharge from probation or community supervision;

- (3) a record of steady employment in the form of a letter from current or former employers;
- (4) a record that the applicant has supported his or her dependents in the form of a letter from a person in the applicant's community with personal knowledge of the circumstances;
- (5) evidence that the applicant has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted, in the form of copies of official records, documents, or a letter from the person's probation or parole officer where applicable concerning his or her current status; and
- (6) a copy of the police or offense report(s).

§403.11. Procedures for Suspension, Revocation, or Denial of a Certificate to Persons with Criminal Backgrounds.

- (a) If the **commission** [~~Commission~~] Standards Division (the division) proposes to suspend, revoke, limit, or deny a certificate based on the criteria in this chapter, the division shall notify the individual **per Government Code, Chapter 2001**. [~~at his or her last known address as shown in the Commission's records, by registered or certified mail.~~] The notice of intended action shall specify the facts or conduct alleged to warrant the intended action.
- (b) If the proposed action is to limit, suspend, revoke, or refuse to renew a current certificate, or deny an application for a new certificate, a written notice of intended action shall comply with the preliminary notice requirements of Government Code §2001.054(c). The individual may request, in writing, an informal conference with the **commission** [~~Commission~~] staff in order to show compliance with all requirements of law for the retention of the certificate, pursuant to Government Code §2001.054(c). A written request for an informal staff conference must be submitted to the division director no later than 15 days after the date of the notice of intended action. If the informal staff conference does not result in an agreed consent order, a formal hearing shall be conducted in accordance with the Administrative Procedure Act, Government Code, Chapter 2001.
- (c) If the individual does not request an informal staff conference or a formal hearing in writing within the time specified in this section, the individual is deemed to have waived the opportunity for a hearing, and the proposed action will be taken.
- (d) If the **commission** [~~Commission~~] limits, suspends, revokes, or denies a certificate under this chapter, the executive director shall give the person written notice:
 - (1) of the reasons for the decision;
 - (2) that the person may appeal the decision of the executive director to the **commission** [~~Commission~~] in accordance with §401.63 of this title (relating to Appeals to the Commission) within 30 days from the date the decision of the executive director is final and appealable;
 - (3) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, Texas, for judicial review of the evidence presented to the **commission** [~~Commission~~] and its decision; and that such petition must be filed with the court no later than 30 days after the **commission** [~~Commission~~] action is final and appealable.

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

- (a) A certificate holder **must** [~~shall~~] report to the **commission** [~~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 fire department or local government **entity** [~~regulated by the Commission~~] shall report to the **commission** [~~Commission~~], any conviction of a certificate holder [~~employed by the regulated entity,~~] 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 section (a) above. Each day may be considered a separate offense.**

(d) A fire department or government entity regulated by the commission violating section (b) above 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 #0014 shall be used.

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

B. Discussion and possible action on proposed amendments, new sections, repeals and rule reviews as follows:

- 5. Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review and repeal of 37 TAC, Chapter 405, Charges For Public Records, including, but not limited to, §405.1, General Provisions Regarding Charges for Public Records, §405.3, Definitions, §405.5, Charges For Providing Copies of Public Information, §405.7, Access to Information Where Copies Are Not Requested, §405.9, Format for Copies of Public Information, §405.11, Estimates and Waivers of Public Information Charges, and §405.15, The Texas Commission on Fire Protection Charge Schedule.**

Chapter 405

CHARGES FOR PUBLIC RECORDS

~~§405.1. General Provisions Regarding Charges for Public Records.~~

- ~~(a) State agencies, including the Texas Commission on Fire Protection, are subject to the Texas Public Information Act, codified at Texas Government Code, Chapter 552. The Act gives the public the right to request access to government information. The Texas Building and Procurement Commission has adopted rules for use by each state agency in determining charges for public records. When a request for public records is made for more than 50 pages of readily available information, the Commission is authorized to establish charges up to the full cost to the Commission of providing the copies.~~
- ~~(b) The Texas Commission on Fire Protection has considered and conformed its rules to the Texas Building and Procurement Commission's rules in 1 TAC, Chapter 111, for charges for public records. These rules may also be used to determine what the Commission may charge another state agency for public information.~~
- ~~(c) Utilization of standard charges, as determined by the Texas Building and Procurement Commission, enhances the public's understanding of how costs for public information have been calculated. The charges for public information may not be excessive and should be reasonable and not effectively bar access to information.~~
- ~~(d) These rules adopted in this chapter supersede any other rules applicable to charges for public records adopted by the Texas Commission on Fire Protection or its predecessors and are intended to apply to all of the Commission's programs and divisions.~~

~~§405.3. Definitions.~~

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

- ~~(1) Actual cost—The sum of all direct costs plus a proportional share of overhead or indirect costs. Actual cost should be determined in accordance with rules adopted by the Texas Building and Procurement Commission.~~
- ~~(2) Commission—The Texas Commission on Fire Protection.~~
- ~~(3) Nonstandard copy—A copy of public information that is made available to a requestor in any format other than a standard-size paper copy. Diskettes, magnetic tapes, and CD-ROM are examples of nonstandard copies. Paper copies larger than 8 1/2 by 14 inches (legal size) are also considered nonstandard copies.~~
- ~~(4) Readily available information—Information that already exists in printed form, or information that is stored electronically and is ready to be printed or copied without requiring any programming. Information that requires a substantial amount of time to locate or prepare for release is not readily available information. The Commission may compile and maintain information, especially information that is likely to be the subject of repeated requests for access or copies, in a manner that maximizes the ready availability of the information. In determining whether to charge for providing copies of public records, the Commission may take into account not only whether the information is in fact readily available, but also whether, in the exercise of efficient recordkeeping, it could or should have been readily available.~~
- ~~(5) Standard paper copy—A printed impression on one side of a piece of paper that measures up to 8 1/2 by 14 inches. Each side of a piece of paper on which an impression is made is counted as a single copy. A piece of paper that is printed on both sides is counted as two copies.~~

~~§405.5. Charges for Providing Copies of Public Information.~~

- ~~(a) Basis for Charges. The charges stated in this section to recover costs associated with providing public information are based on estimated average costs to state agencies.~~
- ~~(b) Copy charge.~~

~~(1) Standard size paper copy The charge for standard size paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.~~

~~(2) Nonstandard copy The charges for nonstandard copies are:~~

~~(A) Diskette \$1.00/each;~~

~~(B) Audio cassette \$1.00/each;~~

~~(C) Oversize Paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper — see 1 TAC §111.69) \$.50/each;~~

~~(D) Rewritable CD (CD RW) \$1.00/each;~~

~~(E) Non rewritable CD (CD R) \$1.00/each;~~

~~(F) Magnetic tape actual cost;~~

~~(G) Data cartridge actual cost;~~

~~(H) Tape cartridge actual cost;~~

~~(I) Digital video disc (DVD) \$3.00;~~

~~(J) JAZ drive actual cost;~~

~~(K) VHS video cassette \$2.50;~~

~~(L) Specialty paper (e.g., Mylar, blueprint, blue-line, map, photographic) actual cost; and~~

~~(M) other electronic media actual cost.~~

~~(3) The charges in this section are to recover the cost of materials onto which information is copied and do not reflect any additional charges that may be associated with a particular request.~~

~~(c) Personnel charge.~~

~~(1) The charge for personnel costs incurred by the Commission in processing a request for public information is \$15 per hour, including fringe benefits. The personnel charge includes the actual time spent to take requests, locate and compile documents, and reproduce requested information. Where applicable, the personnel charge is prorated to cover the cost for personnel time spent.~~

~~(2) A personnel charge may not be billed in connection with complying with requests that are for 50 or fewer pages of readily available information.~~

~~(3) Personnel time may not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:~~

~~(A) to determine whether the Commission will raise any exceptions to disclosure of the requested information under Subchapter C of the Public Information Act; or~~

~~(B) to research or prepare a request for a ruling by the Attorney General's Office pursuant to Texas Government Code, §552.301 (the Public Information Act).~~

~~(d) Overhead charge.~~

~~(1) In response to a request for information that is not readily available or for in excess of 50 pages of readily available information, the Commission may include in the charges direct and indirect costs, in addition to the personnel charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair,~~

utilities and administrative overhead. If the Commission chooses to recover such costs, a charge may be made in accordance with the methodology described in paragraph (3) of this subsection.

(2) — An overhead charge should not be made for requests for readily available information of fewer than 50 pages.

(3) — The overhead charge may be computed at 20% of any charge made to cover personnel costs associated with a particular request. This is the standard methodology as set out in the Texas Building and Procurement Commission rules (1 TAC, §111.63), which state that the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.

(e) — Remote document retrieval charge.

(1) — Due to limited on-site capacity of storage of documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort will be made by the Commission to store such documents with the Texas State Library, which is equipped to provide such a service free of charge. To the extent that charges for retrieval of documents result in a charge to the Commission to comply with a request, it is permissible for the Commission to recover costs of such services. Where a charge is made for document retrieval, no additional personnel charge will be factored in for time spent locating documents.

(2) — Such charge may be waived if the request is for 50 pages or fewer of readily available information.

(f) — Computer resource charge.

(1) — The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.

(2) — These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to open records requests.

(3) — The charges in this subsection are averages based on a survey of state agencies with a broad range of computer capabilities. The Commission has determined that the category of computer type which most closely fits its existing system is a personal computer or LAN and has set its charge accordingly at \$1.00 per clock hour in accordance with Texas Building and Procurement Commission rules.

(4) — The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather, it is solely to recover costs associated with the actual time required by the computer to execute a program. This time frame most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (g) of this section. No charge should be made for computer print-out time.

(g) — Programming time. If a particular request requires the services of a programmer to enter data in order to execute an existing program or to create a new program so that the requested information may be accessed and copied, the Commission may charge for the programmer's time. The average hourly salary of a programmer for the State of Texas is currently \$28.50 an hour, including fringe benefits, which is the charge to be used in these rules. Any charge for programming should be prorated. Only programming services should be charged at this hourly rate. Any personnel time spent in performing services other than programming should be charged at the rate for personnel as described in subsection (e)(1) of this section.

(h) — Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, binders and other supplies used to produce the requested information may be added to the total charge for public information.

(i) — Postal and shipping charges. The Commission may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

(j) — Fax charge. The charge for a fax transmitted locally is \$.10 per page. The charge for a long distance transmission is \$.50 per page for a fax sent within the Commission's area code, and \$1.00 per page for a fax transmitted to a different area code.

(k) — Sales tax. Sales tax shall not be added on charges for public information.

(l) ~~Updating of Charges. The Commission shall reevaluate and update these charges as necessary.~~

~~§405.7. Access to Information Where Copies Are Not Requested.~~

- (a) ~~Access to information in standard form. The Commission may not charge for making available for inspection information maintained in standard form, with the following exceptions:~~
- (1) ~~if the information is located at a remote document storage center and the Commission will incur a retrieval charge in order to make the information available, the Commission may charge the requesting party the actual cost of retrieval; or~~
 - (2) ~~if the information requested takes more than five hours to prepare for inspection; and~~
 - (A) ~~is older than five years; or~~
 - (B) ~~completely fills, or when assembled will completely fill, six or more archival boxes.~~
- (b) ~~Access to information in other than standard form. In response to requests for access, for purposes of inspection only, to information that is maintained in other than standard form, the Commission may charge the requesting party the cost of preparing and making available such information if complying with the request will require programming or the manipulation of data.~~

~~§405.9. Format for Copies of Public Information.~~

~~To the extent possible the Commission will attempt to accommodate a requesting party by providing information in the format requested. The extent to which a requestor can be accommodated will depend largely on the technological capability of the Commission. The Commission is not required to acquire software or programming capabilities that it does not already possess to accommodate a particular kind of request. However, the Commission will take into account in its data processing planning the public's interest in obtaining access to information and the ways in which such access can be facilitated through acquisition of improved technology.~~

~~§405.11. Estimates and Waivers of Public Information Charges.~~

- (a) ~~In accordance with 1 TAC, Chapter 111, the Commission will provide to the party requesting copies of public information an itemized statement of estimated charges if charges for copies of public information or if charges for making public information available for inspection will exceed \$40. The itemized statement will contain the following information:~~
- (1) ~~the itemized charges, including any allowable charges for personnel time, overhead, copies, etc; and~~
 - (2) ~~whether a less costly or no cost way of viewing the information is available.~~
- (b) ~~The requestor must respond to the itemized statement in writing by mail, in person, by facsimile or email within 10 business days after the date the statement is sent, or the request will be considered to have been automatically withdrawn by the requestor. The written response must contain one of the following statements:~~
- (1) ~~that the requestor will accept the estimated charges; or~~
 - (2) ~~that the requestor is modifying the request in response to the itemized statement; or~~
 - (3) ~~that the requestor has sent to the Texas Building and Procurement Commission a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.~~
- (c) ~~If the Commission cannot produce the requested public information and/or duplication within 10 business days after the date the written response from the requestor has been received, the Commission will certify to that fact in writing and set a date and hour within a reasonable time, as to when the information will be available.~~
- (d) ~~The Commission will furnish public records without charge or at a reduced charge if it determines that a waiver or reduction is in the public interest because providing the copy of the information primarily benefits the general public.~~

- (e) ~~If the estimated charges are \$100 or more, the Commission may require a bond for the entire estimated amount or a deposit not to exceed 50 percent of the entire estimated charges.~~
- (f) ~~Where a particular request will involve considerable time and resources to process, the Commission staff will advise the requesting party of what may be involved and an estimated date of completion. All efforts will be made to process requests as efficiently as possible so that requested information will be provided at the lowest possible charge. When the Commission charges for public information, full disclosure will be made to the requesting party as to how the charges were calculated.~~

~~§405.15. The Texas Commission on Fire Protection Charge Schedule.~~

~~The following are the charges for copies of public information according to the type of service rendered. No sales tax shall be applied to copies of public information.~~

- (1) ~~Standard paper copy \$.10 per page.~~
- (2) ~~Nonstandard copy.~~
- (A) ~~Diskette \$1.00 each.~~
- (B) ~~Audio cassette \$1.00 each.~~
- (C) ~~Oversize Paper copy \$.50 each.~~
- (D) ~~Rewritable CD (CD-RW) \$1.00 each.~~
- (E) ~~Non-rewritable CD (CD-R) \$1.00 each.~~
- (F) ~~Magnetic tape Actual cost.~~
- (G) ~~Data cartridge Actual cost.~~
- (H) ~~Tape cartridge Actual cost.~~
- (I) ~~Digital video disc (DVD) \$3.00.~~
- (J) ~~JAZ drive Actual cost.~~
- (K) ~~VHS video cassette \$2.50.~~
- (L) ~~Specialty paper (e.g., Mylar, blueprint, blue-line, map, photographic) Actual cost.~~
- (M) ~~other electronic media Actual cost.~~
- (3) ~~Personnel charge.~~
- (A) ~~Programming Personnel \$28.50 per hour.~~
- (B) ~~Other Personnel \$15 per hour.~~
- (4) ~~Overhead charge 20% of personnel charge.~~
- (5) ~~Remote document retrieval charge Actual cost.~~
- (6) ~~Computer resource charge, PC or LAN \$1.00 per clock hour.~~
- (7) ~~Computer resource charge, Midsize computer \$1.50 per CPU minute.~~
- (8) ~~Computer resource charge, Client/Server \$2.20 per clock hour.~~
- (9) ~~Miscellaneous supplies Actual cost.~~

~~(10) Postage and shipping Actual cost.~~

~~(11) Fax charge.~~

~~(A) Local \$.10 per page.~~

~~(B) Long distance, same area code \$.50 per page.~~

~~(C) Long distance, different area code \$1.00 per page.~~

~~(12) Outsourced/Contracted Services Actual cost (may not include development costs).~~

~~(13) Other costs Actual cost.~~

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - B. **Discussion and possible action on proposed amendments, new sections, repeals and rule reviews as follows:**
 6. **Proposed amendments pursuant to Section 2001.039, Texas Government Code regarding rule review and repeal of 37 TAC, Chapter 407, Administration, including, but not limited to, §407.1 Historically Underutilized Businesses.**

Chapter 407

ADMINISTRATION

§407.1. Historically Underutilized Businesses.

