

FIRE FIGHTER ADVISORY COMMITTEE
AGENDA
September 16, 2011, 9:00 A.M.
1701 N. Congress Avenue
William B. Travis Building, Room 1-100, 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 – 9:00 a.m.
2. Adoption of the June 15, 2011, Fire Fighter Advisory Committee meeting minutes.
3. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 425, Fire Service Instructors, including, but not limited to; §425.1 Minimum Standards for Fire Service Instructor Certification.
4. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 429, Minimum Standards for Fire Inspectors, Subchapter B, Minimum Standards for Fire Inspector Certification, including, but not limited to; §429.201 Minimum Standards for Fire Inspector Personnel, §429.203, Minimum Standards for Basic Fire Inspector Certification, §429.205 Minimum Standards for Intermediate Fire Inspector Certification, §429.207 Minimum Standards for Advanced Fire Inspector Certification, §429.209 Minimum Standards for Master Fire Inspector Certification, and §429.211 International Fire Service Accreditation Congress (IFSAC) Seal.
5. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 431, Fire Investigation, Subchapter A, Minimum Standards For Arson Investigator Certification, including but not limited to; §431.3 Minimum Standards for Basic Arson Investigator Certification, §431.9 Minimum Standards for Master Arson Investigator Certification, and Subchapter B, Minimum Standards for Fire Investigator Certification, including, but not limited to; §431.209 Minimum Standard for Master Fire Investigator Certification.
6. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 439, Examinations For Certification, Subchapter A, Examinations For On-Site Delivery Training, including, but not limited to, new §439.13 Special Accommodations for Testing.
7. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 449, Head of A Fire Department, including, but not limited to; §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.
8. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 451, Fire Officer, Subchapter A, Minimum Standard for Fire Officer I, including, but not limited to; §451.3 Minimum Standards for Fire Officer I Certification, and Subchapter B, Minimum Standards for Fire Officer II, including, but not limited to; §451.203 Minimum Standards for Fire Officer II Certification.
9. Discussion regarding 37 TAC, Chapter 435, Firefighter Safety, including, but not limited to; §435.1 Protective Clothing and §435.19 Enforcement of Commission Rules, to include the Commission's findings on helmet damage discovered during inspections and departments duty to comply with applicable provisions of NFPA 1851.
10. Discussion and possible action on future meeting dates, agenda items, and locations.
11. Adjourn meeting.

1. Roll call--9:00 a.m.

2. Adoption of the June 15, 2011 Fire Fighter Advisory Committee meeting minutes.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer Jim Reidy called the June 15, 2011 meeting of the Fire Fighter Advisory Committee to order at 9:00 a.m. at the William B. Travis Building, 1701 N. Congress Ave., Room 1-111, in Austin, Texas.

Attending Jim Reidy Michael Wisko Tommy Anderson David Hudgins Amado Cano, Jr.
Jason Collier Daniel DeYear J. P. Steelman Michael Jones
*absent entire meeting
**absent part of meeting

Staff Jake Soteriou Deborah Cowan Gary L. Warren, Sr. Larry Whitis
Don Wilson

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1. Roll call Secretary Michael Wisko called roll and all members were present.

 2. Election of Officers
A motion was made by Tommy Anderson and seconded by David Hudgins to nominate Michael Wisko as Assistant Presiding Officer. The motion carried.

A motion was made by Michael Wisko and seconded by Amado Cano, Jr. to nominate J. P. Steelman as Secretary. The motion carried.

 3. Adoption of Minutes
A motion was made by Tommy Anderson and seconded by J. P. Steelman to approve the minutes of the March 10, 2011, fire fighter advisory committee meeting as discussed. The motion carried.

 4. Curriculum & Testing Committee Report
Larry Whitis, gave an overview of recommended revisions to the Basic Aircraft Rescue Fire Suppression Curriculum and reference lists.

After discussion, a motion was made by Michael Wisko and seconded by Daniel DeYear to approve the recommended revisions to the Basic Aircraft Rescue Fire Suppression Curriculum and reference lists to the commission for approval as discussed. The motion carried.

 5. 37 TAC, Chapter 429
A motion was made by Daniel DeYear and seconded by Jason Collier to approve the recommended changes to the commission regarding 37 TAC, Chapter 429, §§429.201 429.203, 429.205, 429.207, 429.209, 429.211 as discussed. The motion carried.

 6. 37 TAC, Chapter 435
A motion was made by Tommy Anderson and seconded by Jason Collier to approve the recommended changes to the commission regarding 37 TAC, Chapter 435, §435.1 and §435.27 as discussed. The motion carried.

 7. Future meeting Dates, agendas and locations
The committee did not identify a future meeting date. The next meeting will be scheduled when a conference room can be reserved.

Future agenda item identified, Chapter 449 Head of Department

 8. Adjournment
A motion to adjourn was made by J. P. Steelman and seconded by Tommy Anderson. The motion carried.

Jim Reidy
Presiding Officer

- 3. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 425, Fire Service Instructors, including, but not limited to; §425.1 Minimum Standards for Fire Service Instructor Certification.**

CHAPTER 425

FIRE SERVICE INSTRUCTORS

§425.1. Minimum Standards for Fire Service Instructor Certification.

- (a) Training programs that are intended to satisfy the requirements for fire service instructor certification must meet the curriculum and competencies based upon NFPA 1041. All applicants for certification must meet the examination requirements of this section.
- (b) Prior to being appointed to fire service instructor duties, all personnel must complete a Commission-approved fire service instructor program and successfully pass the Commission examination pertaining to that curriculum.
- (c) Personnel who receive probationary or temporary appointment to fire service instructor duties must be certified by the Commission within one year from the date of appointment to such position.
- (d) An out-of-state, military, or federal instructor training program may be accepted by the Commission as meeting the training requirements for certification as a fire service instructor if the training has been submitted to the Commission for evaluation and found to be equivalent to or to exceed the Commission-approved instructor course for that particular level of fire service instructor certification.
- (e) An individual who holds a **bachelor's** [~~bachelors~~] degree or higher in education from a regionally accredited educational institution or a teaching certificate issued by the Texas State Board of Education or **an associate's degree with twelve semester hours of education instructional courses** is considered to have training equivalent to the Commission's curriculum requirements for Instructor I, II and III training.
- (f) Personnel holding any level of fire service instructor certification must comply with the continuing education requirements specified in §441.21 of this title.

