

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 1. **Proposed amendments to Title 37 TAC, Chapter 421, Standards For Certification, including but not limited to, §421.1, Procedures for Meetings, §421.3, Minimum Standards Set by the Commission, §421.5, Definitions, §421.9, Designation of Fire Protection Duties, §421.11, Requirement to be Certified Within One Year, §421.13, Individual Certificate Holders, §421.15, Extension of Training Period, and §421.17, Requirement to Maintain Certification.**

Chapter 421

Standards for Certification

§421.3. Minimum Standards Set by the Commission

- (a) General statement. It shall be clearly understood that the specified minimum standards [~~herein~~] described **in this section** are designated as a minimum program. Employing entities are encouraged to exceed the minimum program wherever possible. Continuous in-service training beyond the minimum standards for fire protection personnel is strongly recommended. Nothing in these regulations shall limit or be construed as limiting the powers of the Civil Service Commission, or the employing entity, to enact rules and regulations which establish a higher standard of training than the minimum specified, or which provides for the termination of the services of unsatisfactory employees during or upon completion of the prescribed probationary period.
- (b) Functional position descriptions.
- (1) Structural **Fire Protection** [~~fire protection~~] personnel. The following general position description for structural fire protection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire fighter operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.
- (A) Qualifications. Successfully complete a Commission-approved course; achieve a passing score on written and performance certification examinations; must be at least 18 years of age; generally, the knowledge and skills required show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, drag, and balance weight equivalent to the average human weight; ability to interpret in English, written and oral instructions; ability to work effectively in high stress situations; ability to work effectively in an environment with loud noises and flashing lights; ability to function through an entire work shift; ability to calculate weight and volume ratios; ability to read and understand English language manuals including chemical, medical and technical terms, and road maps; ability to accurately discern street signs and address numbers; ability to document in English, all relevant information in prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other emergency response personnel. Good manual dexterity with ability to perform all tasks related to the protection of life and property; ability to bend, stoop, and crawl on uneven surfaces; ability to withstand varied environmental conditions such as extreme heat, cold, and moisture; and ability to work in low or no light, confined spaces, elevated heights and other dangerous environments.
- (B) Competency. A basic fire fighter must demonstrate competency handling emergencies utilizing equipment and skills in accordance with the objectives in Chapter 1 of the Commission's Certification Curriculum Manual.
- (2) Aircraft **Rescue Fire Fighting** [~~rescue fire fighting~~] personnel. The following general position description for aircraft rescue fire fighting personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of aircraft rescue fire fighting personnel operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.
- (A) Qualifications. In addition to the qualifications for basic structural fire protection personnel: familiarity with geographic and physical components of an airport; ability to use and understand communication equipment, terminology, and procedures utilized by airports; ability and knowledge in the application of fire suppression agents; and ability to effectively perform fire suppression and rescue operations.
- (B) Competency. Basic fire fighting and rescue personnel must demonstrate competency handling emergencies utilizing equipment and skills in accordance with the objectives in Chapter 2 of the Commission's Certification Curriculum Manual.

- (3) Marine **Fire Protection** [~~fire protection~~] personnel. The following general position description for marine fire protection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the marine fire fighter operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.
- (A) Qualifications. In addition to the qualifications for basic structural fire protection personnel: familiarity with geographic and physical components of a navigable waterway; ability to use and understand communication equipment, terminology, and procedures used by the maritime industry; and knowledge in the operation of fire fighting vessels.
 - (B) Competency. A marine fire fighter must demonstrate competency in handling emergencies utilizing equipment and skills in accordance with the objectives in Chapter 3 of the Commission's Certification Curriculum Manual.
- (4) Fire **Inspection** [~~inspection~~] personnel. The following general position description for fire inspection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire inspector operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.
- (A) Qualifications. Successfully complete a Commission-approved course; achieve a passing score on certification examinations; must be at least 18 years of age; generally, the knowledge and skills required to show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, and balance weight equivalent to weight of common tools and equipment necessary for conducting an inspection; ability to interpret written and oral instructions; ability to work effectively with the public; ability to work effectively in an environment with potentially loud noises; ability to function through an entire work shift; ability to calculate area, weight and volume ratios; ability to read and understand English language manuals including chemical, construction and technical terms, building plans and road maps; ability to accurately discern street signs and address numbers; ability to document, in writing, all relevant information in a prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other personnel. Demonstrate knowledge of characteristics and behavior of fire, and fire prevention principles. Good manual dexterity with the ability to perform all tasks related to the inspection of structures and property; ability to bend, stoop, and crawl on uneven surfaces; ability to climb ladders; ability to withstand varied environmental conditions such as extreme heat, cold, and moisture; and the ability to work in low light, confined spaces, elevated heights, and other dangerous environments.
 - (B) Competency. A fire inspector must demonstrate competency in conducting inspections utilizing equipment and skills in accordance with the objectives in Chapter 4 of the Commission's Certification Curriculum Manual.
- (5) Fire Investigator personnel. The following general position description for fire investigator personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire investigator operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.
- (A) Qualifications. Successfully complete a Commission-approved course; achieve a passing score on certification examinations; be at least 18 years of age; generally, the knowledge and skills required to show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, and balance weight equivalent to weight of common tools and equipment necessary for conducting an investigation; ability to interpret written and oral instructions; ability to work effectively with the public; ability to work effectively in a hazardous environment; ability to function through an entire work shift; ability to calculate area, weight and volume ratios; ability to read and understand English language manuals including chemical, legal and technical terms, building plans and road maps; ability to accurately discern street signs and address numbers; ability to document, in writing, all relevant information in a prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other personnel. Good manual dexterity with the ability to perform all tasks related to fire investigation; ability to bend, stoop, and walk on uneven surfaces; ability to climb ladders; ability to withstand varied environmental conditions such as extreme