- (a) ~~The Commission adopts by reference the rules of the Texas Building and Procurement Commission in Texas Administrative Code, Title 1, Part 5, Chapter 111, Subchapter B (relating to Historically Underutilized Business Program). Certification of a business as a historically underutilized business remains the responsibility of the Texas Building and Procurement Commission.~~
- (b) ~~The adoption of this rule is required by Texas Government Code, §2161.003 (as added by the 76th Legislature, effective September 1, 1999).~~

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - C. **Report from the Curriculum and Testing Committee with discussion and possible action on amendments to the Certification Curriculum Manual, regarding new Chapter 10, Fire Department Safety Officer including reference list and curriculum outline.**

**CHAPTER TEN
FIRE DEPARTMENT SAFETY OFFICER
INCIDENT SAFETY OFFICER
CURRICULUM OUTLINE**

SECTION	SUBJECT	RECOMMENDED HOURS
1002-4.4	Assignment of the Incident Safety Officer	1
1002-4.5	Qualifications of the Incident Safety Officer	2
1002-4.6	Authority of the Incident Safety Officer	1
1002-5.2	Laws, Codes and Standards	1
1002-6.1	General Functions of the Incident Safety Officer	1
1002-6.2	Fire Suppression	4
1002-6.3	Emergency Medical Service Operations	2
1002-6.4	Technical Rescue	3
1002-6.5	Hazardous Materials Operations	3
1002-6.6	Accident Investigation and Review	1
1002-6.7	Post-Incident Analysis	1
1002	Performance Skills*	4
TOTAL RECOMMENDED HOURS		24

*The recommended hours for skills evaluation is based on 12 students. Actual hours needed will depend on the number of students, the number of examiners, availability of equipment, and the student skill level.

**REFERENCE LIST FOR THE
FIRE DEPARTMENT SAFETY OFFICER
INCIDENT SAFETY OFFICER CURRICULUM**

Certified Training Facilities approved to teach this curriculum must have the following reference materials:

Fire Department Safety Officer (2nd ed.) (2007). Dodson, David D., Clifton Park, NY: Thomson Delmar Learning.

NFPA 1500: Standard on Fire Department Occupational Safety and Health Program (2007 ed.). Quincy, MA: National Fire Protection Association NFPA Publications

NFPA 1521: Standard for Fire Department Safety Officer (2008 ed). Quincy, MA: National Fire Protection Association NFPA Publications

Certification Curriculum Manual for Fire Protection Personnel, Austin, TX: Texas Commission on Fire Protection

Standards Manual for Fire Protection Personnel, Austin, TX: Texas Commission on Fire Protection

SECTION 1002

FIRE DEPARTMENT SAFETY OFFICER INCIDENT SAFETY OFFICER

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 by having and maintaining a knowledge of:

- Emergency operations,
- Building construction,
- Fire science and behavior relative to predicting hostile fire events,
- The fire department's personnel accountability system,
- Incident scene rehabilitation strategies.

Additional Incident Safety Officer duties include:

- Risk evaluation
- Resource evaluation
- Hazard identification and communication
- Action plan review
- Safety briefings
- Collapse zoning
- Accident investigation
- Postincident analysis
- Safety committee participation

The Safety Officer: An Introduction

- A. Safety officer: NIMS definition
- B. Safety officer: National Fire Protection Association (NFPA) definition
 1. NFPA defines roles of ISO and HSO in NFPA 1521 standard
 2. Splits role of safety officer for greater specificity
 3. ISO (Incident Safety Officer)
 - a. Safety officer command role as defined by NIMS
 4. HSO (Health and Safety Officer)
 - a. Manager of the fire department's safety and health program
 - b. Assigned and authorized by the fire chief

1002-4.1 Assignment of the Health and Safety Officer

- Reserved

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1002-4.2 **Qualifications of the Health and Safety Officer**

- Reserved

1002-4.3 **Authority of the Health and Safety Officer**

- Reserved

1002-4.4 **Assignment of the Incident Safety Officer**

- 1002-4.4.1** The fire department shall have a predesignated Incident Safety Officer system to ensure that a separate Incident Safety Officer (ISO), independent of the Incident Commander (IC) is appointed and responds automatically to predesignated incidents.
- 1002-4.4.2** If the predesignated Incident Safety Officer is not available, the incident commander shall appoint an incident safety officer.
- 1002-4.4.3** An additional assistant Incident Safety Officer(s) shall be appointed when the activities, size, or need of the incident warrants extra safety personnel.
- 1) Expanding the Incident Safety Officer (ISO) function with the Incident Management System (IMS)
 - 2) The Incident Safety Officer as part of the National Response Team
 - 3) Need for Incident Safety Officer Assistance:
 - a) For large buildings with significant fire involvement
 - b) High-rise buildings
 - c) For fires that impact a widespread geographical area
 - d) When a “plans section” is established at a fire
 - e) For fires in buildings with unusual or unique hazards
 - f) Anytime the ISO is requested to go into an IDLH environment
 - g) For fires that are active for over four hours
- 1002-4.4.4** Technical specialists shall be appointed by the Incident Commander based on the incident type, technical requirements of the incident, or as recommended by the Incident Safety Officer or other members of the command staff.
- 1) Automatic ISO response should occur in the following types of incidents
 - Residential or commercial fires
 - Wildland-interface fires
 - Specialty incidents
 - Hazmat/WMD incidents

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- Technical rescue incidents
- Target hazard incidents
- Aircraft incidents
- Weather extremes

1002-4.5 Qualifications of the Incident Safety Officer

1002-4.5.1 The Incident Safety Officer shall meet the requirements of Fire Officer Level 1 specified in NFPA 1021, *Standard for Fire Officer Professional Qualifications*.

1002-4.5.2 The Incident Safety Officer shall have the knowledge, skill, and abilities to manage incident scene safety as defined in Chapter 6 of NFPA 1521.

- 1) Train to the mastery level
- 2) Incident Safety Officer Knowledge
 - a) Fire Officer I level subject areas:
 - i) Building construction
 - ii) Risk/benefit concepts
 - iii) Fire behavior
 - iv) Firefighter physiology
 - v) Hazardous energy
 - vi) Incident management systems
- 3) Incident Safety Officer Skills
 - a) Intellectual tasks such as hazard reduction or problem solving
 - b) Organized mental and physical activity
 - c) Involves knowledge, sustained effort, and practice
- 4) Incident Safety Officer attitude
 - a) Understanding of firefighter attitudes
 - b) Incident Safety Officers use knowledge and skills to shape a positive safety attitude
 - c) Values consistent with a positive safety attitude
 - d) Beliefs consistent with a positive safety attitude
 - e) Three components of attitude
 - i) Knowledge = what a person knows or doesn't know about a topic
 - ii) Emotion = what a person finds acceptable or unacceptable
 - iii) Action = expression of knowledge and emotion
 - f) Three questions to nurture a proper attitude
 - i) What do I know about this?
 - ii) How do I feel about it?

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iii) How should I handle it to show a concern for safety?

1002-4.5.3 The Incident Safety Officer shall have and maintain a knowledge of safety and health hazards involved in emergency operations.

- 1) Based on the type/nature of the emergency scene
 - a) Human performance depends on many factors
 - b) Overexertion is the leading cause of injuries (and deaths) at incidents
 - c) Reading firefighters involves the evaluation of factors that lead to overexertion

- 2) Types of the emergency operations that the Incident Safety Officer needs to be familiar with or request assistance from appropriately trained personnel
 - a) Fire
 - i) Structure
 - a. Residential
 - b. Commercial
 - c. High Rise
 - ii) Wildland
 - iii) Industrial
 - iv) Marine
 - v) Aircraft
 - b) Hazardous Materials Response
 - c) Rescue Operations
 - i) Technical Rescue
 - ii) Search & Rescue
 - iii) Extrication
 - d) Emergency Medical Response
 - e) Other
 - i) Civil Unrest
 - ii) Criminal/Terroristic Events

1002-4.5.4 The Incident Safety Officer shall have and maintain a knowledge of building construction.

- 1) Construction Classifications
 - a) Type I through V
 - b) Other construction types (hybrids)
 - i) Lightweight steel
 - ii) Insulated concrete forming (ICF)
 - iii) Structural Insulated Panels (SIP)

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1002-4.5.5 The Incident Safety Officer shall have and maintain a knowledge of fire science and behavior relative to predicting hostile fire events.

- 1) Key Fire Science/Fire Behavior events
 - a) Phases of fire growth
 - b) Flameover/rollover
 - c) Flashover
 - d) Backdraft
 - e) Smoke explosion
 - f) Industrial fire hazards
 - i) Class B fires
 - ii) Boiling Liquid Expanding Vapor Explosion (BLEVE)
 - iii) Boilover
 - iv) Frothover

- 2) Hostile fire events
 - a) Events that can catch firefighters off guard and endanger them
 - i) Flashover
 - ii) Backdraft
 - iii) Smoke explosion
 - iv) Rapid fire spread
 - b) Incident Safety Officers must know and watch for proactive warning signs of hostile fire events

- 3) Incident Safety Officer General Duties at Wildland Fires
 - a) Grasp potential for firefighters being overrun by fire upon arrival and assignment
 - b) General considerations
 - i) Weather
 - ii) Topography
 - iii) Fuels
 - c) Hostile events at wildland fires
 - i) Blow-up
 - ii) Flaring
 - d) Wildland flame length interpretations
 - i) Less than 4 feet
 - ii) 4 to 8 feet
 - iii) 8 to 11 feet
 - iv) Over 11 feet
 - e) Monitoring Issues at Wildland Fires
 - i) Risk
 - ii) Operational effectiveness

1002-4.5.6 The Incident Safety Officer shall have and maintain a knowledge of the fire department's personnel accountability system.

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- 1) Personnel accountability systems
- 2) Need for control zones
- 3) Radio transmissions
- 4) Rehab effectiveness

1002-4.5.7 The Incident Safety Officer shall have and maintain a knowledge of incident scene rehabilitation strategies.

- 1) Incident Safety Officer functions
 - a) Ensure IC has established a rehabilitation tactical management component during emergency operations
 - b) Evaluate rehab efforts to determine effectiveness

1002-4.6 **Authority of the Incident Safety Officer**

1002-4.6.1 At an emergency incident, the incident commander shall be responsible for the overall management of the incident and the safety of all members involved at the scene. [1500:8.1.5]

1002-4.6.2 At an emergency incident where activities are judged by the Incident Safety Officer as posing an imminent threat to fire fighter safety, the Incident Safety Officer shall have the authority to stop, alter, or suspend those activities.

1002-4.6.3 The Incident Safety Officer shall immediately inform the incident commander of any actions taken to correct imminent hazards at the emergency scene.

1002-4.6.4 At an emergency incident where an Incident Safety Officer identifies unsafe conditions, operations, or hazards that do not present an imminent threat to fire fighters, the Incident Safety Officer shall take appropriate action through the incident commander to mitigate or eliminate the unsafe condition, operation, or hazard at the incident scene.

1002-4.6.5 An assigned assistant incident safety officer(s) shall be granted the authority authorized in 4.6.2.

1002-5.1 **Risk Management**

- Reserved

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1002-5.2 Laws, Codes, and Standards

- 1) Guiding publications
 - a) Regulations
 - b) Codes
 - c) Laws
 - d) Standards
 - e) Procedures (SOPs, SOGs/UOGs)

1002-5.2.1 Based on health and safety laws, codes, and standards, the health and safety officer shall develop and maintain standard operating procedures (SOPs) or standard operating guidelines (SOGs) pertaining to the fire department occupational health and safety program.

- 1) Regulatory and non-regulatory agencies, associations, and organizations
 - a) National Fire Protection Association (NFPA)
 - b) Occupational Safety and Health Administration (OSHA)
 - c) National Institute of Occupational Safety and Health (NIOSH)
 - d) Department of Homeland Security (DHS)
 - i) Federal Emergency Management Association (FEMA)
 - ii) United States Fire Association (USFA)
 - e) Environmental Protection Agency (EPA)
 - f) National Institute of Standards and Technology (NIST)
 - i) Building and Fire Research Laboratory (BFRL)
 - g) Other stakeholders
 - i) International Association of Firefighters (IAFF)
 - ii) International Association of Fire Chiefs (IAFC)
 - iii) National Volunteer Fire Council (NVFC)
 - iv) Fire Department Safety Officers Association (FDSOA)

- 2) Defining the Guiding Publications
 - a) Regulations
 - i) Outline details and procedures that have the force of law issued by an executive governmental authority
 - ii) Example: OSHA CFRs
 - b) Codes
 - i) Work of law established or adopted by a rule-making authority
 - ii) Example: *Uniform Fire Code*
 - c) Standards
 - i) Can apply to any set of rules, procedures, or professional measurements set by an authority
 - ii) Must be adopted by an authority with the legal responsibility to enact the standard as law

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- d) Laws
 - i) Enforceable rules of conduct that help protect a society
 - ii) Statutory law
 - a. Deals with civil and criminal matters
 - iii) Case law
 - a. Refers to a precedent established over time through the judicial process
 - e) Guides
 - i) Offer procedures, directions, or standard of care as a reasonable means to address a condition or situation
 - ii) Do not have impact of law
 - a. Can be used as evidence in negligent cases to provide evidence
 - iii) Alerts: form of guide
 - a. Issued in response to a disturbing trend of injuries or deaths by a specific cause
- 3) Publications Providing Guidance for the ISO
- a) NFPA 1500, *Standard on Fire Department Occupational Safety and Health Program*
 - b) NFPA 1521, *Standard for Fire Department Safety Officer*
 - c) OSHA Title 29 CFR
 - i) Specific to public sector members who
 - a. Engage in rescues
 - b. Have exposure to environments that are *immediately dangerous to life and health (IDLH)*
 - ii) Emphasizes need for site safety plan
 - a. For operations involving hazmats, confined spaces, trenches, and hazardous energy
 - iii) Has numerous subtitles
 - d) NIOSH Publication 2004-144, *Protecting Emergency Responders, Volume 3*
 - i) Available at <http://www.cdc.gov/niosh/docs/2004-144/>
 - e) NIOSH Alert, *Preventing Injuries and Deaths of Firefighters due to Truss System Failures*
 - f) NIST Special Publications

1002-5.2.2 The SOP/SOGs developed in 5.2.1 shall be submitted to the fire chief or the fire chief's designated representative by the health and safety officer for issuance.