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

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

- (1) have a minimum of three years of experience (as defined in §421.5(43) of this title) in fire protection in one or more or any combination of the following:
 - (A) a paid, volunteer, or regulated non-governmental fire department; or
 - (B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and
- (2) possess valid documentation of accreditation from the International Fire Service Accreditation Congress (IFSAC) as a Fire Instructor I or II or III; or
- (3) have completed the appropriate curriculum for Fire Service Instructor I contained in Chapter 8 of the Commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title; and
- (4) successfully pass the applicable Commission examination as specified in Chapter 439 of this title; and

- (5) have completed the field examiner orientation course as specified in Chapter 439 of this title.

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

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

- (1) hold as a prerequisite a Fire Instructor I certification as defined in §425.3 of this title; and
- (2) have a minimum of three years of experience (as defined in §421.5(43) of this title) in fire protection in one or more or any combination of the following:
 - (A) a paid, volunteer, or regulated non-governmental fire department; or
 - (B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and
- (3) possess valid documentation of accreditation from the International Fire Service Accreditation Congress (IFSAC) as a Fire Instructor II, or III; or
- (4) have completed the appropriate curriculum for Fire Service Instructor II contained in Chapter 8 of the Commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title; and
- (5) successfully pass the applicable Commission examination as specified in Chapter 439 of this title.

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

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

- (1) hold as a prerequisite, a Fire Instructor II Certification as defined in §425.5 of this title; and
- (2) have a minimum of three years of experience (as defined in §421.5(43) of this title) in fire protection in one or more or any combination of the following:
 - (A) a paid, volunteer, or regulated non-governmental fire department; or
 - (B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and
- (3) possess valid documentation of accreditation from the International Fire Service Accreditation Congress (IFSAC) as a Fire Instructor III; or
- (4) have completed the appropriate curriculum for Fire Service Instructor III contained in Chapter 8 of the Commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title; and
- (5) successfully pass the applicable Commission examination as specified in Chapter 439 of this title; and either
 - (A) hold as a prerequisite an advanced structural fire protection personnel

certification, an advanced aircraft fire protection personnel certification, advanced marine fire protection personnel certification, advanced inspector certification, advanced fire investigator, or advanced arson investigator certification; or

- (B) have 60 college hours from a regionally accredited educational institution; or
- (C) hold an associate's degree from a regionally accredited educational institution.

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

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

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

§425.11. International Fire Service Accreditation Congress Seal.

- (a) Individuals who held an equivalent Instructor I certification prior to March 1, 2006 or individuals completing a Commission-approved Fire Service Instructor I training program and passing the applicable state examination after the effective date of this chapter, may be granted an IFSAC seal for Instructor I by making application to the Commission and paying the applicable fee.
- (b) Individuals who held an equivalent Instructor II certification prior to March 1, 2006 or individuals holding an IFSAC Instructor I certification, completing a Commission-approved Fire Service Instructor II training program, and passing the applicable state examination after the effective date of this chapter, may be granted an IFSAC seal for Instructor II by making application to the Commission and paying the applicable fee.
- (c) Individuals who held an equivalent Instructor III certification prior to March 1, 2006 or individuals holding an IFSAC Instructor II certification, completing a Commission-approved Fire Service Instructor III training program, and passing the applicable state examination after the effective date of this chapter, may be granted an IFSAC seal for Instructor III by making application to the Commission and paying the applicable fee.

4. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 429, Minimum Standards for Fire Inspectors, Subchapter B, Minimum Standards for Fire Inspector Certification, including, but not limited to; §429.201 Minimum Standards for Fire Inspector Personnel, §429.203 Minimum Standards for Basic Fire Inspector Certification, §429.205 Minimum Standards for Intermediate Fire Inspector Certification, §429.207 Minimum Standards for Advanced Fire Inspector Certification, §429.209 Minimum Standards for Master Fire Inspector Certification, and §429.211 International Fire Service Accreditation Congress (IFSAC) Seal.

Chapter 429

MINIMUM STANDARDS FOR FIRE INSPECTORS

~~[SUBCHAPTER B]~~

~~[Minimum Standards for Fire Inspector Certification]~~

§429.201. Minimum Standards for Fire Inspector Personnel~~[–New Track.]~~

- (a) Fire protection personnel of a governmental entity who are appointed to fire code enforcement duties must be certified, as a minimum, as a basic fire inspector as specified in §429.203 of this title (relating to Minimum Standards for Basic Fire Inspector Certification)~~[–New Track]~~ within one year of initial appointment to such position.
- (b) Prior to being appointed to fire code enforcement duties, all personnel must complete a Commission-approved basic fire inspection training program and successfully pass the Commission examination pertaining to that curriculum.
- (c) Individuals holding any level of fire inspector certification shall be required to comply with the continuing education requirements in §441.13 of this title (relating to Continuing Education for Fire Inspection Personnel).
- (d) Code enforcement is defined as the enforcement of laws, codes, and ordinances of the authority having jurisdiction pertaining to fire prevention.

(e) Any regulated firefighter that holds at least a Basic Fire Inspector Certification through the Texas Commission on Fire Protection (TCFP) and is required to perform inspections as part of their regularly assigned duties shall be considered by TCFP as also being in the Fire Inspector discipline for purposes of attaining higher levels of certification. Inspection will include any inspection that requires a TCFP certified inspector.

