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.

#5 & 6

City of Pasadena
Fire Marshal's Office

Johnny Isbell
Mayor

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 <u>at least 18 college semester hours in fire science subjects</u>.

(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:

NOT For Peace OFFICERS

(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 <u>eighteen college semester hours in fire science subjects</u>.

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

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

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