

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

**A. Discussion and possible final adoption of proposed amendments, new sections, and repeals as follows:**

**1. Discussion and possible action regarding proposed amendments to title 37 TAC, Chapter 437, Fees.**



***Texas Commission on Fire Protection***

***Agenda Item Summary***

**MEETING: Commission**

**DATE: 07/14/2016**

**Agenda Item #: 10 A: #1**

**Agenda Title: Fee adjustment**

**Action to be taken: Discussion and possible final adoption**

***Origin of Item: FF Advisory Committee***

**1. INTRODUCTION/PURPOSE**

The purpose of the proposed rule revision is to consider adjusting the fee charged by the agency for sectional exams, which are typically administered as retests following an initial exam failure. The proposed revision also addresses an increase in the fee charged by the agency for a records review.

**2. DESCRIPTION/ JUSTIFICATION**

The proposal for a fee reduction for sectional exams is in conjunction with the proposal in Chapter 439 (agenda item 10A#2) that would require persons to pass all sections of a multiple-section exam in order to qualify for certification. The proposed fee increase for records reviews reflects a more realistic amount for staff time committed to reviews.

**3. BUDGET IMPACT**

Any budget impact is dependent upon the fee amounts adopted. It is anticipated that there will be at least a temporary increase in the number of retests administered by the agency.

**4. TIMELINE CONSIDERATIONS**

Proposed language is for possible final adoption.

**5. RECOMMENDATION**

Reviewed and forwarded as recommended by FF Advisory Committee.

**6. REFERENCES**

Title 37, Part 13, Chapters 437, Texas Administrative Code.

**CHAPTER 437**

**FEES**

### **§437.1 Purpose and Scope.**

- (a) The purpose of this chapter is to set forth requirements governing the fees charged by the commission as prescribed by Texas Government Code, Chapter 419, §419.025 and §419.026, and commission rule.
- (b) This chapter shall govern all proceedings before and dealing with the commission concerning 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.
- (d) Additional fees, such as those charged for exam administration or criminal background checks, may be charged to applicants and regulated entities by service providers other than the commission. The commission does not charge and will not collect these additional fees. Payment of the additional fees shall be made via a separately established agreement between the individual or regulated entity and the applicable service providers.

### **§437.3 Certification Application Processing Fees.**

- (a) A non-refundable application processing 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 processing fee to file a new application.
- (b) The regulated employing entity shall be responsible for all certification application processing fees required as a condition of appointment.
- (c) Nothing in this section shall prohibit an individual from paying a certification application processing 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) A facility that provides training for any discipline for which the commission has established a curriculum must be certified by the commission. The training facility will be charged a separate certification application processing fee for each discipline or level of discipline for which application is made.
- (e) The certification application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.
- (f) The certification application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.

### **§437.5 Renewal Fees.**

- (a) A non-refundable annual renewal fee of \$75 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 \$75, which will renew all certificates held by the individual or certified training facility.
- (b) A regulated employing entity shall pay the renewal fee for each individual who is required to possess certification 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 wishes to renew 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 information will be sent to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal information will be sent to certified training facilities at least 60 days prior to February 1 of each calendar year.
- (g) If renewal payment is submitted by mail, all certification renewal fees must be submitted with the renewal invoice to the commission.
- (h) All certification renewal fees must be paid on or before the last day of the certification period (see subsection (i) of this section) 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 last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$37.50 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.
- (k) All certification renewal fees received more than 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$75 in addition to the renewal fee for each individual or training provider 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.
- (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, who is a military service member, or returning from activation to military service, must notify the commission in writing if the individual wishes to renew an expired certification. Provided other qualifications for renewal are met, the individual will have any normally associated late fees waived and will be required to pay a renewal fee of \$75.

#### **§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](http://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) A non-refundable application processing fee of \$35 shall be charged for each sectional examination.**

- ~~(c)~~~~(b)~~ Fees will be paid in advance with the application or the certified training provider may be invoiced or billed if previous arrangements have been approved by the commission in writing via mail, e-mail or fax.
- (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.

**(d)**~~(e)~~ The test application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.

**(e)**~~(d)~~ The test application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.

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

A non-refundable \$15 fee shall be charged for each IFSAC seal issued by the commission.

#### **§437.17 Records Review Fees.**

(a) A non-refundable fee of ~~\$35~~ **\$75** 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 or Fire Fighter II certificate from the State Firemen's and Fire Marshals' Association of Texas.

**Proposed Rule Change Impacts:  
Requirement to Pass All Sections of Structure and Inspector Exams  
and  
Reduction in Sectional Exam Fee**

Statistics from Calendar Year 2015

**Number of Sectional Exams Requiring a Retest:**

(Reference proposed rule changes in 439.1)

	Current Rules: Failed Main Exam Retest Sections < 70	Proposed Rules: Retest Any Section < 70	Difference (increase) In Testing Volume
Hazmat Awareness	144	515	371
Hazmat Operations	159	746	587
Firefighter I	76	125	49
Firefighter II	151	348	197
Inspector I	56	57	1
Inspector II	65	118	53
Plan Examiner	64	146	82
<b>TOTAL SECTIONAL EXAMS REQUIRED</b>	<b>715</b> (+189 non-U.S. = 904)	<b>2055</b> (+189 non-U.S. = 2244)	<b>1340</b>

- Totals in bold reflect required retests for examinees likely to pursue Texas certification; numbers in parentheses include all examinees.

**Revenue Estimates:**

(Reference proposed rule change in 437.13)

<b>If Sectional Exam Fee Maintained at \$85</b>	<b>Revenue</b>
904 (715+189) Exams – Current Rules	\$76,840
2244 (2055+189) Exams – Proposed Rules	\$190,740
<b>Difference (increase)</b>	<b>\$113,900</b>

<b>If Sectional Exam Fee Reduced to \$35</b>	<b>Revenue</b>
904 (715+189) Exams – Current Rules at \$85/exam	\$76,840
2244 (2055+189) Exams – Proposed Rules at \$35/exam	\$78,540
<b>Difference (increase)</b>	<b>\$1,700</b>