

FIRE FIGHTER ADVISORY COMMITTEE
AGENDA
June 8, 2009, 10:00 A.M.
William B. Travis Building, Room 1-104, Austin, Texas

The Fire Fighter Advisory Committee will convene in open session to deliberate and possibly take formal action on any of the following agenda items:

1. Roll call – 10:00 a.m.
2. Adoption of the March 18, 2009, Fire Fighter Advisory Committee meeting minutes.
3. Discussion and possible recommendation regarding proposed rule changes to 37 TAC, Chapter 429, Subchapter B, Minimum Standards for Fire Inspector Certification including, but not limited to §429.203, (1), (C), (ii), Minimum Standards for Basic Fire Inspector Certification – New Track.
4. Discussion regarding 37 TAC, Chapter 435, Fire Fighter Safety, §435.17, Procedures for Interior Structural Fire Fighting (2-In/2-Out Rule).
5. Discussion and possible recommendation regarding proposed rule changes to 37 TAC, Chapter 435, Fire Fighter Safety, including, but not limited to §435.23, Fire-Fighter Injuries.
6. Discussion and possible recommendation regarding proposed rule changes to 37 TAC Chapter 437, Fees, including, but not limited to §437.3, Certification Fees; §437.5, Renewal Fees; §437.13, Basic Certification Examination Fees.
7. Discussion and possible recommendation regarding proposed rule changes 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 Inspection 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.
8. Discussion and possible recommendation regarding proposed rule changes to 37 TAC, Chapter 445, Administrative Inspections and Penalties including, but not limited to, §445.1, Entity Inspections; §445.9, Minor Violations; §445.11, Major Violations; §445.13, Disciplinary Hearings; §445.15, Judicial Enforcement.
9. Discussion and possible action on future meeting dates, agenda items, and locations.
10. Adjourn meeting.

1. Roll call – 10:00 a.m.

2. Adoption of the March 18, 2009, Fire Fighter Advisory Committee meeting minutes.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer Jim Reidy called the March 18, 2009 meeting of the Fire Fighter Advisory Committee to order at 10:00 a.m. at the William B. Travis Building, 1701 N. Congress Ave., Room 1-104, in Austin, Texas

Attending	Jim Reidy Tommy Anderson David Hudgins	Leonardo Perez Amado Cano, Jr. J. P. Steelman*	Michael Wisko Daniel DeYear *absent entire meeting **absent part of meeting
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Staff	Jake Soteriou Deborah Cowan Jim Crowson, Assistant Attorney General	Miles Skipper Dianne Hudson	Gary L. Warren, Sr. Tim Rutland
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1. Roll call Secretary, Michael Wisko called roll and 7 of 8 members were present.
2. Adoption of A motion was made by Leonardo Perez and seconded by Daniel DeYear to Minutes approve the minutes of the October 6, 2008, fire fighter advisory committee meeting with corrections as discussed. The motion carried (7 for, 1 absent)
3. Report from Curriculum and Testing Committee A motion was made by Tommy Anderson and seconded by Michael Wisko to recommend changes to the Basic Fire Inspector Curriculum combining the three separate charts outlining the total number of hours into a single chart. The motion carried (7 for, 1 absent)
4. 37 TAC, Chapter 421 A motion was made by David Hudgins and seconded by Daniel DeYear to accept the recommended changes to 37 TAC Chapter 421, §421.5 and §421.17 with changes as discussed. The motion carried (7 for, 1 absent)
5. 37 TAC, Chapter 427 A motion was made by Michael Wisko and seconded by Amado Cano to accept the recommended changes to 37 TAC Chapter 427, §§427.201, 427.303 and 427.305 as discussed. The motion carried (7 for, 1 absent)
6. 37 TAC, Chapter 433 A motion was made by Tommy Anderson and seconded by Michael Wisko to accept the recommended changes to 37 TAC Chapter 433, §433.5 as discussed. The motion carried (7 for, 1 absent)
7. 37 TAC, Chapter 437 A motion was made by Leonardo Perez and seconded by Michael Wisko to accept the recommended changes to 37 TAC Chapter 437, §437.13 as discussed. The motion carried (7 for, 1 absent)
8. 37 TAC, Chapter 439 A motion was made by Michael Wisko and seconded by Tommy Anderson to accept the recommended changes to 37 TAC Chapter 439, §§439.1, 439.3, 439.5, 439.7, 439.9, 439.11, 439.13, 439.15, 439.17, 439.19, 439.203 and 439.205 with changes as discussed. The motion carried (7 for, 1 absent)