heat, cold and moisture; and the ability to work in low light, confined spaces, elevated heights, and other potentially dangerous environments.

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

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

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

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

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

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

(B) Competency. In addition to the competencies of awareness and operations level personnel, a Hazardous Materials Incident Commander must demonstrate competency in such areas as: analyzing an incident via the collection of information and an estimation of potential outcomes; planning appropriate response operations; implementing a planned response; evaluating the progress of a planned response and revising as necessary; terminating an incident; conducting a post-incident critique; and reporting and documenting an incident in a manner consistent with local, state, and federal requirements.

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

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

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

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

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

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

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

(A) Qualifications. In addition to the qualifications for Fire Officer I and Fire Instructor I personnel: the ability to motivate members for maximum job performance; the ability to evaluate job performance; the ability to deliver life safety and fire prevention education programs; the ability to prepare budget requests, news releases, and policy changes; the ability to conduct pre-incident planning, fire inspections, and fire investigations; the ability to supervise multi-unit emergency operations, identify unsafe work environments or behaviors, review injury, accident, and exposure reports.

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

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

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

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

(12) Fire Officer IV personnel. The following general position description for Fire Officer IV personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and

tasks required of the Fire Officer IV operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

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

(B) Competency. A Fire Officer IV must demonstrate competency in appraising and evaluating departmental programs to ensure adherence to current laws and best practices; developing medium and long-range plans for organizations; and assuming a top-level leadership role in both the organization and community.

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

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

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

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

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

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

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

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

multiple organizations; the ability to conduct organizational needs analysis; and the ability to develop training goals and implementation strategies.

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

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

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

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

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

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

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

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

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

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

§421.5 Definitions

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

- (1) Admission to employment--An entry level full-time employee of a local government entity in one of the categories of fire protection personnel.
- (2) Appointment--The designation or assignment of a person to a discipline regulated by the Commission. The types of appointments are:
 - (A) permanent appointment—~~the~~ [The] designation or assignment of certified fire protection personnel or certified part time fire protection employees to a particular discipline (See Texas Government Code, §419.032); and
 - (B) probationary or temporary appointment—~~the~~ [The] designation or assignment of an individual to a particular discipline, except for head of a fire department, for which the individual has passed the Commission's certification and has met the medical requirement of **§423.1(c)** [~~§423.1(b)~~] of this title (**relating to Minimum Standards for Structure Fire Protection Personnel**), if applicable, but has not yet been certified. (See Texas Government Code, §419.032.)
- (3) Approved training--Any training used for a higher level of certification must be approved by the Commission and assigned to either the A-List or the B-List. The training submission must be in a manner specified by the Commission and contain all information requested by the Commission. The Commission will not grant credit twice for the same subject content or course. Inclusion on the A-List or B-List does not preclude the course approval process as stated elsewhere in the Standards Manual.
- (4) Assigned/work--A fire protection personnel or a part-time fire protection employee shall be considered "assigned/working" in a position, any time the individual is receiving compensation and performing the duties that are regulated by the [Texas]Commission [~~on Fire Protection~~] certification and has been permanently appointed, as defined in this section, to the particular discipline.
- (5) Assistant fire chief--The officer occupying the first position subordinate to the head of a fire department.
- (6) Auxiliary fire fighter--A volunteer fire fighter.
- (7) Benefits--Benefits shall include, but are not limited to, inclusion in group insurance plans (such as health, life, and disability) or pension plans, stipends, free water usage, and reimbursed travel expenses (such as meals, mileage, and lodging).
- (8) Chief Training Officer--The individual, by whatever title he or she may be called, who coordinates the activities of a certified training facility.
- (9) Class hour--Defined as not less than 50 minutes of instruction, also defined as a contact hour; a standard for certification of fire protection personnel.
- (10) Code--The official legislation creating the Commission.
- (11) College credits--Credits earned for studies satisfactorily completed at an institution of higher education accredited by an agency recognized by the U.S. Secretary of Education and including National Fire Academy (NFA) open learning program colleges, or courses recommended for college credit by the American Council on Education (ACE) or delivered through the National Emergency Training Center (both EMI and NFA) programs. A course of study satisfactorily completed and identified on an official transcript from a college or in the ACE National Guide that is primarily related to Fire Service, Emergency Medicine, Emergency

