

TEXAS COMMISSION ON FIRE PROTECTION
October 28, 2021, 10:00 a.m.
1701 N. Congress Ave., William B. Travis Building, Room 1-104, Austin, Texas

The meeting of the Texas Commission on Fire Protection will be held in-person at the physical location above. If you are not feeling well or were possibly exposed to COVID-19, please stay at home.

The Texas Commission on Fire Protection may discuss and/or take action on any of the following agenda items. The Commission may go into executive session on any agenda item listed below as authorized by the Open Meetings Act, Texas Government Code Chapter 551.

1. Call to order with invocation and pledge of allegiance.
2. Roll call and excuse of Commissioner absences.
3. Recognition of retiring agency employee Paul Maldonado.
4. Commission meeting minutes of July 14, 2021, and July 15, 2021.
5. The Budget and Strategic Plan Subcommittee may meet on October 28, 2021, during the commission meeting and provide a report relating to any recommendations developed by the subcommittee relating to modifications to the agency operating budget and strategic plan.
6. Reports from fire service interest groups and agencies on matters relating to their specific organizational purposes, functions, activities, and objectives, including reports from the Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firefighters and Fire Marshals' Association of Texas, the Texas Fire Marshal's Association, the Texas Association of Fire Educators, the Texas A&M Forest Service, the National Fire Protection Association, Texas State Association of Fire and Emergency Districts, the Center for Public Safety Excellence, and the State Fire Marshal's Office.
7. Subjects for future commission meeting agendas.
8. Future meeting dates.
9. Report from commission representative to the Homeland Security Council.
10. Report from the Health and Wellness ad-hoc committee.
11. Report from the Curriculum and Testing Committee.
12. Update from the Chapter 435 and Chapter 427 ad-hoc committees.
13. Possible final adoption of proposed amendments as follows:
 1. 37 Tex. Administrative Code, Part 13, Chapter 421, Standards For Certification.
 2. 37 Tex. Administrative Code, Part 13, Chapter 441, Continuing Education.
14. Request from Chief Brandon Seery, Heath Department of Public Safety regarding possible implementation of a field training firefighter certification.
15. 37 Tex. Administrative Code, Part 13, Chapter 437, Fees regarding IFSAC seals.

16. 37 Tex. Administrative Code, Part 13, Chapter 455, Minimum Standards for Wildland Fire Protection Certification.

17. Proposed rule review for the following:

1. 37 Tex. Administrative Code, Part 13, Chapter 403, Criminal Convictions and Eligibility For Certification

2. 37 Tex. Administrative Code, Part 13, Chapter 423, Fire Suppression

3. 37 Tex. Administrative Code, Part 13, Chapter 425, Fire Service Instructors

4. 37 Tex. Administrative Code, Part 13, Chapter 439, Examinations For Certification

18. Report from ad-hoc committee regarding advisory committees including but not limited to committee make up, term limits, and meeting requirements.

19. Fee amount for Certificates.

20. Matters from the Agency Chief.

A. Decisions of Agency Chief in contested cases and consent orders.

B. Report on Form J5-Separation of License

C. Status regarding division functions:

a. Update on agency organizational changes

b. Training Approval & Testing - test administered, training approvals, record reviews and online training audits

c. Certification & Professional Development - training applications, IFSAC seals issued, certifications issued, training facilities, curriculum development, library resource requests

d. Compliance - biennial inspections, compliance officers training, issues involving regulated entities

e. Information Technology - public website design, FARM and FIDO improvements, CAPPS (Central Accounting Payroll/Personnel System), IT security policy, service requests

21. Personnel matters regarding the appointment, employment, compensation, evaluation, reassignment, and duties of the Agency Chief.

22. Adjourn meeting.

Any invocation that may be offered before the official start of the commission meeting shall be voluntary offering of a chaplain, to and for the benefit of the commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the commission and do not necessarily represent the religious beliefs or views of the Council in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to participate actively in the business of the commission. Copies of the policy governing invocations and setting forth the procedure to have a volunteer deliver an invocation are available upon written request submitted to the commission Clerk.

1. **Call to order with invocation and pledge of allegiance.**

2. Roll call and excuse of Commissioner absences.

3. Recognition of retiring employee Paul Maldonado.

4. Commission meeting minutes of July 14, 2021, and July 15, 2021.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer, J. P. Steelman at 1:12 p.m. called the July 14, 2021, Commission Workshop meeting to order at 1701 N. Congress Avenue, Room 1-104, Austin, Texas.