**Commission on Fire Protection
Fire Fighter Advisory Committee
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| 9. 37 TAC,
Chapter 449 | A motion was made by David Hudgins and seconded by Tommy Anderson to accept the recommended changes to 37 TAC Chapter 449, §449.3 and §449.5 as discussed. The motion carried (7 for, 1 absent) |
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| 10. 37 TAC,
Chapter 451 | A motion was made by Michael Wisko and seconded by Amado Cano to accept the recommended changes to 37 TAC Chapter 451, §451.5 and §451.205 as discussed. The motion carried (7 for, 1 absent) |
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| 11. 37 TAC,
Chapter 453 | A motion was made by Amado Cano and seconded by Daniel DeYear to accept the recommended changes to 37 TAC Chapter 453, §453.5 as discussed. The motion carried (7 for, 1 absent) |
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| 12. Years of
experience
for master
structure
certification | Reviewed recommendation from Assistant Fire Chief, Van Weese of The Colony Fire Department regarding minimum number of years of experience for a Master Structure Fire Protection Personnel Certification. After discussion, no action taken. |
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| 13. Future meeting
dates & agenda
items | Review Commission recommendations for two-in and two-out next meeting scheduled for June 8, 2009 |
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| 14. Adjournment | A motion was made by Daniel DeYear and seconded by Michael Wisko. The motion carried (7 for, 1 absent) |
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Jim Reidy
Presiding Officer

3. Discussion and possible recommendation regarding proposed rule changes to 37 TAC, Chapter 429, Subchapter B, Minimum Standards for Fire Inspector Certification including, but not limited to §429.203, (1), (C), (ii), Minimum Standards for Basic Fire Inspector Certification – New Track.

Chapter 429

Minimum Standards for Fire Inspectors

Subchapter B, Minimum Standards for Fire Inspector Certification

§429.203. Minimum Standards for Basic Fire Inspector Certification – New Track.

In order to be certified as a basic fire inspector, an individual must:

- (C) successful completion of the following college courses:
 - (i) Fire Protection Systems, three semester hours;
 - (ii) Fire Prevention, three semester hours; or Fire Prevention Codes and **Inspections** Investigations, three semester hours;

4. Discussion regarding 37 TAC, Chapter 435, Fire Fighter Safety, §435.17, Procedures for Interior Structural Fire Fighting (2-In/2-Out Rule).

Chapter 435

FIRE FIGHTER SAFETY

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

- (a) The fire department shall develop written procedures that comply with the Occupational Safety and Health Administration's Final Rule, 29 CFR Section 1910.134(g)(4) by requiring:
- (1) a team of at least four fire protection personnel must be assembled before an interior fire attack can be made when the fire has progressed beyond the incipient stage;
 - (2) at least two fire protection personnel to enter the IDLH atmosphere and remain in visual or voice (not radio) contact with each other;
 - (A) Visual means that the fire protection personnel must be close enough to see each other.
 - (B) Voice means that the fire protection personnel of the entry team must be close enough to speak to one another without the use of radios.
 - (3) at least two fire protection personnel remain located outside the IDLH atmosphere to perform rescue of the fire protection personnel inside the IDLH atmosphere;
 - (4) all fire protection personnel engaged in interior structural fire fighting use self-contained breathing apparatus and be clothed in a complete set of protective clothing as identified in Chapter 435;
 - (5) all fire protection personnel located outside the IDLH atmosphere be equipped with appropriate retrieval equipment where retrieval equipment would contribute to the rescue of the fire protection personnel that have entered the IDLH atmosphere;
 - (6) one of the outside fire protection personnel must actively monitor the status of the inside fire protection personnel and not be assigned other duties. The second outside fire protection personnel may be assigned to an additional role, including, but not limited to, incident commander, safety officer, driver-operator, command technician or aide, or fire fighter/EMS personnel, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any fire protection personnel working at the scene;
 - (7) the fire protection personnel outside the IDLH atmosphere must remain in communication (including, but not limited to, radio) with the fire protection personnel in the IDLH atmosphere. Use of a signal line (rope) as a communications instrument for interior fire fighting is not permitted by the commission. This does not preclude the use of rescue guide ropes (guide line or lifeline or by what ever name they may be called) used during structural searches; and
 - (8) each outside fire protection personnel must have a complete set of protective clothing and self-contained breathing apparatus, as identified in Chapter 435, immediately accessible for use if the need for rescue activities inside the IDLH atmosphere is necessary.
- (b) The fire department shall comply with the 2-in/2-out rule as described in this section except in an imminent life-threatening situation when immediate action could prevent the loss of life or serious injury before the team of four fire protection personnel are assembled.