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

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

- (1) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as an Inspector I, Inspector II, and Plans Examiner I; or
- (2) complete a Commission-approved Basic Fire Inspector program and successfully pass the Commission examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved basic fire inspection training program shall consist of one or any combination of the following:
 - (A) completion of the Commission-approved Basic Fire Inspector Curriculum, as specified in Chapter 4 of the Commission's Certification Curriculum Manual; or

- (B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the Commission for evaluation and found to meet the minimum requirements as listed in the Commission-approved Basic Fire Inspector Curriculum as specified in Chapter 4 of the Commission's Certification Curriculum Manual; or
- (C) successful completion of the following college courses:
 - (i) Fire Protection Systems, three semester hours;
 - (ii) ~~[Fire Prevention, three semester hours; or]~~Fire Prevention Codes and Inspections, three semester hours;
 - (iii) **Building Construction in the Fire Service or Building Codes and Construction** ~~[Building Code]~~, three semester hours;
 - ~~[(iv) Building Construction, three semester hours;]~~
 - (iv)** ~~[(v)]~~ Hazardous Materials **I, II, or III**, three semester hours. (Total semester hours, **12**).~~[15*. NOTE: Building Code and Building Construction may be combined into a single three-semester hour class. If this is the case, the total semester hours may be reduced to 12. Hazardous Materials I or II may be used to satisfy the requirements of Hazardous Material).]~~

§429.205. Minimum Standards for Intermediate Fire Inspector Certification ~~[—New Track.]~~

Applicants for Intermediate Fire Inspector certification holding a prerequisite Basic Fire Inspector certification as defined in §429.203 of this title (relating to Minimum Standards for Basic Fire Inspector Certification ~~[—New Track-])~~ must have acquired four (4) years experience appointed as a fire inspector.

§429.207. Minimum Standards for Advanced Fire Inspector Certification ~~[—New Track.]~~

Applicants for Advanced Fire Inspector Certification must complete the following requirements:

- (1) hold as a prerequisite an Intermediate Fire Inspector certification as defined in §429.205 of this title (relating to Minimum Standards for Intermediate Fire Inspector Certification ~~[—New Track])~~);
- (2) acquire as a minimum eight (8) years experience appointed as a fire inspector; and
- (3) show successful completion of Fire Inspector III and Plans Examiner II courses meeting the applicable job performance requirements as identified in NFPA 1031, Professional Qualifications for Fire Inspector and Plan Examiner.

§429.209. Minimum Standards for Master Fire Inspector Certification ~~[—New Track.]~~

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

- (1) hold as a prerequisite an Advanced Fire Inspector certification as defined in §429.207 of this title (relating to Minimum Standards for Advanced Fire Inspector Certification[~~—New Track~~]); and
 - (2) acquire a minimum of 12 years experience appointed as a fire inspector, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.
- (b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire Inspector Certification.

§429.211. International Fire Service Accreditation Congress (IFSAC) Seal[~~—New Track~~.]

- (a) Individuals who hold commission Fire Inspector certification prior to January 1, 2005, may be granted International Fire Service Accreditation Congress (IFSAC) seals for Inspector I and Inspector II by making application to the commission for the IFSAC seals and paying applicable fees.
- (b) Individuals who hold commission Fire Inspector certification prior to January 1, 2005, may apply to test for Plan Examiner I. Upon successful completion of the examination an IFSAC seal for Plan Examiner I may be granted by making application to the commission for the IFSAC seal and paying the applicable fee.

~~[(c) Individuals who pass the applicable state examination prior to January 1, 2005, may be granted IFSAC seals for Inspector I and Inspector II by making application to the commission for the IFSAC seals and paying applicable fees.]~~

~~[(d) Individuals who pass the applicable state examination prior to January 1, 2005, may apply to test for Plan Examiner I. Upon successful completion of the examination an IFSAC seal for Plan Examiner I may be granted by making application to the commission for the IFSAC seal and paying the applicable fee.]~~

(c)(e) Individuals who pass the applicable section of the state examination on or after January 1, 2005, may be granted IFSAC seal(s) for Inspector I, Inspector II, and/or Plan Examiner I by making application to the commission for the IFSAC seal(s) and paying the applicable fees, provided they meet the following provisions:

- (1) To receive the IFSAC Inspector I seal, the individual must:
 - (A) complete the Inspector I section of a commission-approved course; and
 - (B) pass the Inspector I section of a commission examination.
- (2) To receive the IFSAC Inspector II seal, the individual must:
 - (A) complete the Inspector II section of a commission-approved course;
 - (B) document possession of an IFSAC Inspector I seal; and
 - (C) pass the Inspector II section of a commission examination.
- (3) To receive the IFSAC Plan Examiner I seal, the individual must:
 - (A) complete the Plan Examiner I section of a commission-approved course; and

(B) pass the Plan Examiner I section of a commission examination.



Johnny Isbell
Mayor

#5 & 6

City of Pasadena Fire Marshal's Office



David M. Brannon
Fire Marshal

June 21, 2011

Gary L. Warren, Executive Director
Texas Commission on Fire Protection
PO Box 2286
Austin, TX 78768-2286

Dear Sir,

I am writing to you to request amending the commission rules for the Master Certification requirements for Fire Inspector, Fire Investigator and Arson Investigator to allow the substitution of "at least 18 hours of college in criminal justice" in place of the "at least 18 college semester hours in fire science" requirements.

Current Texas Commission on Fire Protection Rules:

RULE §429.209 Minimum Standards for Master Fire Inspector Certification

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

- (1) hold as a prerequisite an Advanced Fire Inspector certification as defined in §429.207 of this title (relating to Minimum Standards for Advanced Fire Inspector Certification--New Track); and
- (2) acquire a minimum of 12 years experience appointed as a fire inspector, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

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

RULE §431.209 Minimum Standards for Master Fire Investigator Certification

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

- (1) hold as a prerequisite an Advanced Fire Investigator Certification as defined in §431.207 of this title (relating to Minimum Standards for Advanced Fire Investigator Certification); and
- (2) acquire a minimum of twelve years of fire protection experience, and sixty college semester hours or an associate degree, which includes at least eighteen college semester hours in fire science subjects.

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

NOT
FOR
PEACE
OFFICERS





Johnny Isbell
Mayor

City of Pasadena Fire Marshal's Office



David M. Brannon
Fire Marshal

accepted substitutable classes of fire science/technology, emergency management, public administration, and emergency medicine. It can be argued that two of these courses of studies (emergency management and emergency medicine) are outside the scope of everyday work for Inspectors and Investigators, but are acceptable as substitutes for fire science. Criminal justice classes are directly related to the inspectors and investigators daily job and should be on the list of allowable substitutable classes.