Management, or Public Administration is defined as applicable for Fire Science college credit, and is acceptable for higher levels of certification. **A criminal justice course related to fire and or arson investigation that is satisfactorily completed and identified on an official transcript from a college or in the ACE National Guide may be used to qualify for Master Arson Investigator certification.**

- (12) Commission--Texas Commission on Fire Protection.
- (13) Commission-recognized training--A curriculum or training program which carries written approval from the Commission, or credit hours that appear on an official transcript from an accredited college or university, or any fire service training received from a nationally recognized source, i.e., the National Fire Academy.
- (14) Compensation--Compensation is to include wages, salaries, and "per call" payments (for attending drills, meetings or answering emergencies).
- (15) Expired--Any certification that has not been renewed on or before the end of the certification period.
- (16) Federal fire fighter--A person as defined in the Texas Government Code, §419.084(h).
- (17) Fire chief--The head of a fire department.
- (18) Fire department--A department of a local government that is staffed by one or more fire protection personnel or part-time fire protection employees.
- (19) Fire protection personnel--Any person who is a permanent full-time employee of a fire department or governmental entity and who is appointed duties in one of the following categories/disciplines: fire suppression, fire inspection, fire and arson investigation, marine fire fighting, aircraft rescue fire fighting, fire training, fire education, fire administration and others employed in related positions necessarily or customarily appertaining thereto.
- (20) Fire suppression duties--Engaging in the controlling or extinguishment of a fire of any type or performing activities which are required for and directly related to the control and extinguishment of fires or standing by on the employer's premises or apparatus or nearby in a state of readiness to perform these duties.
- (21) Full-time--An officer or employee is considered full-time if the employee works an average of 40 hours a week or averages 40 hours per week or more during a work cycle in a calendar year. For the purposes of this definition paid leave will be considered time worked.
- (22) Government entity--The local authority having jurisdiction as employer of full-time fire protection personnel in a state agency, incorporated city, village, town or county, education institution or political subdivision.
- (23) High school--A school accredited as a high school by the Texas Education Agency or equivalent accreditation agency from another jurisdiction.
- (24) Immediately dangerous to life or health (IDLH)--An atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.
- (25) Incipient stage fire--A fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.
- (26) Interior structural fire fighting--The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. (See 29 CFR §1910.155)
- (27) Lead instructor--An individual qualified as an instructor to deliver fire protection training.
- (28) Municipality--Any incorporated city, village, or town of this state and any county or political subdivision or district in this state. Municipal pertains to a municipality as ~~herein~~ defined **in this section**.