5. Discussion and possible recommendation regarding proposed rule changes to 37 TAC, Chapter 435, Fire Fighter Safety, including, but not limited to §435.23, Fire-Fighter Injuries.

Chapter 435

FIRE FIGHTER SAFETY

§435.23 – Fire Fighter Injuries.

A fire department shall report all fire fighter injuries on the Commission form.

- a. Minor injuries are those that do not require attention by a licensed physician or do not involve the failure of personal protective equipment. Minor injuries will be reported within 14 days of the injury event.
- b. Major injuries are those that require the fire fighter to be attended to by a licensed physician and/or involves the failure of personal protective equipment. Major injuries shall be reported within 48 hours of the injury event.
- c. The fire department will secure any personal protective clothing involved in a fire fighter injury and shall be made available to the Commission for inspection.

6. Discussion and possible recommendation regarding proposed rule changes to 37 TAC Chapter 437, Fees, including, but not limited to §437.3, Certification Fees; §437.5, Renewal Fees; §437.13, Basic Certification Examination Fees.

CHAPTER 437

FEES

§437.3. Certification Fees.

- (a) A **\$35.00** ~~[\$20]~~ non-refundable application fee is required for each certificate issued by the **Commission** [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 certification. If the certificate is denied the applicant must pay a new certification application fee to file a new application.

§437.5. Renewal Fees.

- (a) A **\$35.00** ~~[\$25]~~ non-refundable annual renewal fee 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** [commission] may collect only one **\$35.00** ~~[\$25]~~ renewal fee which will renew all certificates held by the individual or certified training facility.
- (l) 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 **\$17.50** ~~[\$10]~~ late fee in addition to the renewal fee for each individual for which a renewal fee was due.
- (m) 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 **\$35.00** ~~[\$20]~~ late fee in addition to the renewal fee for each individual for which a renewal fee was due.
- (p) An individual, upon returning from activation to military service, whose certification has expired, must notify the **Commission** [commission] in writing. The individual will have any normally associated late fees waived and will be required to pay a **\$35.00** ~~[\$25]~~ renewal fee.

§437.13. Processing Fees for Test Application. ~~Basic Certification Examination Fees.~~

- (a) A non-refundable **application** processing fee of **\$35.00** ~~[\$15]~~ shall be charged for each ~~written or performance skill examination administered by the Commission.~~
- (b) ~~Academy testing~~ Fees will be paid in advance with the ~~students'~~ application or the provider of training may be invoiced or billed if previous arrangements have been made with the Commission. ~~to test or be billed after the state testing has been completed. The exceptions to this rule are:~~
- (1) ~~individual walk-ins; and~~
- (2) ~~retesting of a failed skill administered the same day.~~

7. Discussion and possible recommendation regarding proposed rule changes 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 Inspection 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