1002-5.2.3 The health and safety officer shall report semiannually to the fire chief or the fire chief's designated representative on the adequacy of, effectiveness of, and compliance with applicable laws, codes, standards, standard operating procedures, and standard operating guidelines.

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1002-5.2.4 The fire chief shall define the role of the health and safety officer in ensuring compliance with the applicable laws, codes, standards, standard operating procedures, and standard operating guidelines.

- 1) Based on the Authority Having Jurisdiction (AHJ)
 - a) Federal Laws (CFR)
 - b) State Statutes
 - i) Texas Administrative Code
 - ii) TCFP Rules & Regulations
 - iii) Local Government Code
 - c) Local AHJ
 - i) Ordinances
 - ii) Policies & Procedures
 - iii) Rules & Regulations
 - iv) SOPs/UOGs

1002-5.3 **Training and Education**

- Reserved

1002-5.4 **Accident Prevention**

- Reserved

1002-5.5 **Accident Investigation, Procedures, and Review**

- Reserved

1002-5.6 **Records Management and Data Analysis**

- Reserved

1002-5.7 **Apparatus and Equipment**

- Reserved

1002-5.8 **Facility Inspection**

- Reserved

1002-5.9 **Health Maintenance**

- Reserved

1002-5.10 **Liaison**

- Reserved

1002-5.11 **Occupational Safety and Health Committee**

- Reserved

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1002-5.12**Infection Control**

- Reserved

1002-5.13**Critical Incident Stress Management**

- Reserved

1002-5.14**Post-Incident Analysis**

- Reserved

1002-6.1**General Functions of the Incident Safety Officer**

Incident Safety Officer (ISO): is a member of the command staff responsible for monitoring and assessing safety hazards or unsafe situations and for developing measures for ensuring personnel safety.

Assistant Incident Safety Officer (AISO): is an individual appointed to respond or assigned at an incident scene by the incident commander to assist the incident safety officer in the performance of the incident safety officer functions.

- 1) The Incident Safety Officer must be:
 - a) Reactive to the needs of the incident commander
 - b) Proactive in the prevention of injuries to firefighters
- 2) Two most common approaches to addressing Incident Safety Officer incident duties
 - a) Checklists
 - b) Action models
- 3) Qualities of good Incident Safety Officer checklists and action models
 - a) Flexibility
 - b) Cyclicity
 - c) Proactive orientation
 - d) Reactive orientation
 - e) Archive friendliness

1002-6.1.1 The Incident Safety Officer (ISO) shall be integrated with the incident management system (IMS) as a command staff member, as specified in NFPA 1561, *Standard on Emergency Services Incident Management System*.

- 1) Integrating Incident Safety Officer (ISO) within the Incident Management System (IMS)
 - a) FIRESCOPE program (1970s)
 - b) IFSTA Incident Command System manual (1983)

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- c) NFPA 1500 adopted (1987)
 - d) NFPA 1501
 - e) NIIMS (National Interagency Incident Management System)
 - f) DHS NIMS (National Incident Management System) (2005)
 - i) ICS fulfills the control function of NIMS
 - g) NFPA 1521 leading the way in evolution of safety officer role
- 2) Automatic ISO delegation should occur in the following types of incidents
- a) Working incidents
 - b) Mutual aid request
 - c) Firefighter down, missing, or injured
 - d) Incident commander discretion
- 3) Working within command systems
- a) Effective and efficient ISOs work within an incident command system (ICS)
 - b) Incident command systems
 - i) The IC is responsible for overall management at an incident scene and for the safety of responders
 - ii) Codependency between ISO's support of IC and IC's faith in ISO
 - c) Authority
 - i) The ISO must yield to the IC's authority and present requests rationally and professionally
 - d) The ISO as part of the national response team
 - i) In national incidents, the ICS component and ISO become an area command of NIMS
 - ii) A joint field office (JFO) is established
 - iii) A safety coordinator is assigned to assist the ICS safety officer and coordinate federal resources

1002-6.1.2 Standard operating procedures (SOPs) shall define criteria for the response of a predesignated incident safety officer.

- 1) Preplanning the ISO Response
- a) The ISO is most effective when he or she arrives early at an incident
 - b) Track Environmental Change
 - c) Fireground Activity
 - d) Monitor Relative Danger to Firefighters
 - e) Critical time - First 20 minutes of an incident
 - f) When does the ISO respond?
 - i) All working residential fires
 - ii) Highly technical or complex incidents

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- g) Firefighter injury statistics show the need to have a dedicated ISO more often and sooner
- h) Automatic ISO response should occur in the following types of incidents:
 - i) Residential or commercial fires
 - ii) Wildland-interface fires
 - iii) Specialty incidents
 - iv) Target hazard incidents
 - v) Aircraft incidents
 - vi) Weather extremes
- i) Automatic ISO delegation should occur in the following types of incidents:
 - i) Working incidents
 - ii) Mutual aid request
 - iii) Firefighter down, missing, or injured
 - iv) Incident commander discretion

1002-6.1.2.1 If the Incident Safety Officer is designated by the incident commander, the fire department shall establish criteria for appointment based upon 6.1.1.

1002-6.1.3 The Incident Safety Officer and assistant incident safety officer(s) shall be readily identifiable at the incident scene.

1002-6.1.4 Upon arrival or assignment as the Incident Safety Officer at an incident, he or she shall obtain a situation-status briefing from the incident commander that includes the incident action plan.

- 1) The Incident Safety Officer Arrival Process
 - a) Confirm Incident Safety Officer assignment
 - b) Collect information
 - i) IAP
 - ii) Status of situation and resources
 - c) Confirm communication links
 - i) Radio channels, face-to-face
 - d) Don appropriate identification and PPE
- 2) Monitoring the incident
 - a) Observe/Assess
 - b) Identify Hazards
 - i) Stop life threatening/critical life safety hazards
 - ii) Notify the Incident Commander of any changes to the IAP/Standing orders immediately
 - c) Develop mitigation strategies
 - d) Implement mitigation strategies
 - e) Continue to reassess

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f) Repeat

1002-6.1.5 The Incident Safety Officer shall monitor the incident action plan, conditions, activities, and operations to determine whether they fall within the criteria as defined in the fire department's risk management plan.

- 1) Checklists
 - a) Advantages
 - b) Disadvantages
- 2) Action Models
 - a) Template that outlines a mental or physical process to be followed
 - b) Biggest advantage
 - i) Furnishes a template in which to process multiple events
 - c) A good action model
 - i) Reminds Incident Safety Officers to be cyclic in their thinking
 - d) Linear thinking
 - i) Defined starting point and ending point
 - ii) Necessary for IC
 - e) Cyclic thinking
 - i) Recurring evaluation of multiple inputs
 - ii) Maintain a high degree of situational awareness
 - iii) Necessary for the Incident Safety Officer
 - f) The Incident Safety Officer Action Model
 - i) Cyclic four-arena model
 - ii) Allows the Incident Safety Officer to mentally process the surveying and monitoring functions of typical incident activities and concerns
 - iii) Does not imply a starting place or direction of flow
 - iv) Four general arenas: the four Rs
 - v) Resources
 - a. Time
 - b. Personnel
 - c. Equipment
 - vi) Reconnaissance
 - a. Exploratory examination of the incident scene environment and operations
 - vii) Risk: is it acceptable?
 - viii) Report
 - a. Timely appropriate communications
 - b. Written reports
 - c. Safety briefings
 - d. Review of incident action plans

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1002-6.1.6 When the perceived risk(s) is not within the fire department's risk management criteria, the Incident Safety Officer shall take action as outlined in section 1002-4.6.

- 1) Perceived risk(s)
 - a) Community expectations
 - i) Community expects that firefighters may have to risk their lives to save a life
 - ii) Firefighters must:
 - a. Balance courage and bravery with prudent judgment
 - b. Avoid unnecessary injury
 - iii) Media communications have put risk-taking pressure on responders

1002-6.1.7 The Incident Safety Officer shall monitor the incident scene and report to the incident commander the status of conditions, hazards, and risks.

- 1) General Incident Safety Officer Duties
 - a) Monitor the incident
 - i) Incident action plan, conditions, activities and operations should fall within risk management criteria
 - ii) Perform repeated recon to judge the effectiveness of the incident action plan
 - a. Failure to adjust the incident action plan cited as a contributing factor in many firefighter fatality investigations
 - b) Address personnel safety systems
 - i) Personnel accountability systems
 - a. Watch for freelancing
 - ii) Control zones identified and communicated to all members
 - iii) Radio transmissions
 - iv) Rehab effectiveness
 - a. Make sure it is functioning and effective
 - c) Define other needs
 - i) Evaluate motor vehicle scene traffic hazards and apparatus placement
 - ii) Survey landing zone and interface with helicopters
 - iii) Communicate to IC the need for AISOs due to the need, size, complexity, or duration of the incident

2) The Incident Safety Officers read-risk method

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- a) Knowledge, sound judgment, experience, and wisdom are paramount in making risk decisions
 - b) Prepare with vicarious learning
 - i) Learn from the mistakes of others
 - ii) Read accident investigation reports generated for firefighter duty-deaths
- 3) Monitoring Issues at Wildland Fires
- a) Risk
 - i) Victims are prone to self-rescue
 - ii) IAP may change to reduced-risk profile
 - b) Operational effectiveness
 - i) Use roving AISOs for evaluation over geographical distances and terrain
 - ii) Take tour in vehicle or helicopter
- 4) Personal Safety System Issues at Wildland Fires
- a) Accountability systems
 - i) Difficult during initial stages
 - ii) Firefighters may disperse during attack
 - iii) ISO may need to close up ranks
 - b) Control zones
 - i) Based on descriptive parts of wildfire or geographical area
 - ii) Working between head/flanks and spots could be dangerous
 - iii) Burn (or black): portion of wildland where fire is already past
 - iv) Threatened structures generally classified as defensible or indefensible
 - c) Rehab
 - i) Firefighters using structural PPE for wildland incidents are at extreme risk for heat stress: rapid hydration and electrolyte replacement are essential; cardiac monitoring; no releases should be given based on perceived comfort
- 5) Defining Other Needs at Wildland Fires
- a) Traffic
 - i) Smoke obscuration major concern: divert traffic away from smoke areas
 - ii) Dispersed small apparatus: use radio safety message to remind drivers to use spotters
 - b) Need for ISO assistance:
 - i) For fires that impact a widespread geographical area

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- ii) When a plans section is established: AISOs accomplish ISO field component
 - iii) For fires that are active for over four hours
 - iv) Anytime a base camp is established: AISOs communicate action plan and safety briefings to incoming crews
 - c) Applying the ISO Action Model at Wildland Fires
- 6) Risk evaluation at a wildland fire
 - a) Practice intellectual aggressiveness
 - i) Calculated risk-taking that favors firefighter safety while still aggressive in fire control efforts
 - b) Judge pace of incident
 - i) Making structures defensible against advancing fire could take 20-30 minutes
 - c) Help IC with cyclic thinking when fire is progressing faster than crew Effectiveness
- 7) Recon evaluation at a wildland fire
 - a) Utilize vehicles, helicopter, and AISO field reports
 - b) Coordination is key
 - c) Caution: climbing to high ground to get a good look at the fire can prove fatal
 - d) Defining the principal hazard
 - i) Rapid fire spread, traffic issues, and physical exertion
 - e) Defining environmental integrity
 - i) Weather, smoke, flame spread, and hazardous energy
 - f) Defining physical surroundings
 - i) Trip/fall hazards, animals, snags, power lines
 - g) Crew exposure to hazards
 - i) Principal hazard +/- Integrity + Physical hazards + Crew activity = crew exposure
 - ii) Tools
 - iii) Team versus task
 - iv) Rapid withdrawal options: LCES (lookout, communication methods, escape routes, safety zones)
- 8) Resource evaluation at wildland fires
 - a) Time
 - i) Project on-scene time: advent of nightfall, weather changes
 - ii) Travel distances affect reflex time: multiple stages
 - b) Personnel
 - i) Ensure adequate number of responders, high spirits
 - c) Equipment

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- i) Lengthy hose lays, water supply issues, Class-A foam, pump calculations
- 9) Report issues at wildland fires
 - a) Initial operations: 15-minute rule for face-to-face communications with the IC
 - i) Discuss risk, recon, and resources
 - ii) Update checklists, forms, diagrams, and other documents
 - iii) Amend schedule for prolonged incidents
 - b) Safety briefing sheet is routine
 - i) Can be passed to staging manager
- 10) Written safety plans
 - a) Development of site safety plan
 - b) Safety briefings

1002-6.1.8 The Incident Safety Officer shall ensure that the fire department's personnel accountability system is being utilized.

1002-6.1.9 The Incident Safety Officer shall offer judgment to the incident commander on establishing control zones and no-entry zones and ensure that established zones are communicated to all members present on the scene.

1002-6.1.10 The Incident Safety Officer shall evaluate motor vehicle incident scene traffic hazards and apparatus placement and take appropriate actions to mitigate hazards as described in Section 8.7 of NFPA 1500, *Standard on Fire Department Occupational Safety and Health Program*.

- 1) Apparatus and warning devices positioned to take advantage of topography and weather conditions (uphill / upwind)
- 2) Fire apparatus shall be positioned in a blocking position, so if it is struck it will protect members and other persons at the incident scene.
- 3) When acting as a shield, apparatus warning lights shall remain on, if appropriate.
- 4) All additional responding vehicles, when arriving on the scene, shall position beyond the traffic barrier unless their function requires placement before the barrier.

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- 5) One or more of the following warning devices shall be used to warn oncoming traffic of the emergency operations and the hazards to members operating at the incident:
 - a) Fluorescent and retro-reflective warning devices such as traffic cones
 - b) Federal Highway Administration (FHWA)-approved 48 in. by 48 in. retro-reflective signs stating "Emergency Scene Ahead" (with directional arrow overlay)
 - c) Illuminated warning devices such as highway flares
 - d) Other warning devices appropriate to warn oncoming traffic of the emergency operations
- 6) Warning devices shall be placed and utilized with proper considerations given to visual obstruction such as hills, curves, blind spots, or unusual localized weather conditions such as fog or rain
- 7) The first arriving unit shall ensure that traffic is controlled before addressing the emergency operations
- 8) Members shall position themselves and any victims in a secure area.
- 9) Members shall park or stage unneeded fire apparatus and personal vehicles off the roadway whenever possible.
- 10) When members are operating at a traffic incident and their assignment places them in potential conflict with motor vehicle traffic, they shall wear a garment with fluorescent and retro-reflective material visible from all directions.
- 11) Members used for traffic control purposes shall receive training that is commensurate with their duties and in accordance with any applicable state and local laws and regulations.