- (29) National Fire Academy semester credit hours--The number of hours credited for attendance of National Fire Academy courses is determined as recommended in the most recent edition of the "National Guide to Educational Credit for Training Programs," American Council on Education (ACE).
- (30) Non-self-serving affidavit--A sworn document executed by someone other than the individual seeking certification.
- (31) Participating volunteer fire fighter--An individual who voluntarily seeks certification and regulation by the Commission under the Texas Government Code, Chapter 419, Subchapter D.
- (32) Participating volunteer fire service organization--A fire department that voluntarily seeks regulation by the Commission under the Texas Government Code, Chapter 419, Subchapter D.
- (33) Part-time fire protection employee--An individual who is appointed as a part-time fire protection employee and who receives compensation, including benefits and reimbursement for expenses. A part-time fire protection employee is not full-time as defined in this section.
- (34) Personal alert safety system (PASS)--Devices that are certified as being compliant with NFPA 1982, and that automatically activates an alarm signal (which can also be manually activated) to alert and assist others in locating a fire fighter or emergency services person who is in danger.
- (35) Political subdivision--A political subdivision of the State of Texas that includes, but is not limited to the following:
- (A) city;
 - (B) county;
 - (C) school district;
 - (D) junior college district;
 - (E) levee improvement district;
 - (F) drainage district;
 - (G) irrigation district;
 - (H) water improvement district;
 - (I) water control and improvement district;
 - (J) water control and preservation district;
 - (K) freshwater supply district;
 - (L) navigation district;
 - (M) conservation and reclamation district;
 - (N) soil conservation district;
 - (O) communication district;
 - (P) public health district;
 - (Q) river authority;
 - (R) municipal utility district;

(S) transit authority;

(T) hospital district;

(U) emergency services district;

(V) rural fire prevention district; and

(W) any other governmental entity that:~~embraces a geographical area with a defined boundary;~~

(i) embraces a geographical area with a defined boundary;

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

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

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

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

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

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

(40) Trainee--An individual who is participating in a Commission approved training program.

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

(42) Volunteer fire service organization--A volunteer fire department or organization not under mandatory regulation by the [~~Texas~~]Commission[~~on Fire Protection~~].

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

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

(i) a [~~Texas~~] Commission[~~on Fire Protection~~] certification as a full-time, or part-time employee of a government entity, a member in a volunteer fire service organization, and/or an employee of a regulated non-governmental fire department; or

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

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

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

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

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 2. **Proposed amendments to Title 37 TAC, Chapter 427, Training Facility Certification, including but not limited to, Subchapter C, Training Programs for On-Site and Distance Training Providers, §427.301, General Provisions for Training Programs – On-Site and Distance Training Providers, §427.303, Training Approval Process for On-Site and Distance Training Providers, §427.305, Procedures for Testing Conducted by On-Site and Distance Training Providers, and §427.307, Onsite and Distance Training Provider Staff Requirements.**

Chapter 427

Training Facility Certification

Subchapter C

Training Programs for On-Site and Distance Training Providers

§427.307. Onsite and Distance Training Provider Staff Requirements

- (a) The chief training officer of a training facility, as a minimum, must possess Fire Service Instructor III certification.
- (b) All training instructors (except guest instructors) must possess fire instructor certification. The instructor(s) must be certified in the applicable discipline or be approved by the commission to instruct in the applicable subject.
- (c) The lead instructor, as a minimum, shall possess a Fire Service Instructor II certification and must be certified by the commission in the applicable discipline, **except as stated in subsections (h)(2) and (i)(2) of this section.**
- (d) Guest instructors are not required to be certified as instructors. A guest instructor is defined as an individual with special knowledge, skill, and expertise in a specific subject area who has the ability to enhance the effectiveness of the training. Guest instructors shall teach under the endorsement of the lead instructor.
- (e) In order to teach fire officer certification courses, an individual who does not meet the requirements of subsection (a) or (c) of this section, shall possess a minimum of a bachelor's degree in management or its equivalent.
- (f) In order to teach an instructor certification training course for Fire Service Instructor I, an individual must hold one of the following three qualifications:
 - (1) Hold a Fire Service Instructor II or higher; or
 - (2) A Bachelor's degree with the following:
 - (A) As a minimum, a minor in education; and
 - (B) Three years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 200 class hours; or
 - (3) An Associate's degree with the following:
 - (A) twelve semester hours of education instructional courses; and
 - (B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.
- (g) In order to teach an instructor certification training course for Fire Service Instructor II or III, an individual must hold one of the following three qualifications:
 - (1) Hold a Fire Service Instructor III; or
 - (2) A Bachelor's degree with the following:

(A) As a minimum, a minor in education; and

(B) Three years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 200 class hours; or

(3) An Associate's degree with the following:

(A) twelve semester hours of education instructional courses; and

(B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.

(h) In order to teach a certification course for Basic Wildland Fire Protection:

(1) The unit instructor must hold Basic Wildland Fire Protection certification and a Texas Commission on Fire Protection Instructor I certification.

(2) The lead instructor must hold Intermediate Wildland Fire Protection certification and a Texas Commission on Fire Protection Instructor I certification.