§441.3. 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) **Continuing Education Track A**—Training intended to maintain previously learned skills as stated in the **Commission** ~~commission~~ certification curriculum manual for the certifications held, **and in subjects and hours designated by the Commission.**
- (3) ~~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 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) **Continuing Education 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 **except for rapid intervention and live fire training.**
- (d) The continuing education program of a regulated entity must be administered and maintained in accordance with **Commission** ~~commission~~-rule by a certified instructor.
- (e) **Of those subjects designated by the Commission for continuing education, no** ~~Ne~~ more than four hours per year in any one subject of the appropriate chapter of the ~~commission's Certification Curriculum Manual~~ may be counted toward the ~~20-hour~~ continuing education requirement for ~~Track A~~.
- (f) **Documentation of continuing education training shall be reported to the Commission within 30 days following the completion of the training.**
- (f) ~~There shall be no "hour per subject limit" placed on 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)-(l) NO CHANGE.

(m) An individual certificate holder, not employed by a regulated entity, shall submit documentation of continuing education training **within 30 days following the completion of the training.** ~~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** ~~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** ~~commission~~ instructor, **Commission** ~~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** ~~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** ~~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) Continuing education will be required for personnel certified as structure fire protection personnel.

(b) Continuing education for Structure Fire Protection certification shall may be chosen from the following subjects:

Self-Contained Breathing Apparatus

Personal Protective Clothing

Fire Fighter Safety

Hazardous Materials

Fire Cause Determination

Rescue

Incident Management/Command

Pre-Incident Planning

Rapid Intervention

Live Fire

~~(b) Subjects selected to satisfy the continuing education requirement may be selected from either Track A, 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.

(c) Continuing education for Aircraft Rescue Fire Protection certification may be chosen from the following subjects:

Airport Familiarization: Signs, Markings, and Lighting

Aircraft Familiarization

Rescue

Emergency Aircraft Evacuation

Safety

Emergency Communications

Extinguishing Agents

Aircraft Cargo Hazards

Airport Emergency Plans

Live Fire

§441.11. Continuing Education for Marine Fire Protection Personnel.

- (a) Continuing education will be required for personnel certified as marine fire protection personnel for any certification period beginning after October 31, 1993.

(b) Continuing education for Marine Fire Protection certification may be chosen from the following subjects:

Self-Contained Breathing Apparatus

Personal Protective Clothing,

Fire Fighter Safety

Hazardous Materials

Merchant Vessel Orientation

Marine Rescue Operations

Incident Management/Command

Shipboard Fire Protection, Emergency Equipment and Systems

Water Survival

Live Fire

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

§441.13. Continuing Education for Fire Inspection Personnel.

- (a) Continuing education will be required for personnel certified as fire inspection personnel.

(b) Continuing education for Fire Inspector certification may be chosen from the following subjects:

Occupancy Types
Construction Types
Fire Protection/Suppression Systems
Portable Extinguishers
Occupant Emergency Planning and Preparedness
Hazardous Materials
Fire Behavior
Codes and Ordinances
Plan Reviews
Reports and Records

~~(b) Subjects selected to satisfy the continuing education requirement may be selected from either Track A, Track B, or a combination of the two.~~

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

(a) Continuing education will be required for personnel certified as arson investigation or fire investigation personnel.

(b) Continuing education for Fire Investigator certification may be chosen from the following subjects:

Legal Considerations
Interviews and Interrogation
Investigation Documentation
Physical Evidence
Fire Patterns
Cause and Origin Determination
Accidental Fires
Incendiary Fires
Fire Science
Hazardous Materials

~~(b) Subjects selected to satisfy the continuing education requirement may be selected from either Track A, Track B, or a combination of the two.~~

§441.17. Continuing Education for Hazardous Materials Technician.

(a) 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) Continuing education for Hazardous Materials Technician certification may be chosen from the following subjects:

Codes, Laws, Standards
Containers, Markings, Colors
Detection, Identification, Monitoring Equipment
Personal Protective Equipment
Incident Management/Command
Decontamination

Responder Safety
Toxicity and Health Effects
Data Collection and Interpretation
Control Equipment and Techniques

~~(b) Subjects selected to satisfy the continuing education requirement may be selected from either Track A or Track B, or a combination of the two.~~

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

(a) Continuing education will be required for personnel certified as head of a fire department.