1002-6.1.11 The Incident Safety Officer shall monitor radio transmissions and stay alert to transmission barriers that could result in missed, unclear, or incomplete communication.

- 1) Radio communication: use "Safety" identifier and limit use to safety functions
- 2) Face-to-face communication: every 15 minutes

1002-6.1.12 The Incident Safety Officer shall ensure that the incident commander establishes an incident scene rehabilitation tactical level management component during emergency operations.

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- 1) Incident Scene Rehabilitation
 - a) ISO functions
 - i) Ensure IC has established a rehabilitation tactical management component during emergency operations
 - ii) Evaluate rehab efforts to determine effectiveness
 - b) The Four Rs of Rehab
 - i) Rest
 - ii) Rehydration
 - iii) Rx (medical support in the form of O2 and fluid therapy)
 - iv) Refueling

1002-6.1.13 The Incident Safety Officer shall communicate to the incident commander the need for assistant incident safety officers and/or technical specialists due to the need, size, complexity, or duration of the incident.

- 1) Need for Incident Safety Officer Assistance:
 - a) For large buildings with significant fire involvement
 - b) When a “plans section” is established at a fire
 - c) For fires in buildings with unusual or unique hazards
 - d) Anytime the ISO is requested to go into an IDLH environment
 - e) High-rise buildings
 - i) Request one or more AISOs
 - ii) ISO should take position at command post
 - iii) AISOs work with operations on: physical demands of firefighters; internal traffic control; compartment integrity; establishing no-entry zones around lost windows; safety briefings; outside issues
 - f) For fires that impact a widespread geographical area
 - g) When a plans section is established: AISOs accomplish ISO field component
 - h) For fires that are active for over four hours
 - i) Anytime a base camp is established: AISOs communicate action plan and safety briefings to incoming crews

1002-6.1.14 The Incident Safety Officer or assistant Incident Safety Officer shall survey and evaluate the hazards associated with the designation of a landing zone and interface with helicopters.

- 1) Landing Zones and Interface with Helicopters
 - a) Survey landing zone and interface with helicopters
 - b) Communicate to IC the need for AISOs due to the need, size, complexity, or duration of the incident
 - c) Interface with aircraft
 - i) Used for water and retardant drops

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1002-6.1.15 The Incident Safety Officer shall recognize the potential need for critical incident stress interventions and notify the incident commander of this possibility.

1002-6.1.16 If the Incident Safety Officer or an assistant safety officer needs to enter a hot zone or an environment that is immediately dangerous to life or health (IDLH), the Incident Safety Officer or assistant safety officer shall be paired up with another member and check in with the entry control officer.

1002-6.2 **Fire Suppression**

1002-6.2.1 The Incident Safety Officer shall meet the provisions of Section 1002-6.2 during fire suppression operations.

- 1) Incident Safety Officer General Duties at Structure Fires
 - a) Structure fires considered the most risky incident type
 - i) Compressed time window
 - ii) Must rapidly read structure fires
 - a. Smoke, building, risk
 - b) Monitor general issues
 - c) Evaluate personal safety system issues
 - d) Define other needs
 - e) Monitoring Issues at Structure Fires
 - i) Risk
 - a. Tactical priorities and incident benchmarks - Do risks taken match preestablished criteria?
 - ii) Operational effectiveness
 - a. Read smoke
 - b. Read buildings
 - c. Determine adequate ventilation
 - f) Personal Safety System Issues at Structure Fires
 - i) PAR (personal accountability report)
 - a. Organized reporting activity for all personnel working an incident
 - b. Radio communications should include assignment, location, and number of people in the assignment
 - c. Accomplished periodically (every 15 minutes at high-risk environments)
 - d. Triggered during changes or reporting situations
 - ii) Control zones (NFPA 1521)
 - a. Hot zone: IDLH atmosphere
 - b. Warm zone: limited access area
 - c. Cold zone: establishes clean zone
 - d. No-entry zone: no entry for anyone

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- iii) Radio transmissions
 - a. Listen for unanswered calls
 - b. Determine radio message priority
 - iv) Rehab
 - a. Focus on heat, physical exertion, and weather exposure
 - b. Encourage mandatory rehab after every air cylinder use or equivalent work period
 - g) Defining Other Needs at Structure Fires
 - i) Traffic
 - a. Be aware of arriving or moving apparatus, especially with water-tender shuttle operations underway
 - b. Communicate traffic flow plan
 - c. Evaluate apparatus placement and traffic lanes
 - ii) Need for Incident Safety Officer assistance:
 - a. For large buildings with significant fire involvement
 - b. When a “plans section” is established at a fire
 - c. For fires in buildings with unusual or unique hazards
 - d. Anytime the Incident Safety Officer is requested to go into an IDLH environment
- 2) Applying the Incident Safety Officer Action Model at Structure Fires
 - a) Risk evaluation at a structure fire
 - i) Determine the rescue profile of the incident
 - a. Probability that victims will survive the environment
 - b. Classifications: high, moderate, or zero
 - ii) Evaluate pace of incident
 - b) Recon evaluation at a structure fire
 - i) Repeat often during an incident
 - ii) Define environment in three dimensions
 - a. Principle hazard: what is likely to kill firefighters?
 - b. Environmental integrity: judge the potential rate of change
 - c. Physical surroundings: sloping grades, foliage, fences, barriers, antennae, etc.
 - iii) Evaluate crew exposure to hazards
 - c) Resource evaluation at structure fires
 - i) Time
 - ii) Personnel
 - iii) Equipment
 - d) Report issues at structural fires
 - i) Incident Safety Officers should follow the 15-minute rule

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for face-to-face communications with the IC

- a. Discuss risk, recon, and resources
 - b. Update checklists, forms, diagrams, and other documents
 - ii) Consider developing a safety briefing sheet
 - a. Helps responders get dialed in
- 3) Unique Considerations at Structure Fires
- a) Residential versus commercial fires
 - i) Traps of classifying a building as either residential or commercial
 - ii) Classify according to building size and use
 - iii) Buildings with central hallways and stairwells
 - a. Ventilation is number one tactical priority
 - iv) Strip malls
 - a. High-fire load, common ceiling spaces, long open-span trusses, decorative facades, inexpensive materials
 - v) High-rise buildings
 - a. Request one or more AISOs
 - b. Incident Safety Officer should take position at command post
 - c. AISOs work with operations on: physical demands of firefighters; internal traffic control; compartment integrity; establishing no-entry zones around lost windows; safety briefings; outside issues

1002-6.2.2 The Incident Safety Officer shall ensure that a rapid intervention team meeting the criteria in Chapter 8 of NFPA 1500, is available and ready for deployment.

Rapid Intervention for Rescue of Members. Rapid Intervention Crews may be referred by several different names depending on the AHJ. All have the same purpose and responsibilities.

- RIC – Rapid Intervention Crew
- RIC – Rapid Intervention Company
- RIT – Rapid Intervention Team
- FAST – Firefighter Assist and Search Team

- 1) The fire department shall provide personnel for the rescue of members operating at emergency incidents.
- 2) A rapid intervention crew/company (RIC) shall consist of at least two members and shall be available for rescue of a member or a crew.

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- a) Each RIC shall be fully equipped with protective clothing, protective equipment, SCBA, and any specialized rescue equipment that could be needed given the specifics of the operation under way.
 - b) The RICs at an incident where any SCBA being used are equipped with a RIC universal air connection (UAC) shall have the specialized rescue equipment including a fully charged breathing air cylinder with a NIOSH-certified rated service time of at least 30 minutes and compatible pressure and capacity with the SCBA being used at the incident, or a high-pressure air line of sufficient length to reach the location of the entrapped or downed fire fighter(s) and supplied by a pressurized breathing air source that can provide at least 3.5 ft³ (100 L) of air per minute at the RIC UAC female fitting and at a pressure compatible with the SCBA being used at the incident.
 - c) Both the breathing air cylinder and the high-pressure air line described in NFPA 1981 shall be equipped with a RIC UAC filling hose assembly equipped with a RIC UAC female fitting.
 - d) The RIC UAC filling hose assembly shall meet the requirements specified in 6.4.7 of NFPA 1981, *Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services*.
 - e) The RIC UAC female fitting shall meet the requirements specified in 6.4.6 of NFPA 1981.
 - f) The RIC UAC female fitting shall mate with the RIC UAC male fitting to form a RIC UAC coupling that meets the requirements specified in 6.4.8 of NFPA 1981.
- 3) The composition and structure of a RIC shall be permitted to be flexible based on the type of incident and the size and complexity of operations.
 - 4) The Incident Safety Officer should advise the Incident Commander and make suggestions regarding the situation and the risks to operating crews and make recommendations concerning the establishment of one or more RICs commensurate with the needs of the situation.
 - 5) In the early stages of an incident, which includes the deployment of a fire department's initial attack assignment, the RIC shall be in compliance with with the above requirements and be either one of the following:
 - a) On-scene members designated and dedicated as a RIC
 - b) On-scene members performing other functions but ready to re-deploy to perform RIC functions

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- c) The assignment of any personnel shall not be permitted as members of the RIC if abandoning their critical task(s) to perform rescue clearly jeopardizes the safety and health of any member operating at the incident.
- 6) As the incident expands in size or complexity, which includes an incident commander's requests for additional resources beyond a fire department's initial attack assignment, the dedicated RIC shall on arrival of these additional resources be either one of the following:
 - a) On-scene members designated and dedicated as RIC
 - b) On-scene crew/company or crews/companies located for rapid deployment and dedicated as RICs
 - c) During fire fighter rescue operations each crew/company shall remain intact.
 - 7) At least one dedicated RIC shall be standing by with equipment to provide for the rescue of members that are performing special operations or for members that are in positions that present an immediate danger of injury in the event of equipment failure or collapse.

1002-6.2.3 Where fire has involved a building(s) the Incident Safety Officer shall advise the incident commander of hazards, collapse potential, and any fire extension in such building(s).

1002-6.2.4 The Incident Safety Officer shall evaluate visible smoke and fire conditions and advise the incident commander, tactical level management component's (TLMC) officers, and company officers on the potential for flashover, backdraft, blow-up, or other events that could pose a threat to operating teams.

1002-6.2.5 The Incident Safety Officer shall monitor the accessibility of entry and egress of structures and its effect on the safety of members conducting interior operations.

- 1) Incident Safety Officer general duties at structural fires
 - a) Monitor risk and operational effectiveness
 - b) Apply reading skills to determine fit
 - c) Ask the IC for a PAR when accountability issues arise
 - d) Label zones
 - e) Evaluate traffic
 - f) Determine need for AISOs
- 2) The Incident Safety Officer Action Model at structural fires
 - a) Risk: rescue profile

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- b) Recon
 - c) Rehab
 - d) Report: utilize safety briefings
- 3) Classify buildings according to building size and use
- a) Central-hallway/stairwells, strip malls, and high-rise buildings present unique challenges
 - b) Incident Safety Officers should request assistance at high-rise fires

1002-6.3 **Emergency Medical Service Operations**

- 1002-6.3.1** The Incident Safety Officer shall meet the provisions of Section 1002-6.3 during emergency medical service (EMS) operations.
- 1002-6.3.2** The Incident Safety Officer shall ensure compliance with the department's infection control plan and NFPA 1581, *Standard on Fire Department Infection Control Program*, during emergency medical service operations according to the authority having jurisdiction (AHJ).
- 1002-6.3.3** The Incident Safety Officer shall ensure that incident scene rehabilitation and critical incident stress management are established as needed at emergency medical service operations, especially mass casualty incidents (MCIs) according to AHJ.

1002-6.4 **Technical Rescue**

- 1002-6.4.1** The Incident Safety Officer shall meet the provisions of Section 1002-6.4 during technical rescue operations.
- 1) Tech-rescue incidents: many categories and sub-categories
- a) Fire department is called upon to find a positive solution regardless of rescue type or training
 - b) Mandatory Incident Safety Officer assignment for confined space, trench, and hazmat incidents
 - c) Incident Safety Officer should be familiar with tech-rescue CFRs
 - d) If the Incident Safety Officer does not have required competencies (NFPA 1670 or NFPA 1006), an AISO-RT should be appointed
- 2) Assistant safety officer - rescue tech (AISO-RT)
- a) Meets or exceeds NFPA 1670 requirements
 - b) Meets or exceeds NFPA 1006 requirements
 - c) Trained in Incident Safety Officer responsibilities as they relate to specific rescue incident

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- d) Fulfills safety functions for technician-level components
- e) Works with the Incident Safety Officer, rescue branch directors, and technical specialists

1002-6.4.2 In cases where a designated Incident Safety Officer does not meet the technician-level requirements of NFPA 1006, *Standard for Rescue Technician Professional Qualifications*, the incident commander shall appoint an assistant Incident Safety Officer or a technical specialist who meets the technician-level requirements of NFPA 1006 to assist with Incident Safety Officer functions.

The general duties of an Incident Safety Officer at a Tech-Rescue Incident include:

- 1) Gain a strong sense of the Situation Status (SITSTAT)
 - a) Victim location and predicament
 - b) Rescue likelihood
 - c) Integrity of surrounding environment
- 2) Understand committed resources (RESTAT)
- 3) After SITSTAT and RESTAT
 - a) Take position at command post and rove occasionally
- 4) Monitoring Issues at Tech-Rescue Incidents
 - a) Risk
 - i) Evaluate rescue profile of victims: onlookers may jump in when effort switches to recovery mode
 - b) Operational effectiveness
 - i) AISO-RT evaluates technician operations
 - ii) Other AISOs evaluate support activities
 - iii) Constantly evolving and shifting efforts require reevaluation
- 5) Personal Safety System Issues at Tech-Rescue Incidents
 - a) Accountability systems
 - i) Potential for freelancing and self-deployment:
 - a. Firefighters rush to save victims
 - b. ISO/AISO-RT should address issue when risks outweigh benefits
 - ii) Track assigned resources following established procedures
 - b) Control zones
 - i) Differences between IDLH, no-entry, and support zones may be measured in inches

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- ii) AISO-RT can establish, relay, and monitor the delineation of zones
 - iii) Incident Safety Officer should verify appropriate level of PPE in each zone based on worst-case scenario: AISO-RT may monitor compliance
 - c) Radio Transmissions
 - i) Tech-rescues may require constant communication/instructions
 - a. Use small talk-around radios to free up tactical channels: monitored by AISO-RT
 - b. May also use backup communication systems: hand signals, message boards, tag-line signals
 - c. Create cheat sheet so responders do not miss important signals
 - d) Rehab
 - i) May span hours or days
 - ii) Do not allow rehab decisions to be based on perceived comfort
 - iii) Practice “on-deck” system
 - iv) Energy replacement – use efficient fueling strategies
- 6) Defining Other Needs at Tech-Rescue Incidents
- a) Traffic
 - i) Congestion due to media coverage
 - a. Firefighters may become distracted
 - i) Safety hazards associated with railways, air traffic, and waterways
 - a. Maintain travel corridor for incident purposes
 - b. Ensure air landing zone is separated from rescue location and crowds (AISO function)
 - b) Need for Incident Safety Officer assistance
 - i) AISO-RT
 - ii) One or more AISOs
 - iii) Technical specialists
 - iv) Risk managers
 - v) Process experts
 - vi) Consultants for planning functions
 - vii) May need critical incident stress management procedures

1002-6.4.3 The Incident Safety Officer shall attend strategic and tactical planning sessions and provide input on risk assessment and member safety.