(3) The lead instructor must be present in any class being taught

(i) In order to teach a certification course for Intermediate Wildland Fire Protection:

(1) The unit instructor must hold an Intermediate Wildland Fire Protection certification and a Texas Commission on Fire Protection Instructor I certification.

(2) The lead instructor must hold an Intermediate Wildland Fire Protection certification and a Texas Commission on Fire Protection Instructor I certification.

(3) The lead instructor must be present in any class being taught.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 3. **Proposed amendments to Title 37 TAC, Chapter 437, Fees, including but not limited to, §437.1, Purpose and Scope, §437.3, Certification Fees, §437.5, Renewal Fees, §437.7, Standards Manual and Certification Curriculum Manual Fees, §437.11, Copying Fees, §437.13, Processing Fees for Test Application, §437.15, International Fire Service Accreditation Congress (IFSAC) Seal Fees, and §437.17, Records Review Fees.**

CHAPTER 437

FEES

§437.1. Purpose and Scope.

- (a) The purpose of this chapter is to set forth requirements governing the fees charged for the issuance of certificates to fire protection personnel, to establish the procedures for the collection of annual renewal fees and copying fees as prescribed by the Government Code, §419.025 and §419.026, and commission rule.
- (b) This chapter shall govern all proceedings before and dealing with the commission concerning certification fees, renewal fees, and copying fees. Hearings and appellate proceedings regarding these fees shall be governed by this chapter where applicable and by the rules of the practice and procedure of the commission and the Administrative Procedure Act and Texas Register Act, Chapter 2001, of the Texas Government Code.
- (c) If a fee submitted in the form of a check is returned for insufficient funds the certification, seal or test for which the fee was collected will be invalidated.

§437.3. Certification Fees.

- (a) A non-refundable application fee of \$85 is required for each certificate issued by the Commission. If a certificate is issued within the time provided in §401.125 of this title (relating to Processing Periods), the fee will be applied to the certification. If the certificate is denied, the applicant must pay a new certification application fee to file a new application.
- (b) The regulated employing entity shall be responsible for all certification fees required as a condition of appointment.
- (c) Nothing in this section shall prohibit an individual from paying a certification fee for any certificate which he or she is qualified to hold, providing the certificate is not required as a condition of appointment (see subsection (b) of this section concerning certification fees).
- (d) Any person who holds a certificate, and is no longer employed by an entity that is regulated by the Commission may submit in writing, a request, together with the required fee to receive a one-time certificate stating the level of certification in each discipline held by the person on the date that person left employment pursuant to the Texas Government Code, §419.033(b).

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

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

§437.5. Renewal Fees.

- (a) A non-refundable annual renewal fee of \$85 shall be assessed for each certified individual and certified training facility. If an individual or certified training facility holds more than one certificate, the Commission may collect only one renewal fee of \$85, which will renew all certificates held by the individual or certified training facility.
- (b) A regulated employing entity shall pay the renewal fee for all certificates which a person must possess as a condition of employment.
- (c) If a person re-enters the fire service whose certificate(s) has been expired for less than one year, the regulated entity must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon

payment of the required fees, the certificates previously held by the individual, for which he or she continues to qualify, will be renewed.

- (d) If a person reapplies for a certificate(s) which has been expired less than one year and the individual is not employed by a regulated employing entity as defined in subsection (b) of this section, the individual must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fee(s), the certificate(s) previously held by the individual, for whom he or she continues to qualify, will be renewed.
- (e) Nothing in this section shall prohibit an individual from paying a renewal fee for any certificate which he or she is qualified to hold providing the certificate is not required as a condition of employment.
- (f) Certification renewal statements will be mailed to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal statements will be mailed to certified training facilities at least 60 days prior to February 1 of each calendar year.
- (g) All certification renewal fees must be returned with the renewal statement to the Commission.
- (h) All certification renewal fees must be paid on or before the renewal date posted on the certification renewal statement to avoid additional fee(s).
- (i) The certification period shall be a period not to exceed one year. The certification period for employees of regulated employing entities, and individuals holding certification is November 1 to October 31. The certification period of certified training facilities is February 1 to January 31.
- (j) All certification renewal fees received from one to 30 days after the renewal date posted on the renewal notice will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$42.50 in addition to the renewal fee for each individual for which a renewal fee was due.
- (k) All certification renewal fees received more than 30 days after the renewal date posted on the renewal notice will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$85 in addition to the renewal fee for each individual for which a renewal fee was due.
- (l) In addition to any non-refundable late fee(s) assessed for certification renewal, the Commission may hold an informal conference to determine if any further action(s) is to be taken.
- (m) An individual or entity may petition the Commission for a waiver of the late fees required by this section if the person's certificate expired because of the individual or regulated employing entity's good faith clerical error, or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action. All required renewal fees including applicable late fees and all required continuing education must be submitted before the waiver request may be considered.
 - (1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with Commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.
 - (2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order restoring the applicant to employment.
- (n) An individual, upon returning from activation to military service, whose certification has expired, must notify the Commission in writing. The individual will have any normally associated late fees waived and will be required to pay a renewal fee of \$85.