Additionally Inspectors and Investigators that are currently enrolled in a college criminal justice program or have a criminal justice degree would be required to have an additional 18 hours in fire science on top of their degree program. This is would not be required of an inspector or investigator who may have received an associate degree in emergency medicine by completing a two year paramedic program at a two year college, the state would just simply accept these classes in lieu of the fire science requirement.

I have spoken with several area Fire Marshals in reference to this request and every one of them agree that this should be a "no brainer", Criminal Justice classes should be allowed. Additionally this request has been endorsed by Greater Houston Area Fire Marshal's Council. The Greater Houston Area Fire Marshals Council represents area Fire Marshal's Offices from Harris County, Montgomery County, Fort Bend County, Brazoria County and Galveston County.

Finally, Inspectors and Investigators are both fire protection personnel and peace officers. This makes them unique in the public safety world. Because, Texas law allows free college tuition for fire protection personnel enrolled in a fire science courses and for peace officers enrolled in a criminal justices classes, Inspectors and Investigators must decide earlier in their career which path they should take. Taking a college criminal justice course is a logical extension of their every day job and these classes should be allowed as substitutes for the fire science requirement.. If you have any questions over this proposal, please feel free to contact me.

Thank you for considering this matter.

David Brannon
Fire Marshal





Johnny Isbell
Mayor

City of Pasadena Fire Marshal's Office



David M. Brannon
Fire Marshal

RULE §431.9 Minimum Standards for Master Arson Investigator Certification

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

- (1) hold as a prerequisite an Advanced Arson Investigator Certification as defined in §431.7 of this title (relating to Minimum Standards for Advanced Arson Investigator Certification); and
- (2) acquire a minimum of twelve years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

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

Proposed Rule Change:

Currently the Certification Division recognizes the following areas as substitutes for the fire science requirement: fire science/technology, emergency management, public administration, and emergency medicine. The proposed change in the Texas Commission on Fire Protection Rules would not require any wording change at all, just an addition of the courses that may be substituted for the fire science requirement by adding criminal justice course to the list.

Rationale and Justification:

First and foremost this request just makes plain sense. Fire Inspectors, Fire Investigators and Arson Investigators are by state law (Code of Criminal Procedures see below) are police officers in the State of Texas.

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers: ...

- (Paragraph 7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (Paragraph 27) officers commissioned by the state fire marshal under Chapter 417, Government Code;
- (Paragraph 33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code; and
- (Paragraph 36) the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.

These Fire Inspectors, Fire Investigators and Arson Investigators are already required to take criminal justice classes as part of the Texas Commission on Law Enforcement Standards and Education requirements to obtain higher certifications. By not accepting the criminal justice courses in place of the fire science requirements, these inspectors and investigators have an unfair burden of having to take additional classes. Criminal justice classes have as much correlation to the Inspectors and Investigators job's as the currently



5. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 431, Fire Investigation, Subchapter A, Minimum Standards For Arson Investigator Certification, including, but not limited to; §431.3 Minimum Standards for Basic Arson Investigator Certification, §431.9 Minimum Standards for Master Arson Investigator Certification, and Subchapter B, Minimum Standards for Fire Investigator Certification, including, but not limited to; §431.209 Minimum Standards for Master Fire 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** [Arson Investigator], 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. [~~The three semester hour course "Building Codes and Construction" may be substituted for Building Construction. Arson Investigator I or II may be used to satisfy the requirements of Arson Investigation. Hazardous Materials I or II may be used to satisfy the requirements of Hazardous Materials.~~]

§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 degree, which includes at least 18 college semester hours in fire science subjects.
- (b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master 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.

SUBCHAPTER B

MINIMUM STANDARDS FOR FIRE INVESTIGATOR CERTIFICATION

§431.201. Minimum Standards for Fire Investigation Personnel.

- (a) Fire protection personnel who receive temporary or probationary appointment to fire investigation duties must be certified as a fire investigator by the Commission within one year of appointment to such duties.
- (b) Prior to being appointed to fire investigation duties, personnel must:
 - (1) complete a commission approved basic fire investigator training program and successfully pass the commission examination pertaining to that curriculum; or
 - (2) hold current certification as structure fire protection personnel.
- (c) Individuals holding a Fire Investigator 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).
- (d) Individuals certified under this subchapter shall limit their investigation to determining fire cause and origin. If evidence of a crime is discovered, custody and control of the investigation shall be immediately transferred to a certified arson investigator or licensed peace officer.
- (e) Individuals who previously held arson investigator certification, who no longer hold a current commission as a peace officer, will qualify for certification as a fire investigator of similar level upon notice to the commission. To obtain a printed certificate the individual will be required to make application to the commission.

§431.203. Minimum Standards for Fire Investigator Certification.

- (a) In order to be certified by the Commission as a Fire Investigator an individual must complete the requirements specified in §431.3(a)(3) or (4) of this title (relating to Minimum Standards for Basic Arson Investigator Certification).
- (b) A person who holds or is eligible to hold a certificate as a Fire Investigator may be certified as an Arson Investigator by meeting the requirements of Chapter 431, Subchapter A, but shall not be required to repeat the applicable examination requirements.

§431.205. Minimum Standards for Intermediate Fire Investigator Certification.

- (a) Applicants for Intermediate Fire Investigator must complete the following requirements:
 - (1) hold as a prerequisite a Basic Fire Investigator Certification as defined in §431.203 of this title (relating to Minimum Standards for Fire Investigator Certification); and
 - (2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:
 - (A) Option 1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

- (B) Option 2—Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List and four B-List courses. (See the exception outlined in subsection (c) of this section.); or
 - (C) Option 3—Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)
- (b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.
 - (c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Investigator Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§431.207. Minimum Standards for Advanced Fire Investigator Certification.

- (a) Applicants for Advanced Fire Investigator must complete the following requirements:
 - (1) hold as a prerequisite an Intermediate fire Investigator Certification as defined in §431.203 of this title (relating to Minimum Standards for Fire Investigator Certification); and
 - (2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:
 - (A) Option 1—Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or
 - (B) Option 2—Completion of coursework from the either 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 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 the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)
- (b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.
- (c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Investigator Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§431.209. Minimum Standards for Master Fire Investigator Certification.