Considerations at Specific Tech-Rescue Incidents include:

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- 1) Tech-rescue incidents are classified into categories that may have guiding documents
 - a) Be aware of guiding documents
 - b) Front-load: peruse document content
 - c) Retrieve critical information at incident as necessary

- 2) Building collapse
 - a) Basic/surface collapse
 - i) Victims easily accessible
 - ii) Minimal loads
 - b) Light collapse
 - i) Light-frame (wood partition)
 - ii) Common fire department can be used for search and extrication
 - iii) Secondary collapse can be mitigated easily
 - c) Moderate collapse
 - i) Masonry, heavy wood, open spaces
 - ii) Significant void space concerns; secondary collapse
 - iii) Victim rescue may involve heavy-load equipment
 - d) Heavy collapse
 - i) Stressed or reinforced concrete; steel girders
 - ii) Requires USAR team response; heavy equipment
 - iii) Significant secondary collapse; threats to other structures
 - e) AISO-RT should be appointed for moderate and heavy collapses
 - f) Additional AISOs may be required to address collapse hazards
 - g) Hazards may include:
 - i) Falling/loose debris
 - ii) Instability
 - iii) Secondary collapse
 - iv) Poor air quality/dust
 - v) Unsecured hazardous energy
 - vi) Weather exposure
 - vii) Blood-borne pathogens
 - viii) Difficult access/escape options
 - ix) Sharp or rugged debris
 - x) Poor footing
 - h) Technical assistance
 - i) Respiratory specialist, public health specialist, HSO
 - i) Air monitoring
 - i) Four-gas monitors, natural and propane gas detectors
 - j) Improvisation monitoring
 - i) Evaluate to identify when responders are pushing the envelope

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- 3) Industrial entrapment
 - a) Hazards may include:
 - i) Heavy machinery
 - ii) Complicated access
 - iii) Unsecured hazardous energy
 - iv) Hazmat
 - v) Noise
 - vi) Interfaces and/or automated systems
 - vii) Security system impediment
 - viii) Mega sized equipment
 - ix) Pinch hazards
 - x) Equipment congestion
 - xi) Exotic materials
 - xii) Material stockpiling
 - b) Incident Safety Officer should double-check lockout/tag-out measures
 - c) Watch for load stress and snaps/springs

- 4) Cave-ins
 - a) Include trench collapses, earthen slides, avalanches, and material entrapments
 - b) Hazards may include:
 - i) Shifting/unstable material
 - ii) Hidden infrastructure
 - iii) Oxygen deficiency
 - iv) Weather exposure
 - v) Difficult slope or grade
 - vi) Poor footing
 - vii) Sink potential
 - viii) Secondary collapse
 - ix) Crush potential
 - c) Incident Safety Officer develops site safety plan, emergency procedures, and safety briefings
 - i) Use LCES approach for safety briefings
 - d) LCES
 - i) *Lookouts*: AISOs, soil engineers, briefed support personnel
 - ii) *Communications*: visual, voice, “all-evac” signal, IAP
 - iii) *Escape routes*: escape ladders, boarded footpaths, technician-level assistance for tethered rescue
 - iv) *Safe zones*: separate shore or refuse area using natural and structural barriers
 - e) Other unique hazards
 - i) Exhaust fume accumulation
 - ii) Ground vibration

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- iii) Specialized hydrovac equipment
- iv) Gravity

5) Water rescues

- a) Include swift water, lake, oceanic, flood, and ice situations
- b) Hazards may include:
 - i) Swift/hidden currents
 - ii) Low-head dams
 - iii) Submerged entrapment hazards
 - iv) Floating debris
 - v) Electrocutation
 - vi) Hypothermia
 - vii) Reduced visibility
 - viii) Fragile and/or shifting ice
 - ix) Marine life
 - x) Frightened animals
 - xi) Distance to solid ground
 - xii) Crushing wave forces, undertows, or riptides
- c) Incident Safety Officer concerns
 - i) Protection from elements
 - ii) Appropriate PPE
 - iii) Rapid rescue intervention
 - iv) Overtaxed resources, particularly in flood incidents
 - v) Health hazards from flooding
- d) Incident Safety Officers can seek assistance from:
 - i) Dive-rescue certified responders, public health and environment professionals

6) High-angle rescues

- a) Amazingly challenging and daring
- b) Hazards may include:
 - i) Limited access
 - ii) Dizzying heights
 - iii) Limited escape routes
 - iv) Slip/fall hazards
 - v) Lightning/wind
 - vi) Limited anchor options
 - vii) Electrocutation
 - viii) Heights beyond equipment capabilities
 - ix) Use of helicopters
 - x) Equipment failure
 - xi) Falling debris
 - xii) Dropped equipment
- c) Incident Safety Officer concerns
 - i) Are rescuers training and *willing* to engage?

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- ii) Firefighter fear and stress
 - iii) Proper anchor and rigging: AISO-RT monitoring
 - iv) Prehydration and energy intake
 - v) Unsuspecting hazards: be their wingman
 - vi) Nighttime operations: use of artificial light
 - vii) Crowds and media
- 7) Confined spaces
- a) Incident Safety Officer is mandatory (29 CFR 1910.146)
 - i) ISO/AISO-RT
 - ii) Site safety/emergency plan
 - iii) Safety briefings
 - b) Hazards may include:
 - i) Limited access/escape options
 - ii) Toxic/flammable atmospheres
 - iii) Oxygen deficiency
 - iv) Hazardous energy
 - v) Communication difficulties
 - vi) Collapse
 - vii) Cramped quarters, limited mobility
 - viii) Distance that exceeds airlines, ropes, etc.
 - ix) Rust and mold, residues
- 8) Roadway/transportation incidents
- a) Incident Safety Officer should consider discretionary response to MVA when warranted
 - i) Multiple vehicles involved
 - ii) Long response time
 - iii) Involvement hazardous energy
 - iv) Extreme weather
 - v) Involvement of buses, hazmat, high-angle, etc.
 - b) Hazards may include:
 - i) Other traffic and congestion
 - ii) Threat of nearby/secondary crash
 - iii) Limited access or escape options
 - iv) Hazmat/munitions
 - v) Fuels ignition/alternative fuels
 - vi) Damaged infrastructure
 - vii) Hazardous energy
 - viii) Heavy entanglement
 - ix) Weather exposure
 - x) Instability
 - xi) Vehicle hazards
 - xii) Bloodborne pathogens
 - c) Roadway incidents

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- i) Number one safety consideration: threat of being hit by other traffic Incident Safety Officer tactics
 - a. Traffic barriers: absorb impact of secondary crash
 - b. Work zones: created by barrier
 - c. Traffic-calming strategies: slow down approaching traffic with cones, spotters, lights, signs, etc.
 - d. Minimize use of white lights/strobes at night
- d) Railway/subway incidents
 - i) Expect the worse
 - a. Confined space, hazmat, industrial entrapment, and structural collapse incident rolled into one
 - ii) Rely on AISOs to monitor rescuers
 - iii) Follow tactics from relevant preceding sections
- e) Aircraft incidents
 - i) Classification dependent on:
 - a. Size of aircraft
 - b. Size/type of building that was hit
 - ii) Establish rescue profile
 - a. Recovery profile indicates risk-reduction strategies
 - b. Minimize destruction of potential evidence
 - iii) Concerns at catastrophic crashes
 - a. Bloodborne pathogens
 - b. Jet fuel vapors
 - c. Burnt plastics
 - d. Composite metal dusts
 - iv) Do not be quick to allow responders to doff SCBA during aircraft incident operations

1002-6.4.4 The Incident Safety Officer shall ensure that a safety briefing is conducted and that an incident action plan and an incident safety plan are developed and made available to all members on the scene.

- 1) Incident Safety Officers have significant issues at tech-rescue incidents
 - a) Firefighters' "can do" attitudes can lead to traps
 - b) Several regulations require:
 - i) Coordination with AISO-RT
 - ii) Safety plan and safety briefings
 - a) Rescue/recovery profile and risk reduction
 - b) Rehab
 - i) Energy replacement and mental breaks
- 2) Classifications of tech-rescue incidents
 - a) Collapse
 - b) Industrial entrapment
 - c) Confined space

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- d) Roadway/transportation: numerous types and challenges
 - e) Water
 - f) High-angle
- 3) Each tech-rescue classification presents unique hazards
- 4) LCES: helps Incident Safety Officer develop meaningful safety briefings for most tech-rescue incidents
- a) Lookouts
 - b) Communications
 - c) Escape routes
 - d) Safe zones

1002-6.5 **Hazardous Materials Operations**

1002-6.5.1 The Incident Safety Officer shall meet the provisions of Section 1002-6.5 during hazardous materials operations.

- 1) Hazmat incidents: most regulated of all incidents to which fire departments respond
 - a) Incident Safety Officer assignment at a hazmat technician-level incident is mandatory
 - b) Incident Safety Officer should be aware of CFRs regarding hazmat incidents
 - c) If Incident Safety Officer does not have required technician competencies (NFPA 472), an AISO-HM should be appointed
- 2) Assistant safety office-hazmat (AISO-HM)
 - a) Meets or exceeds NFPA 472 requirements for Hazardous Materials Technician
 - b) Trained in Incident Safety Officer responsibilities as they relate to hazmat response
 - c) Fulfills safety functions for technician-level components of incident
 - d) Works with Incident Safety Officer, hazmat directors, technical specialists, and industry representatives

1002-6.5.2 In cases where a designated Incident Safety Officer does not meet the technician-level requirements of NFPA 472, *Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents*, the incident commander shall appoint an assistant Incident Safety Officer or a technical specialist who meets the technician-level requirements of NFPA 472 to assist with Incident Safety Officer functions.

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The general duties of an Incident Safety Officer at a Hazmat Incident include:

- 1) Be familiar with *NFPA 472: Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents*
- 2) Ensure initial zone and isolation efforts are in place upon arrival and assignment
- 3) Take a strategic approach
 - a) Interface with other command staff members
 - b) Maintain position at command post
- 4) Monitoring Issues at Hazmat Incidents
 - a) Risk
 - i) Liability: is hazmat team entry warranted?
 - ii) Risk communication: established risk guidelines
 - b) Operational effectiveness
 - i) Rely on AISO-HM to evaluate technician operations
 - ii) Other AISOs evaluate support activities
 - iii) Preplan action plan prior to operations
- 5) Personal Safety System Issues at Hazmat Incidents
 - a) Accountability systems
 - i) Two systems: hazmat team and support responders
 - ii) Encourage cross-communication
 - iii) Incident Safety Officer deals with strategic accountability
 - iv) AISOs deal with tactical accountability
 - b) Control zones
 - i) IDLH zone
 - ii) No-entry Zone (including collapse zone)
 - iii) Support Zone
 - iv) Contamination Reduction Zone (Decon Corridor): decontamination takes place; Safe Refuge Area (Safe Haven) for contaminated persons who have left the IDLH zone
 - v) Use simple diagrams that include travel pathways and gateways between zones
 - vi) AISO-HMs should verify appropriate level of PPE in each zone
 - vii) Personnel moving from one zone to another should follow prescribed pathway
 - viii) Check personnel before leaving contamination zone
 - c) Radio Transmissions
 - i) Multiple radio types and frequencies

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- ii) Backup communication systems: hand signals, message boards, tag-line signals, spontaneous system on-scene for specific needs
- d) Rehab
 - i) Medical monitoring: establish baseline before technician stabilization efforts
 - ii) Sanitation needs: best hazard mitigation approach is separation
 - iii) Food service: distance from working areas, cleanliness (further decon)

6) Defining Other Needs at Hazmat Incidents

- a) Traffic
 - i) Roadway, railway, air, and waterway: basic approach to traffic issues is to get rid of them
 - ii) For people, define specific shuttle pathways, escape zones, and zone transition gateways
- b) Need for Incident Safety Officer assistance
 - i) AISO-HM
 - ii) One or more AISOs
 - iii) Technical specialists
 - iv) Corporate risk managers
 - v) Process experts
 - vi) Public health representatives
 - vii) Department HSO or infection control officer

1002-6.5.3 The Incident Safety Officer shall attend strategic and tactical planning sessions and provide input on risk assessment and member safety.

1002-6.5.4 The Incident Safety Officer shall ensure that a safety briefing is conducted and that an incident action plan and an incident safety plan are developed and made available to all members on the scene.