§437.7. Standards Manual and Certification Curriculum Manual Fees.

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

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

§437.11. Copying Fees.

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

§437.13. Processing Fees for Test Application

- (a) A non-refundable application processing fee of \$85 shall be charged for each examination.
- (b) Fees will be paid in advance with the application or the certified~~[provider of]~~ training provider may be invoiced or billed if previous arrangements have been approved by the commission in writing via mail, e-mail or fax ~~[made with the Commission]~~.

(1) Any payment postmarked from 61 to 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee of one half the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.

(2) Any payment postmarked more than 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee in an amount equal to the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.

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

A non-refundable \$15.00 fee shall be charged for each IFSAC seal issued by the commission effective October 1, 2012.

§437.17. Records Review Fees.

- (a) A non-refundable fee of \$35 shall be charged for each training records review conducted by the commission for the purpose of determining equivalency to the appropriate commission training program or to establish eligibility to test. Applicants submitting training records for review shall receive a written analysis from the commission.
- (b) The fee provided for in this section shall not apply to an individual who holds an advanced certificate from the State Firemen's and Fire Marshals' Association of Texas.

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 4. **Proposed amendments to Title 37 TAC, Chapter 439, Examinations for Certification, including but not limited to, Subchapter A, Examinations for On-Site Delivery Training, §439.1, Requirements—General, §439.3, Definitions, §439.5, Procedures, §439.7, Eligibility, §439.9, Grading, §439.11, Commission-Designated Performance Skill Evaluations, §439.13, Special Accommodations for Testing, and §439.19, Number of Test Questions.**

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**[Commission] and International Fire Service Accreditation Congress (IFSAC) regulations. It is incumbent upon **commission**[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** [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**[Commission] shall prescribe the content of any certification examination that tests the knowledge and/or skill of the examinee concerning the discipline addressed by the examination.
 - (1) An examination based on Chapter 1, "Basic Fire Suppression Curriculum" as identified in the Certification Curriculum Manual may consist of four sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, and First Responder Operations.
 - (2) An examination based on Chapter 4, "Basic Fire Inspector Curriculum" as identified in the Certification Curriculum Manual may consist of three sections: Inspector I, Inspector II, and Plan Examiner I.
 - (3) An examination based on the applicable chapters for "Basic Fire Suppression Curriculum" and "Wildland Fire Protection Curriculum" in the Certification Curriculum Manual shall consist of five sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, First Responder Operations, and Intermediate Wildland Fire Protection.
 - (4) All other state examinations consist of only one section.
 - ~~(5) The Head of Department examination will be based on NFPA 1021, Chapter 7.~~
- (e) The individual who fails to pass a **commission**[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**[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**[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**[Commission] examination for certification status and meet any other certification requirements in order to become eligible for certification by the **commission**[Commission] as fire protection personnel.

- (i) An individual or entity may petition the **commission**[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**[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**.~~[Commission.]~~
- (b) All application processing fees due to the **commission**.~~[Commission]~~ must be paid in a timely manner. **Late payments shall be assessed a late fee in accordance with §437.13 of this title (relating to Processing Fees for Test Application).**
- (c) Each examination must be administered by a lead examiner.
- (d) The lead examiner must:
 - (1) ensure that the tests remain secure and that the examination is conducted under conditions warranting honest results;
 - (2) monitor the examination while in progress;
 - (3) control entrance to and exit from the test site;
 - (4) assign or re-assign seating; and
 - (5) bar admission to or dismiss any examinee who fails to comply with any of the applicable provisions of this chapter.
- (e) All official grading and notification must come from the **commission**.~~[Commission]~~ or its designee. The preliminary test results shall be made available within seven (7) business days after completion of the examination.

§439.7. Eligibility.