- (a) Applicants for Master Fire Investigator Certification must complete the following requirements:
 - (1) hold as a prerequisite an Advanced Fire Investigator Certification as defined in §431.207 of this title (relating to Minimum Standards for Advanced Fire Investigator Certification); and
 - (2) acquire a minimum of twelve years of fire protection experience, and sixty college semester hours or an associate degree, which includes at least eighteen college semester hours in fire science subjects.
- (b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire Investigator Certification.

§431.211. International Fire Service Accreditation Congress (IFSAC) Seal -- Fire Investigator.

- (a) Individuals holding a current commission Fire 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.



Johnny Isbell
Mayor

#5 & 6

City of Pasadena Fire Marshal's Office



David M. Brannon
Fire Marshal

June 21, 2011

Gary L. Warren, Executive Director
Texas Commission on Fire Protection
PO Box 2286
Austin, TX 78768-2286

Dear Sir,

I am writing to you to request amending the commission rules for the Master Certification requirements for Fire Inspector, Fire Investigator and Arson Investigator to allow the substitution of "at least 18 hours of college in criminal justice" in place of the "at least 18 college semester hours in fire science" requirements.

Current Texas Commission on Fire Protection Rules:

RULE §429.209 Minimum Standards for Master Fire Inspector Certification

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

- (1) hold as a prerequisite an Advanced Fire Inspector certification as defined in §429.207 of this title (relating to Minimum Standards for Advanced Fire Inspector Certification--New Track); and
- (2) acquire a minimum of 12 years experience appointed as a fire inspector, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

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

RULE §431.209 Minimum Standards for Master Fire Investigator Certification

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

- (1) hold as a prerequisite an Advanced Fire Investigator Certification as defined in §431.207 of this title (relating to Minimum Standards for Advanced Fire Investigator Certification); and
- (2) acquire a minimum of twelve years of fire protection experience, and sixty college semester hours or an associate degree, which includes at least eighteen college semester hours in fire science subjects.

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

NOT
FOR
PEACE
OFFICERS





Johnny Isbell
Mayor

City of Pasadena Fire Marshal's Office



David M. Brannon
Fire Marshal

accepted substitutable classes of fire science/technology, emergency management, public administration, and emergency medicine. It can be argued that two of these courses of studies (emergency management and emergency medicine) are outside the scope of everyday work for Inspectors and Investigators, but are acceptable as substitutes for fire science. Criminal justice classes are directly related to the inspectors and investigators daily job and should be on the list of allowable substitutable classes.

Additionally Inspectors and Investigators that are currently enrolled in a college criminal justice program or have a criminal justice degree would be required to have an additional 18 hours in fire science on top of their degree program. This is would not be required of an inspector or investigator who may have received an associate degree in emergency medicine by completing a two year paramedic program at a two year college, the state would just simply accept these classes in lieu of the fire science requirement.

I have spoken with several area Fire Marshals in reference to this request and every one of them agree that this should be a "no brainer", Criminal Justice classes should be allowed. Additionally this request has been endorsed by Greater Houston Area Fire Marshal's Council. The Greater Houston Area Fire Marshals Council represents area Fire Marshal's Offices from Harris County, Montgomery County, Fort Bend County, Brazoria County and Galveston County.

Finally, Inspectors and Investigators are both fire protection personnel and peace officers. This makes them unique in the public safety world. Because, Texas law allows free college tuition for fire protection personnel enrolled in a fire science courses and for peace officers enrolled in a criminal justices classes, Inspectors and Investigators must decide earlier in their career which path they should take. Taking a college criminal justice course is a logical extension of their every day job and these classes should be allowed as substitutes for the fire science requirement.. If you have any questions over this proposal, please feel free to contact me.

Thank you for considering this matter.

David Brannon
Fire Marshal





Johnny Isbell
Mayor

City of Pasadena Fire Marshal's Office



David M. Brannon
Fire Marshal

RULE §431.9 Minimum Standards for Master Arson Investigator Certification

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

- (1) hold as a prerequisite an Advanced Arson Investigator Certification as defined in §431.7 of this title (relating to Minimum Standards for Advanced Arson Investigator Certification); and
- (2) acquire a minimum of twelve years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

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

Proposed Rule Change:

Currently the Certification Division recognizes the following areas as substitutes for the fire science requirement: fire science/technology, emergency management, public administration, and emergency medicine. The proposed change in the Texas Commission on Fire Protection Rules would not require any wording change at all, just an addition of the courses that may be substituted for the fire science requirement by adding criminal justice course to the list.

Rationale and Justification:

First and foremost this request just makes plain sense. Fire Inspectors, Fire Investigators and Arson Investigators are by state law (Code of Criminal Procedures see below) are police officers in the State of Texas.

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers: ...

- (Paragraph 7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (Paragraph 27) officers commissioned by the state fire marshal under Chapter 417, Government Code;
- (Paragraph 33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code; and
- (Paragraph 36) the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.

These Fire Inspectors, Fire Investigators and Arson Investigators are already required to take criminal justice classes as part of the Texas Commission on Law Enforcement Standards and Education requirements to obtain higher certifications. By not accepting the criminal justice courses in place of the fire science requirements, these inspectors and investigators have an unfair burden of having to take additional classes. Criminal justice classes have as much correlation to the Inspectors and Investigators job's as the currently



6. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 439, Examinations For Certification, Subchapter A, Examinations For On-Site Delivery Training, including, but not limited to, new §439.13 Special Accommodations for Testing.

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

§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 changes the condition of the examination or the examination process.**

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

§439.19. Number of Test Questions.

- (a) Each examination may have two types of questions: pilot
- (b) The number of questions on the state examination will be 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. based upon the number of recommended hours in the particular curriculum or section being tested.

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.