- 1) Applying the Incident Safety Officer Action Model at Hazmat Incidents
 - a) Risk evaluation at the hazmat incident
 - i) Incident Safety Officer and AISO-HM must strive to agree on overall risk profile
 - ii) Incident Safety Officer may need to communicate an acceptable risk profile to nonfire service personnel
 - iii) Pace: slow, methodical, and intellectual approach
 - b) Recon evaluation at the hazmat incident
 - i) Confirm initial zoning and isolation upon arrival and assignment
 - ii) Verify that defined zones and gateways are appropriate

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- iii) AISO-HM should consult a technical reference specialist as necessary
- iv) Define the principal hazard
 - a. Dictated by the chemical involved
- v) Define environmental integrity
 - a. Weather, infrastructure stability, container condition, hazardous energy
- vi) Define physical surroundings
 - a. Location defines impact of surroundings
- vii) Crew exposure to hazards
 - a. Physical hazards +/- Chemical properties + Crew mitigation efforts = Crew hazard exposure
 - b. AISO-HM in best position to evaluate tools, teams, and rapid withdrawal factors
 - c. Rapid intervention is far from rapid at hazmat incidents: ensure clear direction for activation
- c) Resource evaluation at the hazmat incident
 - i) Time
 - a. On-scene time may not be practical: manage impacts of time passage
 - b. Reflex time for any unplanned event is delayed
 - ii) Personnel
 - a. Determine adequate training for task
 - iii) Equipment
 - a. May need on-the-spot training for specialized equipment
- d) Report issues at the hazmat incident
 - i) Tech-level stabilization effort requires formal delivery and development of
 - a. Written site safety plan
 - b. Safety briefings
 - ii) 15-minute rule for face-to-face communication is impractical
 - a. Keep unit log for documentation
 - b. Hazmat documentation not subject to statute of limitations
 - iii) Federal requirements for site safety plan include:
 - a. Safety, health, and hazard risk analysis
 - b. Site organization
 - c. Identification of PPE type required for task
 - d. Medical monitoring procedures
 - e. Environmental monitoring and sampling procedures
 - f. Site control measures
 - g. Decontamination procedures

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- h. Predefined responder emergency plans
 - i. Confined space entry and escape procedures
 - j. Spill containment and handling procedures
 - iv) ISO/AISO-HM may also have to sign off on numerous other hazmat incident plans
- 2) Unique Considerations at the Hazmat Incident
 - a) Clandestine drug labs
 - i) Hazards may include:
 - a. Poor ventilation
 - b. Flammable/toxic atmospheres
 - c. Incompatible chemicals
 - d. Chemical reactions in progress
 - e. Unidentified chemicals and/or containers
 - f. Unstable and/or leaking containers
 - g. Booby traps
 - b) Weapons of Mass Destruction
 - i) Develop local WMD plan that addresses Incident Safety Officer functions until IMT takes over
 - ii) Incident Safety Officer initially coordinates:
 - a. Quick in/quick out approach for immediate rescues
 - b. Adopt a back off posture after rescue
 - c. Isolation of victims and exposed firefighters
 - d. Staging out of sight as much as possible
 - iii) Strategic goals of ISO and AISOs
 - a. Gather RECON and threat information
 - b. Analyze options: lean towards the worst case
 - c. Develop a safety action plan across organizational boundaries
 - d. Expand role into manageable parts
 - e. Address health and safety issues prior to IMT arrival

1002-6.5.5 The Incident Safety Officer shall ensure that control zones are clearly marked and communicated to all members.

- 1) Hazardous materials incidents require specialized training
 - a) Incident Safety Officer oversees and addresses general duties
 - b) AISO-HM focuses on technician-level issues
- 2) Issues at hazmat incidents
 - a) Proper training
 - b) Communication to nonfire service responders
 - c) Control zones: contamination reduction zone
 - d) Medical evaluation before operations

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- e) Separation of sanitation and food areas
- 3) Incident Safety Officer action model at hazmat incidents
 - a) Reporting is a significant effort: federally mandated site safety plan
- 4) Unique Hazmat considerations
 - a) Clandestine labs
 - b) WMD incidents

1002-6.6 **Accident Investigation and Review**

- 1) Lessons learned from any near miss incident:
 - a) Should be folded into training
 - b) Can be used for ongoing efforts to void similar situations in the future
- 2) The Incident Safety Officer has duties during:
 - a) Postincident activities
 - b) Postincident analysis
 - c) Accident investigation

1002-6.6.1 Upon notification of a member injury, illness, or exposure, the Incident Safety Officer shall immediately communicate this information to the incident commander to ensure that emergency medical care is provided according to the authority having jurisdiction (AHJ).

1002-6.6.2 The Incident Safety Officer shall initiate the accident investigation procedures as required by the fire department.

- 1) Incident Safety Officer duties according to NFPA 1521
 - a) Initiate accident investigation procedures as required by fire department
 - b) Request assistance from the Health & Safety Officer in the event of serious injury, fatality, or other potentially harmful occurrence
- 2) Investigation is first step to avoiding future injuries and deaths
 - a) Look at fatalities and close calls
- 3) Introduction to accident investigation
 - a) Accident chain:
 - i) A series of events or conditions leading to an unsafe condition that
 - ii) Results in injury and/or property damage

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- b) Ideally, the Incident Safety Officer should stop a potential incident by eliminating one of the elements in the chain *during* the incident
- c) Five components of accident chain
 - i) Environment: physical surroundings
 - ii) Human factors: procedure use (or lack of), fatigue, fitness, and attitudes
 - iii) Equipment: use and maintenance, PPE
 - iv) Event: intersection of first three components
 - v) Injury: includes close calls
- 4) Investigation issues
 - a) The Incident Safety Officer must consider liability issues
 - b) Use due diligence
 - c) Recognize discretionary functions
 - d) Be aware of involvement of outside agencies in a significant injury or death investigation
- 5) The investigative process
 - a) Step 1: Information collection
 - i) Incident data
 - ii) Witness statements
 - iii) Scene sketches/diagrams
 - iv) Photographs/video
 - v) Physical evidence
 - vi) Existing records
 - b) Step 2: Analysis and reconstruction
 - c) Step 3: Recommendations

1002-6.6.3 In the event of a serious injury, fatality, or other potentially harmful occurrence to a member, the Incident Safety Officer shall request assistance from the health and safety officer.

1002-6.7 **Post-Incident Analysis**

1002-6.7.1 The Incident Safety Officer shall prepare a written report for the post-incident analysis that includes pertinent information about the incident relating to health and safety issues.

1002-6.7.2 The Incident Safety Officer shall participate in the post-incident analysis.

- 1) Formal or informal reflective discussions after an incident
- 2) Used to summarize successes and improvement areas discovered from incident

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- 3) Requires Incident Safety Officer involvement (NFPAs 1500 and 1521)
 - a) NFPA 1521 requires Incident Safety Officer to prepare a written report regarding health/safety issues
- 4) PIA philosophy
 - a) Positive reinforcement for safe habits
 - b) Honest, open desire to prevent future injuries
 - c) Discovery from fact-finding point of view
 - d) Avoidance of confrontation
 - e) Looking forward to the future
- 5) Incident Safety Officer PIA issues
 - a) Incident Safety Officer should comment on key issues:
 - i) General risk profile of an incident: get crew perceptions
 - ii) Effectiveness of crew tracking and accountability: freelancing
 - iii) Rehabilitation effectiveness
 - iv) PPE use: discuss controversial decisions
 - v) Close calls: reserve judgment
 - vi) Injury status: keep medical confidentiality
- 6) PIA process
 - a) Can be formal or informal: discuss with IC
 - b) Formal PIAs should be prepared for significant incidents
 - c) Incident Safety Officer should take following steps for effective PIA
 - d) On-scene
 - i) Check-in with responders and ask about injuries
 - e) Documentation
 - i) Write quick summary of hazard issues: buildings, incident timeline
 - f) Trend spotting
- 7) Incident Safety Officer postincident duties
 - a) Monitor postincident activities
 - b) Provide information for postincident analysis reports
 - c) Begin an accident investigation - Reconstruct accident chain

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10. Discussion and possible action pursuant to Section 2001.039, Texas Government Code with respect to the proposed rule review and consideration of re-adoption or repeal of the rules contained in the following Chapters of Title 37 Texas Administrative Code:

- A. 37 TAC, Chapter 401-Practice and Procedure**
- B. 37 TAC, Chapter 403-Criminal Convictions and Eligibility for Certification**
- C. 37 TAC, Chapter 405-Charges for Public Records**
- D. 37 TAC, Chapter 407-Administration**
- E. 37 TAC, Chapter 431-Fire Investigation**
- F. 37 TAC, Chapter 433-Minimum Standards for Driver/Operator-Pumper**
- G. 37 TAC, Chapter 435-Fire Fighter Safety**
- H. 37 TAC, Chapter 437-Fees**
- I. 37 TAC, Chapter 443-Certification Curriculum Manual**
- J. 37 TAC, Chapter 445-Administrative Inspections and Penalties**
- K. 37 TAC, Chapter 447-Part-Time Fire Protection Employee**

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

- <p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 401, concerning Practice and Procedure. Chapter 401 consists of Subchapter A, General Provisions and Definitions, <*>401.1, Purpose and Scope, <*>401.3, Definitions, <*>401.5, Delegation of Authority, <*>401.7, Construction, <*>401.9, Records of Official Action, <*>401.11, Conduct of Commission and Advisory Meetings, <*>401.13, Computation of Time, <*>401.15, Agreements To Be in Writing, Subchapter B, Rulemaking Proceedings, <*>401.17, Requirements, <*>401.19, Petition for Adoption of Rules, Subchapter C, Examination Appeals Process, <*>401.21, Examination Challenge, <*>401.23, Examination Waiver Request, Subchapter D, Disciplinary Proceedings, <*>401.31, Disciplinary Proceedings in Contested Cases, Subchapter E, Prehearing Proceedings, <*>401.41, Preliminary Staff Conference, <*>401.43, Prehearing Conferences, <*>401.45, Interim Orders, <*>401.47, Appeal of an Interim Order, <*>401.49, Prehearing Statements, Subchapter F, Contested Cases, <*>401.51, Preliminary Notice and Opportunity for Hearing, <*>401.53, Notice of Hearing, <*>401.55, Hearings Officer, <*>401.57, Filing of Exceptions and Replies to Proposal for Decision, <*>401.59, Orders, <*>401.61, Record, <*>401.63, Appeals to the Commission, <*>401.65, Suspension of Orders, <*>401.67, Motions for Rehearing, Subchapter G, Conduct and Decorum, Sanctions, and Penalties, <*>401.101, Conduct and Decorum, <*>401.103, Discovery Sanctions, <*>401.105, Administrative Penalties, Subchapter H, Reinstatement, <*>401.111, Application for Reinstatement of License or Certificate, <*>401.113, Evaluation for Reinstatement, <*>401.115, Procedure upon Request for Reinstatement, <*>401.117, Commission Action Possible upon Reinstatement, <*>401.119, Failure to Appear for Reinstatement, and Subchapter I, Notice and Processing Periods for Certificate Applications, <*>401.121, Purpose of Establishing Time Periods, <*>401.123, Notice of Deficiency, <*>401.125, Processing Periods, and <*>401.127, Appeal.
- <p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.
- <p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

<p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 403, concerning Criminal Convictions and Eligibility for Certification. Chapter 403 consists of <*>403.1 Purpose, <*>403.3, Scope, <*>403.5, Access to Criminal History Record Information, <*>403.7, Criminal Convictions Guidelines, <*>403.9 Mitigating Factors, <*>403.11, Procedures for Suspension, Revocation, or Denial of a Certificate to Persons with Criminal Backgrounds, <*>403.15, Report of Convictions by Individual or Department.

<p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.

<p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

<p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 405, concerning Charges for Public Records. Chapter 405 consists of <*>405.1, General Provisions Regarding Charges for Public Records <*>405.3, Definitions, <*>405.5, Charges for Providing Copies of Public Information, <*>405.7, Access to Information Where Copies Are Not Requested, <*>405.9, Format for Copies of Public Information, <*>405.11, Estimates and Waivers of Public Information Charges, and <*>405.15, The Texas Commission on Fire Protection Charge Schedule.

<p>As part of this review, the Texas Commission on Fire Protection (commission) will consider the repeal of Chapter 405 in its entirety and propose similar language as a new Subchapter J, in Chapter 401, Practice and Procedures.

<p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.

<p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

<p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 407, concerning Administration. Chapter 407 consists of <*>407.1, Historically Underutilized Businesses.

<p>As part of this review, the Texas Commission on Fire Protection (commission) will consider the repeal of Chapter 407 in its entirety and propose its language as a new Subchapter K, in Chapter 401, Practice and Procedures.

<p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.

<p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

- <p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 431, concerning Fire Investigation. Chapter 431 consists of Subchapter A, Minimum Standards For Arson Investigator Certification, <*>431.1, Minimum Standards for Arson Investigation Personnel, <*>431.3, Minimum Standards for Basic Arson Investigator Certification, <*>431.5, Minimum Standards for Intermediate Arson Investigator Certification, <*>431.7, Minimum Standards for Advanced Arson Investigator Certification, <*>431.9, Minimum Standards for Master Arson Investigator Certification, <*>431.11, Minimum Standards for Arson Investigator Certification for Law Enforcement Personnel, <*>431.13, International Fire Service Accreditation Congress (IFSAC) Seal, Subchapter B, Minimum Standards For Fire Investigator Certification, <*>431.201, Minimum Standards for Fire Investigation Personnel, <*>431.203, Minimum Standards for Fire Investigator Certification, <*>431.205, Minimum Standards for Intermediate Fire Investigator Certification, <*>431.207, Minimum Standards for Advanced Fire Investigator Certification, <*>431.209, Minimum Standards for Master Fire Investigator Certification, and <*>431.211, International Fire Service Accreditation Congress (IFSAC) Seal-Fire Investigator.
- <p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.
- <p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 433, concerning Minimum Standards For Driver/Operator – Pumper. Chapter 433 consists of 433.1, Driver/Operator-Pumper Certification, 433.3, Minimum Standards for Driver/Operator-Pumper Certification, 433.5, Examination Requirements, and 433.7, International Fire Service Accreditation Congress (IFSAC) Seal.

This review will be conducted pursuant to Texas Government Code 2001.039. The commission will accept comments for 30 days following publication of this notice in the Texas Register as to whether the reasons for adopting these rules continue to exist.

The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the Texas Register and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

<p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 435, concerning Fire Fighter Safety. Chapter 435 consists of <*>435.1, Protective Clothing, <*>435.3, Self-Contained Breathing Apparatus, <*>435.5, Commission Recommendations, <*>435.7, Fire Department Staffing Studies, <*>435.9, Personal Alert Safety System (PASS), <*>435.11, Incident Management System (IMS), <*>435.13, Personnel Accountability System, <*>435.15, Operating At Emergency Incidents, <*>435.17, Procedures for Interior Structural Fire Fighting (2-In/2-Out Rule), <*>435.19, Enforcement of Commission Rules, <*>435.21, Fire Service Joint Labor Management Wellness-Fitness Initiative, <*>435.23, Fire Fighter Injuries, <*>435.25, Courage to be Safe So Everyone Goes Home Program, and <*>435.27, Live Fire Training Structure Evolutions.

<p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.

<p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 437, concerning Fees. Chapter 437 consists of 437.1, Purpose and Scope, 437.3, Certification Fees, 437.5, Renewal Fees, 437.7, Standards Manual and Certification Curriculum Manual Fees, 437.11, Copying Fees, 437.13, Processing Fees for Test Application, 437.15, International Fire Service Accreditation Congress (IFSAC) Seal Fees, and 437.17, Records Review Fees.

This review will be conducted pursuant to Texas Government Code 2001.039. The commission will accept comments for 30 days following publication of this notice in the Texas Register as to whether the reasons for adopting these rules continue to exist.

The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the Texas Register and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

- <p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 443, concerning Certification Curriculum Manual. Chapter 443 consists of <*>443.1, Curriculum Approval by the Fire Fighter Advisory Committee, <*>443.3, Curriculum Approval by the Texas Commission on Fire Protection, <*>443.5, Effective Date of New Curricula or Changes to Curricula Required by Law or Rule, <*>443.7, Effective Date of New Curricula or Changes or Revision to Existing Curricula Which Are Voluntary, and <*>443.9, National Fire Protection Association Standard.
- <p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.
- <p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 445, concerning Administrative Inspections And Penalties. Chapter 445 consists of 445.1, Entity Inspections, 445.3, Right of Access, 445.5, Duty to Comply; Enforcement, 445.7, Procedures, 445.9, Minor Violations, 445.11, Major Violations, 445.13, Disciplinary Hearings, 445.15, Judicial Enforcement, 445.17, Liability for Violations, and 445.19, Inspection Forms.