Attending	Chris Cantu Mike Jones J. P. Steelman	David Coatney Clyde Loll* Kelly Vandygriff	Sue De Villez Bob Morgan* Rusty Wilson	Michael Glynn Mala Sharma*	Paul Hamilton Tim Smith
					*absent entire meeting **absent part of meeting

Staff	Deborah Cowan Rosalind Hunt, Assistant Attorney General	Mike Wisko	Cliff Grant	Paul Maldonado
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Guests	Jason Collier	Jonathan Killings	Leonard Chan	Jim Reidy	Daniel DeYear
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1. **Roll call.** Mike Jones, Assistant Presiding Officer called roll in absence of Secretary and a quorum was present.
2. **Possible development/creation of new Rescue Technician/Specialist certification and Fire Marshal certification.**
After discussion, no action necessary.
3. **Development of a timeline/process for addressing areas of the final Sunset Report.**
After discussion, no action necessary. Further information on timeline and process will be discussed at the October commission meeting.
4. **Discussion on appointing an ad-hoc committee to determine other committees that are needed and the common guidelines/rules governing these committees.**

After discussion, Commissioners Chris Cantu, Rusty Wilson, Mike Jones, David Coatney, and Tim Smith were identified to form the ad-hoc committee. Commissioner Chris Cantu was selected to Chair the ad-hoc committee.
5. **Adjourn meeting.**

The meeting was adjourned at 3:30 p.m.

J. P Steelman, Presiding Officer

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer, J. P. Steelman, at 9:00 a.m. called the July 15, 2021, meeting of the Texas Commission on Fire Protection to order at 1701 N. Congress Avenue, Room 1-104, Austin, Texas.

Attending	Chris Cantu Mike Jones J. P. Steelman	David Coatney Clyde Loll Kelly Vandygriff	Sue De Villez* Bob Morgan* Rusty Wilson	Michael Glynn Mala Sharma	Paul Hamilton Tim Smith
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*absent entire meeting
**absent part of meeting

Staff	Mike Wisko Paul Maldonado	Deborah Cowan Rosalind Hunt, Assistant Attorney General	Grace Wilson	Cliff Grant	Tara Youngblood
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Guests	Lynwood Dunseth John Overstreet Mark Flathouse Jason Collier Ariana Kistner Julie Davis Doug Boeker Gilbert Robinson Justin Ball Laurie Christensen	Joseph Brysch Tim Rutland Chris Biggerstaff Michael Mire Kelly Kistner David Teverbaugh David Brown Mick Moffitt Charlie Salazar Christopher Lively	Donny Boggs David Harrison Michael Cummings Orlando Hernandez Andy Endsley Norman Langwell Javier Crespo David Brannon Troy C'DeBaca Robert Hartigan	Robert Moore Shane Grainer Kenneth Parker Kelly Ransdall David James Clay Avery Les Stephens Martin Vela Samuel Pena Jason Blackman	Pat McAuliff Guy Duncan Danny Kistner Mark Schultz Leonard Chan Joel Baker Manuel Casarez Adam Strzelczyk Nicholas Teague
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| 1. Invocation and Pledge of Allegiance | The invocation was given by Chaplain Tom Gripka and the Pledge of Allegiance was lead by Presiding Officer, J. P. Steelman. |
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| 2. Roll call | Assistant Presiding Officer Mike Jones called the roll in absence of Secretary and a quorum was present. |
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| 3. Adoption of Minutes | A motion to approve the minutes of the April 29, 2021, commission meeting was made by Paul Hamilton and seconded by Mike Jones. The motion carried. |
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| 4. Report from Budget and Strategic Plan Subcommittee | No action necessary. |
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| 5. Reports from Interest Groups | A brief report was given by the Center for Public Safety Excellence, State Firefighter's and Fire Marshals' Office, Texas Fire Marshals' Association, Texas Fire Chiefs Association, National Fire Protection Association, Texas State Association of Fire and Emergency Districts (SAFE-D), State Fire Marshal's Office, Texas A&M Forest Service and Texas State Association of Fire Fighters. |
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| 6. Report from Homeland Security Council Representative | Agency representative Kelly Vandygriff gave a brief report from the June 30, 2021, meeting. |
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| 7. Report from Health and Wellness Ad Hoc Committee | Commissioner Sharma, committee Chair gave a brief update on the committee meetings to date. |
| 8. Subjects for Future meeting agendas | Test development and validation process (request from Lynwood Dunseth)
Separation of License system (F5 form) |
| 9. Future meeting dates | The next commission meeting is scheduled for October 28, 2021. |
| 10. Matters from the Fire Fighter Advisory Committee | <p>A. 1. A motion was made by Paul Hamilton and seconded by Mike Jones to approve for final adoption amendments to §421.17, as discussed. The motion carried.</p> <p>2. A motion was made by Mike Jones and seconded by David Coatney to approve for final Adoption amendments to §435.19 as discussed. The motion carried.</p> <p>B. A motion was made by Mike Jones and seconded by Paul Hamilton to approve the recommended changes to the Basic Aircraft Rescue Fire Suppression Curriculum Manual, as discussed. The motion carried.</p> <p>A motion was made by Mike Jones and seconded by Rusty Wilson to approve the recommended changes to the Fire Inspector Curriculum and the Plan Examine Curriculum as discussed. The motion carried.</p> |
| 11. 37 TAC, Chapter 435, Fire Fighter Safety | After discussion, no action taken. |
| 12. 37 TAC, Chapter 421, Standards For Certification | After discussion, no action taken. |
| 13. 37 TAC, Chapter 441, Continuing Education | A motion was made by Kelly Vandygriff and seconded by Rusty Wilson to approve for publication amendments to §441.5 as discussed. The motion carried. |
| 14. 37 TAC, Chapter 455, Minimum Standards for Wildland Fire Protection Certification | After discussion, no action taken. |