- (a) An examination may not be taken by an individual who currently holds an active certificate from the Commission in the discipline to which the examination pertains, unless required by the Commission in a disciplinary matter, or test scores have expired and the individual is testing for IFSAC seals.
- (b) An individual who passes an examination and is not certified in that discipline, will not be allowed to test again until 30 days before the expiration date of the previous examination unless required by the Commission in a disciplinary matter.
- (c) In order to qualify for a Commission examination, the examinee must:
 - (1) meet or exceed the minimum requirements set by the Commission as a prerequisite for the specified examination;
 - (2) submit a test application with documentation showing completion of a Commission-approved curriculum and any other prerequisite requirements, along with the appropriate application processing fee(s).
 - (3) receive from the Commission an "Endorsement of Eligibility" letter and provide this letter to the lead examiner.
 - (4) bring to the test site, and display upon request, state issued identification which contains the name and photograph of the examinee;
 - (5) report on time to the proper location; and
 - (6) comply with all the written and verbal instructions of the lead examiner.
- (d) No examinee shall be permitted to:
 - (1) violate any of the fraud provisions of this section;
 - (2) disrupt the examination;

- (3) bring into the examination site any books, notes, or other written materials related to the content of the examination;
 - (4) refer to, use, or possess any such written material at the examination site;
 - (5) give or receive answers or communicate in any manner with another examinee during the examination;
 - (6) communicate at any time or in any way, the contents of an examination to another person for the purpose of assisting or preparing a person to take the examination;
 - (7) steal, copy, or reproduce any part of the examination
 - (8) engage in any deceptive or fraudulent act either during an examination or to gain admission to it;
 - (9) solicit, encourage, direct, assist, or aid another person to violate any provision of this section; or
 - (10) bring into the examination site any electronic devices.
- (e) No person shall be permitted to sit for any Commission examination who has an outstanding debt owed to the Commission.

§439.9. Grading.

- (a) If performance skills are required as a part of the examination, the examinee must demonstrate performance skill objectives in a manner consistent with performance skill evaluation forms provided by the Commission. The evaluation format for a particular performance skill will determine the requirements for passage of the skill. Each performance skill evaluation form will require successful completion of one of the following formats:
 - (1) all mandatory tasks; or
 - (2) an accumulation of points to obtain a passing score of at least 70%; or
 - (3) a combination of both paragraphs (1) and (2) of this subsection.
- (b) The minimum passing score on each examination or section thereof as outlined in §439.1(d) of this title (relating to Requirements--General) shall be 70%. This means that 70% of the total possible active questions must be answered correctly. The Commission may, at its discretion, invalidate any question.
- (c) If the Commission invalidates an examination score for any reason, it may also, at the discretion of the Commission, require a retest to obtain a substitute valid test score.

§439.11. Commission-Designated Performance Skill Evaluations.

- (a) The Commission-designated performance evaluations are randomly selected from each subject area within the applicable curriculum containing actual skill evaluations. This applies only for curricula in which performance standards have been developed. The provider of training will receive from the Commission, with the course approval notice, one envelope for each subject area as identified in the applicable curriculum.
- (b) During the course of instruction, the training provider shall test for competency, the Commission-designated performance skills. The skill evaluations may be scheduled at any time during the course, but must take place after all training on the identified subject area has been completed. The date(s), time(s) and location(s) for the Commission-designated skill evaluations must be submitted on the Commission-designated skill schedule contained within the Training Prior Approval form. The Commission must be notified immediately of any deviation from the submitted Commission-designated skill schedule. All skills must be evaluated by a Commission-approved field examiner.
- (c) In order to qualify for the Commission certification examination, the student must successfully complete and pass all designated skill evaluations. The student may be allowed two attempts to complete each skill. A second failure during the evaluation process will require remedial training in the failed skill area with a certified instructor before being allowed a third attempt. A third failure shall require that the student repeat the entire certification curriculum.

- (d) The training facility must maintain records (electronic or paper) of skills testing on each examinee. The records must reflect the results of the evaluation of skills, the dates the evaluation of skills took place, and the names of the field examiners who conducted the evaluations.
- (e) For certification disciplines in which an IDLH environment may exist, all skill testing participants shall have available for use NFPA compliant PPE and SCBA as defined in §435.1 of this title (relating to Protective Clothing) and §435.3 of this title (relating to Self-Contained Breathing Apparatus).

§439.13. Special Accommodations for Testing.