This review will be conducted pursuant to Texas Government Code 2001.039. The commission will accept comments for 30 days following publication of this notice in the Texas Register as to whether the reasons for adopting these rules continue to exist.

The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the Texas Register and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

- <p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 447, concerning Part-Time Fire Protection Employee. Chapter 447 consists of <*>447.1, Minimum Standards for Part-Time Fire Protection Employees, <*>447.3, Minimum Standards for Advanced Levels of Part-Time Certification, and <*>447.5, Permissible Hours of Work for Part-Time Fire Protection Employees.
- <p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.
- <p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

PROPOSED RULE REVIEW

Texas Commission on Fire Protection

- <p>The Texas Commission on Fire Protection (commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 449, concerning Head of a Fire Department. Chapter 449 consists of <*>449.1, Minimum Standards for the Head of a Fire Department, <*>449.3, Minimum Standards for Certification as Head of a Suppression Fire Department, and <*>449.5, Minimum Standards for Certification as Head of a Prevention Only Department.
- <p>This review will be conducted pursuant to Texas Government Code <*> 2001.039. The commission will accept comments for 30 days following publication of this notice in the <eti>Texas Register<et> as to whether the reasons for adopting these rules continue to exist.
- <p>The Texas Commission on Fire Protection, which administers these rules, believes that the reasons for adopting the rules contained in this chapter continue to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Don Wilson, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at info@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the <eti>Texas Register<et> and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

11. Discussion and possible action on proposed recommendations on fire fighter injury data collected for 2011 for inclusion in the annual report to be sent to the State Fire Marshal's Office.

Statistics and Trends in Fire Fighter Injuries

The Fire Fighter Advisory Committee reviewed the data collected on injuries reported in 2011 and based on that review; present the following recommendations to the commission.

1. Finding: A number of burn injuries reported during the year were attributed to failure of the individual to properly don their PPE.

Proposed Recommendation: Response personnel should take the additional few seconds at every emergency incident to double-check their own gear, and the gear of their team members, to ensure that all PPE has been properly donned. Recommend review or revision of department SOPs to include procedure for double-checking protective equipment prior to commencement of fire attack or other emergency operation.

2. Finding: A number of burn injuries were reported in situations where PPE had been properly donned and was still in place at the time of the injury. Personnel may be entering areas or remaining in situations where fire conditions are exceeding the protective limits of their gear.

Proposed Recommendation: Situational awareness must be maintained at all times during emergencies, and personnel should be reminded that size up is a continual process at every incident. Emphasize training in tactics and strategy, and incident management; and review or revision of applicable SOPs as necessary.

3. Finding: A substantial number of reported injuries occurred during non-emergency activities such as routine station duties, hydrant maintenance, and wellness-fitness activities.

Proposed Recommendation: Continue periodic reviews of department policies and procedures pertaining to non-emergency activities, and revision or amendment of those policies and procedures so as to increase personnel safety.

12. Discussion and possible approval of the addition of classes or courses to the A List and B List for higher levels of certification.

Proposed Additions to A and B Lists

July 11, 2012

A List Courses:

	<u>Provider</u>	<u>Length</u>
• Leadership Strategies for Community Risk Reduction	NFA	6 days
• Practical Applications of Fire Dynamics and Modeling	NFA	6 days
• Cultural Competence in Risk Reduction	NFA	6 days
• Emergency Resource Deployment Planning: Standards of Cover	NFA	6 days
• Overview of Life Safety and Public Policy	NFA	6 days

B List Courses:

	<u>Provider</u>	<u>Length</u>
• Prevention of and Response to Suicide Bombing Incidents	NMTU	32 hours
• Preparedness/Response to Oil and Gas Well Emergencies	TEEX	8 hours
•		
• Off-Road Vehicle Operations	TEEX	8 hours

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

- A. Report on decisions of the Executive Director in contested cases and consent orders.**

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

B. Status of division functions.

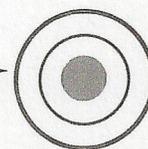
MATRIX FOR ON-LINE TESTING OPTIONS

Vendor	Number of Testing Sites	Cost – Vendor Based	Cost – Testing Site Based	Comments
eStrategies	Based on the number of ACT College Entrance Examination Sites at community colleges	\$32.00 per test	Based on length of test - \$20 to \$45 per test	
TEEX	Developed under agreement – typically utilizes community colleges and associated Texas A & M campus. Does have an on-site testing option	Based on testing site options Testing Centers - \$45 per test Onsite Option - \$75 per hour for 10 students minimum	Based on testing site options	TEEX at this time has stated that they wish to withdraw from consideration
FireTest (PTS)	Developed under agreement – TCFP selected (40 currently)	\$18.00 per test	\$0 to \$50 per test with average being \$20 to \$25	May be a transition option while in-house program is being developed. TCFP staff will supplement PTS test bank with test questions specific to Texas/TCFP requirements.
TCFP	40	Current Staff as budgeted		In-house system utilizing current staff and equipment

PTS

PERFORMANCE TRAINING SYSTEMS, INC.

"Training and testing that are on target!"



Developers and Producers of: FIRE*TEST BANKS®, and FIREFIGHTER EXAM PREPS

Mr. Don Wilson
Texas Commission on Fire Protection
P. O. Box 2286
Austin, TX 78768-2286

June 4, 2012

Reference: Bring your firefighter certification testing program into the 21st Century

Dear Mr. Wilson:

Performance Training Systems, Inc. (PTS) has completed the three-year development of our Web-Based Firefighter Certification Program (WBFCP). We based this project on 9 years of experience with web-based firefighter examination preparation. More than 3,000 firefighters have been certified through our participating entities. PTS now provides test-item banks to 106 firefighter certification entities worldwide.

We at PTS want to share information in order that you and your staff may consider participation in the Program. In cooperation with our using entities, PTS has developed a *Features and Benefits Table* that can be used to compare the web-based program with your present methods. The major hurdles during development were achieving high-level test security that would meet or exceed Pro Board and IFSAC requirements and the development of a sound proctor training program. Those issues have been handled thoroughly.

WBFCP uses the participating entities validated certification test banks and tests. PTS is totally transparent to the test takers using the program. We helped develop the entities web page to accommodate the testing process. The tests that are taken on computers provide for the scrambling of test items and test-item answers thus preventing compromise based on one person looking on another's computer. In addition, there are no available hard copies of the test nor does the proctor or anyone else except the test taker see the test questions.

PTS provides proctor training at no cost except for travel expenses. The proctors that successfully complete training objectives receive certification from PTS. We can provide information regarding the training of proctors and any other information that may be helpful to the decision makers.

Hopefully you have time to review the enclosed *Features and Benefits* document. Also enclosed is our *Fire Test Banks Status Report*. If you have questions, need references from users, or need more in-depth information, please contact me at (561) 277-9396 or e-mail: firetst@aol.com.

Sincerely:

Dr. Ben Hirst, Senior Vice President
Performance Training Systems, Inc.

Don & Grace: 1 1
For your info.

Encls: (1) Web-Based Certification Program, Features & Benefits (2) Fire Test Banks – Status Report, April, 2012

CC: Ms. Grace Wilson, Texas Commission on Fire Protection

Post Office Box Box 4044

Jupiter, Florida 33469

Telephone: (561) 277-9396 Fax: (561) 277-9402

E-Mail: firetst@aol.com

Web Sites:

firetestbanks.com

firefighterexamprep.com

E-mail: PTSales@firetestbanks.com

PERFORMANCE TRAINING SYSTEMS, INC.
FIRE TEST BANKS - STATUS REPORT

AERIAL OPERATOR v8.0.1 (431) NFPA 1002, 2009 Edition	FIRE OFFICER I v8.5 (770) NFPA 1021, 2009 Edition	PARAMEDIC v8.0 (2090) NEW DOT NATIONAL CURRICULUM
AIRPORT FIREFIGHTER v8.0 (505) NFPA 1003, 2010 Edition	FIRE OFFICER II v8.5 (318) NFPA 1021, 2009 Edition	PUMPER DRIVER v8.0.1 (410) NFPA 1002, 2009 Edition
BLDG. CONSTRUCTION/FIRE SERVICE v8.0 (301) NFPA 1001, 2008 Edition	FIRE OFFICER III v8.0 (365) NFPA 1021, 2009 Edition	ROPE RESCUE SPECIALIST v8.0 (357) NFPA 1006, 2008 Edition
CONFINED SPACE RESCUE SPECIALIST v8.0 (213) NFPA 1006, 2008 Edition	FIRE OFFICER IV v8.0 (444) NFPA 1021, 2009 Edition	VEHICLE/MACHINERY RESCUE SPECIALIST v8.0 (254) NFPA 1006, 2008 Edition
EMERGENCY MEDICAL TECHNICIAN v8.0 (1258) NEW DOT NATIONAL CURRICULUM	FIREFIGHTER I v8.5 (1659) NFPA 1001, 2008 Edition	SAFETY OFFICER v8.0 (348) NFPA 1521, 2008 Edition
FIRE & LIFE SAFETY ED I v8.0 (227) NFPA 1035, 2010 Edition	FIREFIGHTER II v8.5 (809) NFPA 1001, 2008 Edition	STRUCTURAL COLLAPSE RESCUE SPECIALIST v8.0 (283) NFPA 1006, 2008 Edition
FIRE & LIFE SAFETY ED II v8.0 (243) NFPA 1035, 2010 Edition	HAZMAT AWARENESS/OPS v8.5.1 (556) NFPA 472, 2008	SWIFT WATER RESCUE SPECIALIST v8.0 (306) NFPA 1006, 2008 Edition
FIRE INSPECTOR I v8.5 (538) NFPA 1031, 2009 Edition	HAZMAT TECHNICIAN v8.0.1 (435) NFPA 472, 2008 Edition	TELECOMMUNICATOR I v8.0 (177) NFPA 1061, 2007 Edition
FIRE INSPECTOR II v8.5 (406) NFPA 1031, 2009 Edition	HIGH ANGLE RESCUE SPECIALIST v7.5 (339) NFPA 1006, 2003 Edition	TELECOMMUNICATOR II v8.0 (159) NFPA 1061, 2007 Edition
FIRE INSTRUCTOR I v8.0.3 (482) NFPA 1041, 2007 Edition	INDUSTR. EXT/STRUCTURAL FIRE BRIGADES v8.0 (493) NFPA 1081, 2007 Edition	TELECOMMUNICATOR III v8.0 (142) NFPA 1061, 2007 Edition
FIRE INSTRUCTOR II v8.0.3 (382) NFPA 1041, 2007 Edition	INDUSTRIAL FIREFIGHTER INCIPIENT v8.0 (297) NFPA 1081, 2007 Edition	TRENCH RESCUE SPECIALIST v8.0 (182) NFPA 1006, 2008 Edition
FIRE INSTRUCTOR III v8.0 (318) NFPA 1041 2007 Edition	JUVENILE FIRESETTER I v6.5 (157) NFPA 1035, 2010 Edition	WATER/ICE RESCUE SPECIALIST v8.0 (251) NFPA 1006, 2008 Edition
FIRE INVESTIGATOR v8.0.2 (355) NFPA 1033, 2009 Edition	MEDICAL FIRST RESPONDER v7.0 (327) NEW DOT NATIONAL CURRICULUM	PYROTECHNIC DISPLAY TECHNICIAN v8.0 NFPA 1123 AND 1126 (494) (WEB-BASED ONLY)
SUBTERRANEAN RESCUE SPECIALIST v8.0 (506) NFPA 1006, 2008 Edition	NEW! HAZARDOUS INCIDENT COMMANDER v8.0 (309) IFSAC Alt. Standard & NFPA 1561	PYROTECHNIC CLOSE-PROXIMITY TECHNICIAN v8.0 NFPA 1123 AND 1126 (194) (WEB-BASED ONLY)

NOTE: (number in parentheses is the number of questions in each test bank)

Revised: April, 2012

Test-item banks to be revised during the 2nd and 3rd Quarters of 2012

Test-item banks updated to the latest NFPA Standards

Performance Training Systems Inc.

Web-Based Certification Program

Features	Benefits
1. Maintain Your Own Entity Testing System	<ul style="list-style-type: none"> • Your administrator controls the process • Uses your state validated test banks • Uses your periodically generated tests • Provides computer-generated reports by e-mail
2. Test Security	<ul style="list-style-type: none"> • No hard-copy printed tests • No one sees the test <u>except</u> the examinees • Limited access to entity master files • Virtual backup system for all data • Software scrambles both the <u>test items</u> and the <u>answers</u> • Software will shut down if examinee(s) migrate to a browser
3. User/Customer Effort and Results	<ul style="list-style-type: none"> • Examinee and entity get test results immediately • Reduces examinee calls and e-mails for scores • Examinees focus on one question at a time • Software reminds examinee if question is unanswered and doesn't permit multiple answers
4. Automation	<ul style="list-style-type: none"> • Scores reports sent immediately • Test statistics generated when requested • Examinee records e-mailed • No scanner or scan forms required • Information e-mailed to designated administrator

Features	Benefits
5. Advanced Test Scheduling	<ul style="list-style-type: none"> • Tests can be scheduled at multiple sites • Schedules can be made months ahead <p>Example: Fire Inspector I every Thursday Afternoon at specifically selected sites.</p>
6. Cost Savings	<ul style="list-style-type: none"> • Minimizes staff time/travel expenses • Minimizes examinee time/travel expenses • No startup costs or additional software required • No test bank/test item conversion fees • <u>Free</u> test-bank updates after 1st year of participation • Save staff time copying, binding, and delivering tests
7. Proctor and Software Training	<ul style="list-style-type: none"> • On-site proctor training (travel expenses for trainer) • On-site software training at quoted pricing
8. Ease of Use	<ul style="list-style-type: none"> • Entity administrator • Proctors • Examinees can register from any location that accesses the web
9. Cost of Tests (1 st 10 Charter Members Only)	<ul style="list-style-type: none"> • \$18 per test to PTS (Entities can add their own fees) • No price increase guaranteed for <u>three years</u>
10. Payment Options	<ul style="list-style-type: none"> • Credit cards can be used by examinees • Coupons (purchased in bulk by entities and coded for each specific entity and test) • Contracts or purchase orders • Convenience fees paid by each examinee
<p><i>Note: These are a few of the major features and benefits. You may experience many more.</i></p>	<p><i>Note: Web-based certification can include color for test items such as placards, water systems, etc. Scenario-based video clips can be used with the test items linked to the scenarios.</i></p>

Executive Office Quarterly Report THIRD QUARTER FY2012

The following is a summary of activities for the Executive Offices of the Texas Commission on Fire Protection. The Executive Offices summary includes the activities involving Executive Director Don Wilson and Standards Division Director Mike Baker. Staff for these offices also includes Ms. Deborah Cowan, Ms. Mary Hunt (Finance), Mr. Mark Roughton (PIO and IT Supervisor) and Ms. Alma Craig (Human Resources).