(b) Continuing education for Head of Department certification may be chosen from the following subjects:

Human Resource Management
Community Relations
Government Relations
Administration
Emergency Services Delivery
Disaster Planning
Risk Management
Program Development and Implementation
Program Analysis
Incident Management/Command

~~(b) Subjects selected to satisfy the continuing education requirement may be selected from either Track A, Track B, or a combination of the two.~~

§441.21. Continuing Education for Fire Service Instructor.

(a) Continuing education will be required for individuals certified as a fire service instructor.

(b) Continuing education for Fire Service Instructor certification may be chosen from the following subjects:

Instructional Techniques
Instructional Delivery
Evaluation and Testing
Lesson Plan Development
Training Program Management/Administration
Training Reports and Records
Instructional Aids and Equipment
Learning Characteristics

~~(b) Subjects selected to satisfy the continuing education requirement may be selected from either Track A or Track B, or a combination of the two.~~

(c) Persons holding Fire Service Instructor certification may use the hours from any fire protection classes they have conducted to satisfy continuing education requirements, provided no more than 4 hours conducted in any one subject may be counted toward the total required.

8. Discussion and possible recommendation regarding proposed rule changes to 37 TAC, Chapter 445, Administrative Inspections and Penalties including, but not limited to, §445.1, Entity Inspections; §445.9, Minor Violations; §445.11, Major Violations; §445.13, Disciplinary Hearings; §445.15, Judicial Enforcement.

Chapter 445

Administrative Inspections and Penalties

§445.1 - Entity Inspections

- a. The **Commission** ~~commission~~ shall conduct at least biennial inspections of the entities that fall under the regulatory authority of the **Commission** ~~commission~~ **and may perform risk based inspections of entities the commission determines to be at risk.**
- b. The purpose of these inspections shall be to promote safety and proficiency in the fire service by ensuring compliance with state law and **Commission** ~~commission~~ rules pertaining to minimum standards for fire protection personnel education, protective clothing, self-contained breathing apparatus, **personal alert safety systems, standard operating procedures,** or any other aspect of the fire service regulated by the **Commission** ~~commission~~.
- c. This shall include inspections of volunteer fire fighters and fire departments that participate in the voluntary regulation program pursuant to Section 419.071 of the Texas Government Code in one or more of the component areas.

§445.9 - Minor Violations

If during the course of a departmental inspection, the inspector determines the department has committed minor violations, the following procedures shall apply.

1. The inspector shall issue a **notice of minor violations** ~~formal notice of noncompliance~~ identifying the findings **resulting from the compliance inspection** ~~of fact~~.
2. The department then has **30** ~~14~~ calendar days from the date the **notice of minor violations** ~~noncompliance~~ is received to **correct the violations and provide the Commission** ~~correct the violations and provide the commission~~ with proof of compliance or to provide the commission with a written schedule of actions which will be carried out to correct **the minor violations** ~~achieve compliance~~. The schedule of actions will allow necessary amounts of time for such things as obtaining items through city requisitions and bid processes, when necessary. Lack of funds is not an acceptable reason for delay.
3. ~~If the department fails to provide proof of compliance or a written schedule of actions within the 14 calendar days, an administrative penalty of up to \$300 per violation may be recommended by the commission staff. If the department has been compelled to submit proof of compliance or a schedule of actions for the same or similar violations within the previous five years, the administrative penalty shall be up to \$600 per violation.~~
4. ~~In the event the department fails to achieve compliance in accordance with the agreed-upon schedule of actions, an administrative penalty of up to \$600 per violation may be recommended by the commission staff unless the commission staff determines that sufficient reason exists for extending the time allowed for compliance.~~
5. ~~In all cases where an administrative penalty is recommended by the commission staff, the department may be granted 14 calendar days to pay the administrative penalty and come into compliance or submit a written notice of appeal.~~

3. If the department fails to **provide a plan for obtaining compliance** pay the administrative penalty and come into compliance within the required time frame, a hearing may be scheduled. If determined by the hearing process that violations occurred **and were not corrected**, the department may be:
 - A. allowed extra time to come into compliance;
 - B. assessed appropriate penalties which may be probated and may include suspension of certificates, administrative penalties, hearing costs, and attorneys fees;
 - C. required to furnish proof of compliance.