- (a) Special accommodation testing is for those individuals that have a documented disability which may hamper their success on a Texas Commission on Fire Protection written examination. Some accommodations that can be allowed are:
- (1) A testing room to oneself (examinee is allowed to read the questions out loud to him or herself). To accommodate the request the examinee will have to test in the Commission's Austin headquarters location or any location deemed appropriate by the Commission.
 - (2) The test to be split in two with up to an hour break in between (no access to the first half of the examination will be allowed during or after the break). To accommodate the request the examinee will have to test in the Commission's Austin headquarters location or any location deemed appropriate by the Commission.
 - (3) The questions to be printed in a larger font (approximately 7% larger).
 - (4) The test to be copied on off-white paper (i.e. cream colored).
 - (5) The use of highlighters or a highlighter sheet.
 - (6) Any requests that change the condition of the examination or the examination process.
- (b) If the applicant is seeking a special accommodation test, the applicant must submit written documentation of the disability and a written statement as to which of the allowable accommodations is being requested. The applicant may ask for accommodations not listed above. The request will be reviewed and the applicant will receive a written response regarding the Commission's position on the request.

§439.19. Number of Test Questions

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

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

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

9. **Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. **Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 5. **Proposed amendments to Title 37 TAC, Chapter 449, Head of a Fire Department, §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 a department must be eligible to be certified at the time of the appointment or will become eligible to be certified within one year of the appointment and must submit an affidavit verifying eligibility status at the time of the appointment if not holding a 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) Applicants for Head of a Fire Department certification must complete the following requirements:
 - (1) must be appointed as head of a fire department; and
 - (2) complete the Standards Review Assignment for Head of a Fire Department identified in the applicable chapter~~[Chapter 14]~~ of the Curriculum Manual; and
 - (3) ~~meet~~~~[arrange a meeting]~~ with a Texas Commission on Fire Protection Compliance Section representative~~[Officer]~~ for review and approval of the Standards Review Assignment; and
 - (4) attend at least one Texas Commission on Fire Protection regularly scheduled commission meeting or one regularly scheduled fire fighter advisory committee meeting in the first year of appointment; and
 - (5) 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
 - (6) 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
 - (7) 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; or
 - (8) 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
 - (9) 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.
- (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 (relating to Continuing Education).
- (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) Applicants for Head of a Fire Department certification must complete the following requirements:
 - (1) must be appointed as head of a fire department; and
 - (2) complete the Standards Review Assignment for Head of a Fire Department identified in **the applicable chapter**~~[Chapter 44]~~ of the Curriculum Manual; and
 - (3) ~~meet~~~~[arrange a meeting]~~ with a Texas Commission on Fire Protection Compliance **Section representative**~~[Officer]~~ for review and approval of the Standards Review Assignment; and
 - (4) attend at least one Texas Commission on Fire Protection regularly scheduled commission meeting or one regularly scheduled fire fighter advisory committee meeting in the first year of appointment; and
 - (5) 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
 - (6) 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
 - (7) 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; or
 - (8) 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
 - (9) 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.
- (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 (relating to Continuing Education).

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

Chapter 457

Minimum Standards For Incident Safety Officer Certification

§457.1. Incident Safety Officer Certification.

- (a) An Incident Safety Officer is defined as a member of the command staff responsible for monitoring and assessing safety hazards or unsafe situations and for developing measures for ensuring personnel safety at an incident.
- (b) All individuals holding an Incident Safety Officer certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).
- (c) All Safety Officer certifications issued by the commission and referenced in this chapter are voluntary.

§457.3. Minimum Standards for Incident Safety Officer Certification.

In order to be certified as an Incident Safety Officer an individual must:

- (1) hold commission certification as Fire Officer I and;
- (2) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as an Incident Safety Officer; or
- (3) complete a commission-approved Incident Safety Officer program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Incident Safety Officer program must consist of one of the following:
 - (A) completion of a commission-approved Incident Safety Officer curriculum as specified in the applicable chapter of the commission's Certification Curriculum Manual; or
 - (B) completion of the National Fire Academy Incident Safety Officer course; or
 - (C) completion of the Fire Department Safety Officers Association Incident Safety Officer course; or
 - (D) completion of an out-of-state, educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to be equivalent to, or exceeds the commission-approved Incident Safety Officer curriculum.
- (4) The commission examination requirement is waived for individuals who have completed one of the training programs in paragraph (3)(B) - (D) of this section and apply for certification by August 31, 2013. After this date, individuals must successfully pass the commission examination prior to applying for certification.

§457.5. Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive an Incident Safety Officer certification, unless otherwise specified in this chapter.
- (b) Individuals will be permitted to take the commission examination for Incident Safety Officer certification by documenting Fire Officer I certification through the commission or the equivalent IFSAC seal, and completing a commission approved Incident Safety Officer curriculum.**