For the reporting period of May 2012 to July 2012, the following activities occurred:

- ❖ The Executive Offices in conjunction with the staff from the Education and Professional Development Section conducted educational and information programs to various organizations throughout the State. These organizations included:
 - The Texas Fire Chiefs – regional meeting held in Hallsville (Northeast Texas).
 - The Texas Fire Chiefs' Academy – a presentation of the overall function and duties of TCFP was provided to the students attending the Texas Fire Chiefs' Academy in Austin at St. Edwards University.
 - Presentation to the Texas Association of Firefighters at their conference in San Marcos. Presentation consisted of an over view of the agency and pertinent rules and regulation targeting career firefighters. A question and answer period was also provided.
 - Executive staff participated in the Texas Forensic Science Conference located on the State Capital. The commission offered a breakout session to discuss the agency's role in the development and certification of Fire and Arson Investigators. This was a first for the commission and the Forensic Science Committee.
 - Executive Staff along with other members of the agency attended the State Firemen's and Fire Marshals' Association Conference in Houston. The commission had a booth during the vendor's programs (staffed by Tim Rutland and Jim Humphries) as well as participated in a workshop session (Mike Baker, Tim Rutland, and Laurie Taylor) where the staff discussed the overall mission of the agency and how this relates to volunteer and combination departments. Discussion also included the injury reporting system and the valuable resources available to all fire service personnel from the Ernest Emerson Library. A question and answer period was also provided.
 -
- ❖ The Executive Offices has continued to have several meetings with our LBB and Governor's Office Representatives concerning the strategic plan and performance measures. Many of the points discussed during the Commissioners' workshop have been incorporated into the revised strategic plan and performance measures. As mentioned in the workshop, the agency has not been allowed to include indirect cost in the calculation of the performance measures but by working with and educating each other on the overall objectives of the performance measures, staff and LBB have been able to identify those indirect cost that can be included. Ongoing discussions with these groups will continue as the year progresses.
- ❖ The Executive Offices has been heavily involved in the development of new certifications. The Executive Offices participated in the Firefighters' Advisory Committee meeting as well as the Curriculum and Testing Committee's meeting to discuss possible new certifications as well as the continuation of those in development that have companion certifications, i.e. Fire Safety Officer and Fire Department Health and Safety Officer. As for the Firefighters' Advisory Committee meeting, discussion also included the tracking and requirements for continuing education.
- ❖ The Executive Staff has continued in its attempt to reach out to the various stakeholder groups in an attempt to discuss the various topics of concern. Staff has met independently with the SFFMA, Texas Fire Chiefs Association, the Texas State Association of Firefighters, TEEX, the Texas Division of Emergency Management, and the Texas Forest Service.
- ❖ Executive staff has also had meetings to discuss hot topics and other fire service issues with the staff of legislators. These discussions have centered on educating legislative staff about the agency, what services the agency provides, and why these services are provided. Discussion on the budget, and in particular rider 4, is always discussed with them.

EDUCATION AND PROFESSIONAL DEVELOPMENT QUARTERLY REPORT Third Quarter FY2012

Curriculum Development

- Ad hoc committees
 - Fire Officer III & IV – Completed development of curricula and presented to Curriculum and Testing committee. Approved by C&T Committee.
 - Structural Fire Protection – Reviewing and updating all FFI, FII, Awareness and Ops performance skills; reviewing exam questions; will be updating Basic Structural Firefighter curriculum to new NFPA 1001 standard (the new edition scheduled to be out Jan. 1, 2013)
 - Wildland FF – Ad hoc committee members chosen by Curriculum and Testing Committee; 1st meeting date pending
- New curricula and certifications
 - Wildland FF (Basic and Intermediate): curricula to be developed; proposed certification rules posted for public comment
 - Incident Safety Officer: curriculum completed; proposed certification rules posted for public comment
 - Fire Officer III & IV: curricula completed; certification rules to be developed
 - Hazmat Incident Commander: curriculum completed; certification rules to be developed
- Discussions ongoing concerning head of department curriculum/exam requirements.
- **Review of all test questions are underway for IFSAC's upcoming summer 2013 site visit** – their compliance inspection of our testing programs.

Certification and Renewal

- 2,184 new certificates issued – 6,125 year to date
- 307 certificate holders renewed – 27,933 year to date
- 1,671 IFSAC seals issued (as many as 200 were issued in one day by Mr. Bobby Clakley) – 4,460 year to date
- 237 training facilities holding active certifications
- 43 training facility certificates issued to 16 entities
- 105 notices (appointments and removals) processed by staff

Certification Team Activities:

- All personnel attended training at DPS headquarters regarding handling of criminal history data of applicants and certificate holders.
 - Following above training, met with DPS personnel to discuss current program at TCFP
 - Preparing for DPS audit of TCFP program later this summer
- Currently training newest member of certification team in review of applications and issuance of state certifications
- Ongoing review of TCFP rules as they pertain to certification and renewal.
- Developing procedures for standardized responses to inquiries regarding appointment of personnel, certification requirements, and renewal requirements.
- Manned agency booth at Homeland Security Conference, San Antonio over 3 days.

Information Resources

Online payments

The program has been developed for online payment of department renewals and fire protection entity payments for testing. This program will be facilitated directly through state comptroller's office.

- It will utilize the Comptroller/Treasury's "ACH Receiving Service" for payments from fire protection entities. There is no fee for municipalities to use this service. Accounts have been created for approximately 700 entities.
- Notifications regarding the program are underway, and renewal of department personnel in the upcoming September – October renewal period will take place via the program.
- Payments for testing are slated to begin December, 2012 using the service.

Staff is currently finalizing an agreement with Texas.gov to manage online payments to the commission from individuals.

- Payments will be allowed via ACH or credit card. There will be a \$0.25+2.25% “convenience fee” for each transaction. For an \$85 fee, this represents an additional \$2.16, paid directly to Texas.gov.
- Projected launch date is December, 2012 for testing payments, and September 1, 2013 for all other payments.

Online testing

- Business analysis is complete.
- Systems analysis is ongoing.
- Actual programming is ongoing. Projected launch is December, 2012.

A matrix has been developed that includes online testing providers meeting TCFP requirements. The information will be presented to the commission for final decision and choice of provider.

Data management system redesign

- Approximately 15 percent complete.
- Business and systems analysis is ongoing, including reviews of statutes and rules.
- Core data tables have been migrated. Secondary data tables approximately 10 percent migrated

Network and e-mail

- Exploring equipment refresh leases for headquarters and field personnel.
- Testing low cost tablets as alternative to laptops for roaming/offsite personnel.
- Updating and revising the Disaster Recovery Plan to reflect the introduction of VMware and Windows 2008 into our enterprise.
- Testing Zimbra Email Suite for possible replacement of Microsoft Exchange.
- Developing an in-house Audio/Video conferencing platform for TCFP use. Possible future use in communication with TCFP customers.
- Exploring an agreement to co-locate some of TCFP’s server equipment with Health and Human Services equipment at the Winters Complex for redundancy purposes, to assist in disaster recovery operations.
- Preparing equipment and services for migration to new Domain(Firecomm).

Compliance Quarterly Report Third Quarter FY2012

Field Compliance Officers –

- Officers are beta testing cell phone hot spot to determine whether or not we can realize budget savings by using cell phones exclusively for Internet access and to determine if we can discontinue the use and costs of hard line Internet connections for web access.
- Officers are assisting Compliance Manager in preparing for the annual compliance officers training to be conducted in Austin for one week July 9 – 13.

Compliance Manager –

- Assisted Standards Division Director in preparing for and conducting an Informal Hearing with the City of Whitney for extensively long period violations relating to TCFP Rules relating to:
 - Paid Fire Fighter not certified by the Commission
 - Paid Fire Chief not certified by the Commission
 - Non compliant SOPs
 - Fire Code Enforcement Inspections conducted by inspectors not certified by the Commission
- Planning, organizing, coordinating and scheduling weeklong training July 9-13 for all TCFP Staff and for Field Compliance Officers.
- Accompanied Director Wilson to El Paso to attend the House of Representative, County Affairs Committee Hearing in which Director Wilson provided testimony educating and informing the Committee on TCFP activities.
- Accompanied Region 6 Compliance Officer for three days of field inspections for orientation, training and evaluation purposes.
- Participated in TCFP break out session presentation at the Capitol for the Texas Forensic Science Commission forensics workshop.
- Collaboratively revised the agency travel policy.

Testing Quarterly Report Third Quarter FY2012

Training Approval and Testing Program

- IFSAC Update
 - IFSAC Conference was held in Minneapolis, Minnesota, April 11-14, 2012
 - Currently there are 67 entities that are members of the Certificate Assembly, which includes three new member applications that were received and approved:
 1. Ras Laffan Emergency Safety College, Qatar
 2. Emergency Management Training Centre, Namibia
 3. Department of Forestry & Fire Protection, California
 - Of the 67 member entities, 49 entities have at least one accredited level
 - Thirteen countries are members of IFSAC
 - There are 926,921 records in the Certificate Assembly registry
 - IFSAC Manager hiring process finalized
 - IFSAC Fall Board meetings will be held in Louisville, Kentucky, September 21-22, 2012, and the next IFSAC conference will be held in Oklahoma City, Oklahoma, April 17-20, 2013
 - Texas' next IFSAC reaccreditation visit is due in June 2013
- New Hire - Sammy Penrod, Customer Service Representative II, started with the agency on May 8, 2012, and will be assisting in various areas within the program, specifically in finalizing training approval applications, processing field examiner applications, and grading state examinations.
- Test Administrations
 - Out of the 2501 exams given during the 3rd Quarter of 2012, 1377 were administered during the month of May.
 - Of the 1377 exams administered during May 2012, 691 (approximately one-half) exams were administered during the week of May 7, 2012. (Note: This high volume is due to "final" week for our college academies.)
 - The average grade on the state examination was 83.05%.
- Training Approvals - 298 Training Prior Approval applications were processed and finalized within 8.84 days of receipt.
- Training and Skill Testing Audits – 17 audits were conducted during this quarter. Of the 17 audits, two deficiencies were noted regarding the failure of the entity to either notify the commission of a class cancellation or deviation. Both deficiencies have been addressed. One online audit is currently open due to auditor waiting on receipt of records requested.
- Team Activities for the next quarter are:
 - Continue to work on the online processes and guidelines regarding training approval and testing with IT and other members of the agency
 - Reviewing rules as they relate to training approval and testing activities
 - Continue training for the newest team member
 - Initiate the self-study process for the June 2013 IFSAC reaccreditation visit

Education, Research and Outreach Quarterly Report THIRD QUARTER FY2012

FY 2012 Injury Reporting Program

	1Q	2Q	3Q	4Q	Total
Reported Injuries	1079	827	918	-	2824
Burns	39	32	28	-	99
SOP-related*	3	4	0	-	7

*Injuries involving SOP violations

<i>Publications/postings</i>					
AvoidInjury! blog posts	11	8	10	-	29

Injury program outreach activities (3Q)

Programs/meetings attended

- Visited Marlin FD to review injuries.
- Attended/presented at Southwest Fire Rescue.
- Became a member of the Texas Fire Chiefs' Safety Committee.
 - Two meetings attended to date.
- Presented annual Injury Report to commissioners at April meeting.

Avoid Injury! Blog posts

- Texas vs. national statistics and a culture of safety, 5/21
- Lost money due to injuries, 5/14
- Staffing issues surrounding injuries, 5/7
- Breakdown of top injuries costing the most time lost, 4/30
- Cost of injuries, 4/16
- Injuries reported to the TCFP injury reporting program in 2011, 4/9
- Thanks to injury reporting departments, 3/29
- Wellness/fitness – exercise properly, 3/26
- Injuries occurring during wellness/fitness activities, 3/9
- Wellness/fitness – exercise can be dangerous, 3/5

Other activities/accomplishments

- Injury reporting policy and procedure draft completed.
- Began gathering data on environmental injuries.
 - Bunker coat and pants material.
 - Looking to see if new material is impacting heat exhaustion / dehydration type injuries.

FY 2012 Library Program

	1Q	2Q	3Q	4Q	Totals
<i>Items loaned</i>					
AV items	169	174	134	-	477
Print items	153	164	9	-	326
<i>Research and reference requests</i>					
Internal	7	7	11	-	25
External	29	84	60	-	173
New library borrowers	23	16	5	-	44
Responses to borrower follow-up surveys	14	14	6	-	34
<i>Items cataloged</i>					
AV items	31	3	8	-	42
Print items	56	5	35	-	96
Desk copy items ordered and processed	0	26	0	-	26
<i>Publications/postings</i>					
Facebook posts	32	28	40	-	100
Library newsletter	4	3	1	-	8

Library program outreach activities (3Q)

Firefighter Safety Friday posts (FB)

- High-rise safety , 5/18.
- SCBA emergencies, 5/11.
- Safety officers, 3/23.

Library staff picks posts (FB)

- Aircraft extinguishing agents, 5/2.
- Fire control, 4/18, 3/7.
- Investigations, 4/4.

Library newsletter

- PIOs, 4/2.

Other activities/accomplishments

- Laura had a baby!

FY 2012 Other Public Information and Outreach Activities

	1Q	2Q	3Q	4Q	Total
Fire department job postings	-	-	66	-	66*
Number of departments requesting postings	-	-	58	-	58*
Website home page articles	7	2	8	-	17
Open records requests	-	-	3		3*

*Includes 3Q only

Public Information program outreach activities (3Q)

Website - home page articles.

- Connealy selected as SFMO, 5/29.
- TFSC announces forensic science conference, 5/2.
- State and local initiatives enhance fire fighter safety, 4/20.
- Questions on fire inspector certification, 4/19.
- April commission meeting notebook posted, 3/30.
- Commission seeks applicants for wildland fire fighter ad hoc committee, 3/12.
- Texas Commission on Fire Protection fills two leadership positions, 3/7.
- Texas Forest Service announces upcoming wildfire academies, 3/7.
- Advisory committee to consider new voluntary certifications, 3/2.

Other activities/accomplishments

- Customer Satisfaction Survey, March
- Edited/contributed to:
 - Agency Strategic Plan, FY 2013-2017
 - Agency rule review.
 - Texas.gov Customer Agreement and On-Boarding documents.
 - AG letter draft.
 - Certification Notices and Alerts.
 - HB 3866 follow-up notices.

14. **Executive session pursuant to Government Code, Section 551.074, for the discussion of personnel matters: the appointment, employment, compensation, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director, and appoint, employment, reassignment, or duties of personnel acting on an interim basis.**

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

16. Adjourn meeting.