7. **Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 449, Head of A Fire Department, including, but not limited to; §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.**

Chapter 449

HEAD OF A FIRE DEPARTMENT

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

- (a) An individual who becomes employed and is assigned as the head of a fire department must be certified by the commission as head of a fire department, within one year of appointment.
- (b) An individual appointed head of department must be eligible to be certified at time of appointment or will become eligible to be certified within one year of appointment and must submit an affidavit verifying eligibility status at time the of appointment if not holding Commission certification.
- (c) Holding the head of a fire department certification does not qualify an individual for any other certification. An individual who seeks certification in another discipline must meet the requirements for that discipline.
- (d) Nothing contained in this chapter shall be construed to supercede Chapter 143, Local Government Code, in regard to appointment of a head of a fire department.

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

- (a) In order to be certified as a head of a fire department providing fire suppression, an individual must be appointed as head of a fire department; and
 - (1) hold a certification as a fire protection personnel in any discipline that has a Commission-approved curriculum that requires structural fire protection personnel certification and five years experience in a full-time fire suppression position; or
 - (2) an individual from another jurisdiction who possesses valid documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the Commission's approved basic fire suppression curriculum and provide documentation in the form of a sworn nonself serving affidavit of five years experience in a full-time fire suppression position; or
 - (3) provide documentation in the form of a nonself serving sworn affidavit of ten years experience as an employee of a local governmental entity in a full-time structural fire protection personnel position in a jurisdiction other than Texas; and successfully pass a Commission, Head of Department examination as specified in Chapter 439 of this title; or
 - (4) provide documentation in the form of a sworn nonself serving affidavit of ten years of experience as a certified structural part-time fire protection employee; or
 - (5) provide documentation in the form of a sworn nonself serving affidavit of ten years experience as an active volunteer fire fighter in one or more volunteer fire departments that meet the requirements of subsection (b) of this section and successfully pass a Commission, Head of Department examination as specified in Chapter 439 of this title.
- (b) The ten years of volunteer service must include documentation of attendance at 40% of the drills for each year and attendance of at least 25% of a department's emergencies in

a calendar year while a member of a volunteer fire department or departments with 10 or more active members that conducts a minimum of 48 hours of drills in a calendar year.

- (c) Individuals certified as the head of a fire department must meet the continuing education requirement as provided for in Chapter 441 of this title.
- (d) An individual certified as head of a fire department under this section may engage in fire fighting activities only as the head of a fire department. These activities include incident command, direction of fire fighting activities or other emergency activities typically associated with fire fighting duties, i.e. rescue, confined space and hazardous materials response.

449.5. Minimum Standards for Certification as Head of a Prevention Only Department.

- (a) In order to be certified as the head of a fire department providing fire prevention activities only, an individual must be appointed as head of a Fire Prevention Department; and
 - (1) hold a certification as a fire inspector, fire investigator, or arson investigator and have five years of full-time experience in fire prevention activities; or
 - (2) an individual from another jurisdiction who possesses valid documentation of accreditation from the International Fire Service Accreditation Congress that is deemed equivalent to the Commission's approved basic arson investigator, fire investigator or fire inspector curriculum and provide documentation in the form of a sworn nonself serving affidavit of five years experience in a full-time fire prevention position; or
 - (3) provide documentation in the form of a sworn nonself serving affidavit of ten years experience as an employee of a local governmental entity in a full-time fire inspector, fire investigator, or arson investigator position in a jurisdiction other than Texas and successfully pass a Commission, Head of Department examination as specified in Chapter 439 of this title; or
 - (4) provide documentation in the form of a sworn nonself serving affidavit of ten years experience as a certified fire investigator, fire inspector or arson investigator as a part-time fire prevention employee; or
 - (5) provide documentation in the form of a sworn nonself serving affidavit of ten years experience as an active volunteer fire inspector, fire investigator, or arson investigator with ten years experience in fire prevention and successfully pass a Commission Head of Department examination as specified in Chapter 439 of this title.
- (b) Individuals certified as the head of a fire department under this section must meet the continuing education requirement as provided for in Chapter 441 of this title.

8. Discussion and possible action regarding proposed rule changes to title 37 TAC, Chapter 451, Fire Officer, Subchapter A, Minimum Standard for Fire Officer I, including, but not limited to; §451.3 Minimum Standards for Fire Officer I Certification, and Subchapter B, Minimum Standards for Fire Officer II, including, but not limited to; §451.203 Minimum Standards for Fire Officer II Certification.

Chapter 451

FIRE OFFICER

Subchapter A

MINIMUM STANDARDS FOR FIRE OFFICER I

§451.1. Fire Officer I Certification.

A Fire Officer I is defined as an individual who may supervise fire personnel during emergency and non-emergency work periods; serve in a public relations capacity with members of the community; implement departmental policies and procedures at the unit level; secure fire scenes and perform fire investigations to determine preliminary cause; conduct pre-incident planning; supervise emergency operations; or ensure a safe working environment for all personnel.

§451.3. Minimum Standards for Fire Officer I Certification.

- (a) In order to be certified as a Fire Officer I an individual must:
- (1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and
 - (2) hold Fire Service Instructor I certification through the Commission; and
 - (A) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as Fire Fighter II and Fire Officer I; or
 - (B) complete a Commission-approved Fire Officer I program and successfully pass the Commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Officer I program must consist of one of the following:
 - (i) completion of a Commission-approved Fire Officer I Curriculum as specified in Chapter 9 of the Commission's Certification Curriculum Manual;
 - (ii) completion of an out-of-state and/or military training program that has been submitted to the Commission for evaluation and found to be equivalent to or exceed the Commission approved Fire Officer I Curriculum; or
 - (iii) successful completion of **12** ~~[15]~~ college semester hours consisting of the following courses or their equivalent:
 - (I) Fire Prevention Codes and Inspections, 3 semester hours;
 - (II) Fire and Arson Investigation I or II, 3 semester hours;
 - (III) Fire Administration I, 3 semester hours; **and**
 - (IV) Firefighting Strategies and Tactics I or II, 3 semester hours; ~~[and]~~
 - ~~[(V) Company Fire Officer, 3 semester hours].~~

- (b) Out-of-state or military training programs which are submitted to the Commission for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 9 (pertaining to Fire Officer I) of the Commission's Certification Curriculum Manual are met.
- (c) College courses will be considered equivalent if the course description is substantially similar to the course description contained in the Workforce Education Course Manual (WECM) from the Texas Higher Education Coordinating Board.