§445.11 - Major Violations

~~If during the course of a departmental inspection the inspector determines the department has committed major violations, the following procedures shall apply.~~

- ~~1. The inspector shall issue a formal notice of noncompliance identifying the findings of fact.~~
- ~~2. An administrative penalty of up to \$500 per violation may be recommended by the commission staff. If it is determined by the commission that the department has been subjected to an administrative penalty for the same or similar violations within the previous five years, the administrative penalty may be up to \$1,000 per violation.~~
- ~~3. The department then has 14 calendar days from the date of the receipt of the formal notice of noncompliance to pay the administrative penalty, correct the violations, and to provide the commission with proof of compliance or submit written notice of appeal.~~
- ~~4. If the department fails to pay the administrative penalty and come into compliance within the total 14 calendar day time frame, a hearing shall be scheduled. If determined by the hearing process that violations occurred, the department may be:
 - ~~A. allowed extra time to come into compliance;~~
 - ~~B. assessed appropriate penalties which may be probated and may include suspension of certificates, administrative penalties, hearing costs, and attorneys fees;~~
 - ~~C. required to furnish proof of compliance.~~~~

If during the course of a departmental inspection the inspector determines the department has committed major violations involving protective clothing, self-contained breathing apparatus, personal alert safety systems or breathing air, the following procedures shall apply.

- 1. The inspector shall issue a formal notice of noncompliance identifying the violations and the corrective measures to be taken by the department to correct the listed violations.**
- 2. The department has 30-calendar days from the date of receipt of the formal notice of noncompliance to correct the violations, and to provide the Commission with proof of compliance or submit written notice of appeal.**

3. If the department fails to come into compliance within the allotted time frame, an administrative penalty of up to \$500 per day may be assessed from the first day of formal notice of violation for each violation. If it is determined that the department was assessed administrative penalties for the same or similar violations within the previous five years, the administrative penalty of up to \$1,000 per violation may be assessed.
4. The department then has 30-calendar days from formal notice of administrative penalties assessed to pay the administrative penalty or submit written notice of appeal.
5. Upon receipt of a written appeal concerning administrative action or penalty, a hearing will be scheduled. Chapter 154 of the Texas Civil Practice and Remedies' Code shall be used as a procedural guide.

§445.13 - Disciplinary Hearings

A complaint case shall be opened no later than the 30th day after formal notice to the fire department, training provider or individual concerning unresolved major violations found during an inspection. A hearing will be scheduled with the fire department, training provider or individual to determine administrative actions or penalties.

~~Upon the filing of a complaint with the commission charging a regulated entity with a violation of the Code or commission regulations as grounds for disciplinary action, the commission shall provide for a hearing of the charges. The commission's rules of practice and procedure govern disciplinary proceedings under this chapter.~~

The Commission shall consider the following factors when determining administrative penalties:

- (1) Compliance history;
- (2) Seriousness of the violation;
- (3) The safety threat to the public or fire personnel;
- (4) Any mitigating factors; and
- (5) Any other factors the Commission considers appropriate.

§445.15 - Judicial Enforcement

The Commission may enter a default order if a fire department or training provider fails to take action to correct a violation found during an inspection conducted under this chapter or to request an informal settlement conference before the 61st day after the date the Commission provides to the department or provider a notice requiring the department or provider to correct the violations.

~~If a department is found to have committed major violations of the same or similar nature on three or more occasions within the previous five years, proceedings for injunctive relief, penalties, and discipline may be instituted; provided, however, that this section shall not prohibit the commission from resorting to judicial enforcement for any violation of the Code or rules.~~

9. Discussion and possible action on future meeting dates, agenda items, and locations.

10. Adjourn meeting.