§451.5. Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer I certification.
- (b) Individuals will be permitted to take the Commission examination for Fire Officer I certification by documenting the following: Structure Fire Protection Personnel certification and Fire Service Instructor certification through the Commission or the equivalent IFSAC seals, and completing a Commission-approved Fire Officer I curriculum.

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

- (a) Individuals holding a current commission Fire Officer I certification received prior to March 10, 2003, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Officer I by making application to the commission for the IFSAC seal and paying applicable fees.
- (b) Individuals completing a commission-approved Fire Officer I program, documenting an IFSAC seal for Fire Fighter II and Instructor I, and passing the applicable state examination may be granted an IFSAC seal as a Fire Officer I by making application to the commission for the IFSAC seal and paying applicable fees.

SUBCHAPTER B

MINIMUM STANDARDS FOR FIRE OFFICER II

§451.201. Fire Officer II Certification.

A Fire Officer II is defined as an individual who may evaluate the performance of personnel; deliver public education programs; prepare budget requests, news releases, and policy changes; conduct inspections and investigations; supervise multi-unit emergency operations; and identify unsafe work environments and take preventive action; or review injury, accident, and health exposure reports. Individuals who perform inspections must comply with Chapter 429 of this title (relating to Minimum Standards for Fire Inspectors). Individuals who perform investigations must comply with Chapter 431 of this title (relating to Fire Investigation).

§451.203. Minimum Standards for Fire Officer II Certification.

- (a) In order to be certified as a Fire Officer II an individual must:
- (1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel and;
 - (2) hold Fire Officer I certification through the Commission; and
 - (3) hold, as a minimum, Fire Service Instructor I certification through the Commission; and
 - (A) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as Fire Officer II; or
 - (B) complete a Commission-approved Fire Officer II program and successfully pass the Commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Officer II program must consist of one of the following:
 - (i) completion of a Commission-approved Fire Officer II Curriculum as specified in Chapter 9 of the Commission's Certification Curriculum Manual;
 - (ii) completion of an out-of-state and/or military training program that has been submitted to the Commission for evaluation and found to be equivalent to or exceed the Commission-approved Fire Officer II Curriculum; or
 - (iii) successful completion of 15 [48] college semester hours consisting of the following courses or their equivalent:
 - (I) Fire Prevention Codes and Inspections, 3 semester hours;
 - (II) Fire and Arson Investigation I or II, 3 semester hours;
 - (III) Fire Administration I, 3 semester hours;
 - (IV) Fire Administration II or Company Fire Officer, 3 semester hours; and
 - (V) Firefighting Strategies and Tactics I or II, 3 semester hours[; ~~and~~];
 - ~~[(VI) Company Fire Officer, 3 semester hours].~~
- (b) Out-of-state or military training programs which are submitted to the Commission for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 9 (pertaining to Fire Officer) of the Commission's Certification Curriculum Manual are met.

- (c) College courses will be considered equivalent if the course description is substantially similar to the course description contained in the Workforce Education Course Manual (WECM) from the Texas Higher Education Coordinating Board.

§451.205. Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Fire Officer II certification.
- (b) Individuals will be permitted to take the Commission examination for Fire Officer II certification by documenting the following: Structure Fire Protection Personnel certification, Fire Service Instructor certification and Fire Officer I certification through the Commission or the equivalent IFSAC seals, and completing a Commission-approved Fire Officer II curriculum.

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

- (a) Individuals holding a current Commission Fire Officer II certification received prior to March 10, 2003, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Officer II by making application to the Commission for the IFSAC seal and paying applicable fees.
- (b) Individuals completing a Commission-approved Fire Officer II program; documenting IFSAC seals for Fire Fighter II, Instructor I and Fire Officer I; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer II by making application to the Commission for the IFSAC seal and paying applicable fees.

- 9. Discussion regarding title 37 TAC, Chapter 435, Firefighter Safety, including, but not limited to; §435.1 Protective Clothing and §435.19 Enforcement of Commission Rules, to include the Commission's findings on helmet damage discovered during inspections and departments duty to comply with applicable provisions of NFPA 1851.**

Chapter 435

FIRE FIGHTER SAFETY

§435.1. Protective Clothing.

(a) A regulated fire department shall:

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

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

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

(b) An entity may continue to use protective clothing in use or contracted for before a change in the National Fire Protection Association standard, unless the Commission determines that the protective clothing constitutes an undue risk to the wearer, in which case the Commission shall order that the use be discontinued and shall set an appropriate date for compliance with the revised standard.

(c) Protective clothing in use or contracted for prior to January 1, 2002, shall be exempted from the record keeping requirements contained in Section 2.3, Records, of NFPA 1851.

~~[(d) — In accordance with §419.043, Texas Government Code and subsection (b) of this section as set out hereinabove and consistent with past practice with respect to the implementation of NFPA standards when immediate implementation of a standard as written is impractical for Texas, the modifications contained in Sections 10.1.2, 10.1.3, and 10.1.3.1 of the 2008 Edition of NFPA 1851 (effective June 24, 2007) shall be implemented as follows:]~~

~~[(1) — with respect to Section 10.1.2, structural fire fighting ensembles and ensemble elements shall be retired in accordance with Section 10.2.1 of the 2008 Edition of NFPA 1851, no more than 12 years from the date the ensembles or ensemble elements were manufactured, or no more than 10 years from the date the ensemble or ensemble elements were first put into service;]~~

~~[(2) — with respect to Section 10.1.3, proximity fire fighting ensembles and ensemble elements shall be retired in accordance with Section 10.2.1 of the 2008 Edition of NFPA 1851, no more than 12 years from the date the ensembles or ensemble elements were manufactured, or no more than ten years from the date the ensemble or ensemble elements were first put into service; and]~~

~~[(3) — with respect to Section 10.1.3.1, the radiant reflective outer shells shall be retired in accordance with Section 10.2.1 of the 2008 Edition of NFPA 1851, no more than 7 years from the date the outer shells are manufactured or no more than 5 years from the date the outer shells were first put into service.]~~

~~[(e) — Subsections (d) and (e) of this section will expire March 1, 2011.]~~

§435.3. Self-Contained Breathing Apparatus.

The employing entity shall:

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

§435.5. Commission Recommendations.

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

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

§435.7. Fire Department Staffing Studies.

- (a) Section 419.022(a)(4) Texas Government Code provides that the commission may "on request, assist in performing staffing studies of fire departments." Staffing studies must take into consideration all the objectives and missions of the fire department. The commission does not have the resources or the staff to directly assist in performing the necessary tasks to perform a staffing study. Many staffing studies have been developed that can be used to assist in evaluating the needs of a fire department.
- (b) A city should ultimately decide on the level of fire protection it is willing to provide to its citizens. The city and fire department should, as a minimum, address the needs of prevention, investigation and suppression as

outlined in the appropriate NFPA Standards. That decision should be based on facts, the safety of its citizens, and the safety of the fire fighters providing that protection.

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

§435.9. Personal Alert Safety System (PASS).

The employing entity shall:

(1) purchase, provide, and maintain a PASS device for each on duty fire protection personnel who engage in operations where IDLH atmospheres may be encountered, or where the atmosphere is unknown, or where hazardous conditions from fire or other emergencies exist, or where the potential for such exposure exists;

(2) ensure that all PASS devices used by fire protection personnel comply with the minimum standards of the National Fire Protection Association identified in NFPA 1982, Standard on Personal Alert Safety Systems (PASS) for Fire Fighters:

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

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

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

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

§435.11. Incident Management System (IMS)

(a) The fire department shall develop, maintain and use an incident management system.

(b) The incident management system shall:

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

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

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

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

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

(c) The IMS shall meet the requirements of the applicable sections of the National Fire Protection Association 1561, Standard on Fire Department Incident Management System.

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

§435.13. Personnel Accountability System.

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

(b) The accountability system shall:

(1) require all fire protection personnel be trained in the use of the accountability system;

(2) require that the fire protection personnel accountability system be used at all incidents;

(3) require that all fire protection personnel operating at an emergency incident to actively participate in the personnel accountability system; and

(4) require that the incident commander be responsible for the overall personnel accountability system for the incident.

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

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

§435.15. Operating At Emergency Incidents.

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

(b) The standard operating procedure shall:

(1) specify an adequate number of personnel to safely conduct emergency scene operations;

(2) limit operations to those that can be safely performed by personnel at the scene;

(3) require all personnel to be trained in and use the standard operating procedures; and

(4) comply with §435.17 (Procedures for Interior Structural Fire Fighting).

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

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

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

(1) a team of at least four fire protection personnel must be assembled before an interior fire attack can be made when the fire has progressed beyond the incipient stage;

(2) at least two fire protection personnel to enter the IDLH atmosphere and remain in visual or voice (not radio) contact with each other;

(A) Visual means that the fire protection personnel must be close enough to see each other.

(B) Voice means that the fire protection personnel of the entry team must be close enough to speak to one another without the use of radios.

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

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

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

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

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

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

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

§435.19. Enforcement of Commission Rules.

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

(b) The Commission shall not provide prior notification of an inspection to a fire department.

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

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

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

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

§435.23. Fire Fighter Injuries.

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

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

- (a) In an effort to improve firefighter safety in the State of Texas, all regulated entities will ensure that the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program be completed as part of the continuing education required for certified fire protection personnel by December 1, 2015. Individuals will be credited with four hours of continuing education credit for completing this program.
- (b) All regulated fire protection personnel must complete the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program prior to December 1, 2015.
- (c) All fire protection personnel appointed after December 1, 2015 will be required to complete the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program training within one year of appointment to a fire department.
- (d) Departments will report the completion of training through the Commission web based reporting system.
- (e) Failure to complete the National Fallen Firefighters Foundation's "Courage to be Safe So Everyone Goes Home" program before the required deadlines will be considered a violation of continuing education rules found in Chapter 441 of the Commission's Standards Manual.

§435.27. Live Fire Training Structure Evolutions.

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

following requirements shall apply for all Live Fire Training Structure Evolutions conducted.

- (1) The officer in charge or instructor will ensure that the water supply rate and duration for each individual Live Fire Training Structure Evolution is adequate to control and extinguish the training fire, the supplies necessary for backup lines to protect personnel, and any water needed to protect exposed property.
- (2) The instructor-in-charge shall assign the following personnel:
 - (A) One instructor to each functional crew, which shall not exceed five students.
 - (B) One instructor to each backup line.
 - (C) Additional personnel to backup lines to provide mobility.
 - (D) One additional instructor for each additional functional assignment.
- (3) The officer in charge or instructor will ensure that the buildings or props being utilized for live fire training are in a condition that would not pose an undue safety risk.
- (4) A safety officer shall be appointed for all Live Fire Training Structure Evolutions. The safety officer shall have the authority, regardless of rank, to alter, suspend or control any aspect of the operations when, in his or her judgment, a potential or actual danger, accident, or unsafe condition exists. The safety officer shall not be assigned other duties that interfere with safety responsibilities.
- (5) No person(s) shall play the role of a victim inside the building. .
- (6) Prior to the ignition of any fire, instructors shall ensure that all personal protective clothing and/or self-contained breathing apparatus are NFPA compliant and being worn in the proper manner.
- (7) Prior to conducting any live fire training, a pre-burn briefing session shall be conducted. All participants shall be required to conduct a walk-through of the structure in order to have a knowledge of, and familiarity with, the layout of the building and to be able to facilitate any necessary evacuation of the building.
- (8) A standard operating procedure shall be developed and utilized for Live Fire Training Structure Evolutions. The standard operating procedure shall include, but not be limited to:
 - (A) a Personal Alert Safety System (PASS). A PASS device shall be provided for all participating in live fire training and shall meet the requirements in §435.9 of this title (relating to Personal Alert Safety System (PASS) devices);
 - (B) a Personnel Accountability System that complies with §435.13 of this title shall be utilized;
 - (C) an Incident Management System;
 - (D) use of personal protective clothing and self-contained breathing apparatus;
 - (E) an evacuation signal and procedure; and pre-burn, burn and post-burn procedures.



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7

1040 - CRACKS BACK

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

11. Adjourn meeting.