15. Injury Report 2020 A motion was made by Tim Smith and seconded by Paul Hamilton to approve the report with recommendations as discussed. The motion carried.
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16. Review of Advisory Committees After discussion, a motion was made by Paul Hamilton and seconded by Mike Jones to approve for publication amendments to §421.1, as discussed. The motion carried.
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17. Matters from Executive Director a. Mike Wisko, Executive Director informed the commissioners the agency had no contested cases or consent orders to report.
b. Mr. Wisko provided commissioners information regarding agency division functions.
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18. Executive Session Presiding Officer, J. P. Steelman did not call for an Executive Session.
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19. Adjournment A motion to adjourn was made by Rusty Wilson and seconded by Mike Jones . The motion carried.

J. P. Steelman, Presiding Officer

- 5. The Budget and Strategic Plan subcommittee may meet on October 28, 2021, during the commission meeting and provide a report relating to any recommendations developed by the subcommittee relating to modifications to the agency operating budget and strategic plan.**

Performance Measures

Texas Commission on Fire Protection Key Performance Measures.
Initial Report as of 10/15/2021 10:40 AM for Fiscal Year 2021.
Run by Mohammed Adams.

Metric						Method of Calculation
* - Reported to ABEST quarterly, Q1 - Quarter 1, Q2 - Quarter 2, Q3 - Quarter 3, Q4 - Quarter 4, FY YTD - Year to date based on fiscal year						
Number of inspections of regulated entities (Cumulative): 1564						Total number of inspections of regulated entities conducted within the reporting period is obtained from the commission's data system. The total number includes biannual inspections, inspections of training programs in progress (also called audits), an inspection of an entity as part of an investigation, and meetings associated with inspections.
	Q1	Q2	Q3	Q4	FY YTD	
Inspection	530	360	312	287	1489	
Investigation	1	0	3	0	4	
Training Audits	7	4	8	10	29	
Inspection Related	23	6	9	4	42	
*Total Inspections	561	370	332	301	1564	
Number of examinations administered (Cumulative): 22267						Each written examination is counted. The measure records the total number of examinations administered for fire service certification purposes. A retest, usually conducted due to failure of an initial exam, is counted as an examination as well.
	Q1	Q2	Q3	Q4	FY YTD	
*Exams Administered	4756	4628	7383	5500	22267	
Exam pass rate (Non-Cumulative): 82.21%						The total number of individuals who passed their examination as reflected in the agency data management system (numerator) is divided by the total number of individuals examined (denominator) and then multiplied by 100 to achieve a percentage. Persons taking an examination multiple times are counted each time they take the exam.
	Q1	Q2	Q3	Q4	FY YTD	
# Examined	4756	4628	7383	5500	22267	
# Passed	3965	3741	6036	4563	18305	
Pass Rate	83.37%	80.83%	81.76%	82.96%	82.21%	
Number of individuals certified (Non-cumulative):						The total number of individuals holding one or more certifications with the agency is obtained from the data system at the end of the reporting period. An individual who holds more than one certification is counted only once. The measure records the number of certified persons, regardless of whether the individuals are associated with a fire protection entity.
	Q1	Q2	Q3	Q4		
# Individuals	33436	34113	34737	35351		
Number of Training Providers Certified (Non-cumulative):						The total number of training providers with one or more active certifications is counted. A training provider that holds more than one certification is counted only once.
	Q1	Q2	Q3	Q4		
# Providers	333	341	348	353		
Average cost per inspection of regulated Facilities: \$207.14						Total cost related to inspection activities for the reporting period (numerator) is divided by the total number of inspections conducted during the same period (denominator) to determine the average cost. Costs used to perform the calculation include salaries of inspection personnel (including 25% of compliance manager's salary); travel costs directly related to inspections and inspection-related meetings with regulated entities; supplies; document review and handling; and notifications. Indirect costs are excluded.
	Q1	Q2	Q3	Q4	FY YTD	
Cost entered	\$75,336.96	\$79,962.66	\$84,013.49	\$84,655.38	\$323,968.50	
*Total Inspections	561	370	332	301	1564	
*Avg cost per	\$134.29	\$216.12	\$253.05	\$281.25	\$207.14	
Report was run on 10/15/2021 10:40 AM						

Texas Commission on Fire Protection
Fiscal Year 2022 - Operating Budget
10/1/2021

Summary

Goals:	FY22	FY22	Balance	Remaining
	Budget	Expended		
Education, Information and Assistance	80,000.00	5,000.00	75,000.00	
Fire Department Standards	942,952.56	80,523.47	862,429.09	
Indirect Administration	552,402.00	45,658.92	506,743.08	
1001 - Salaries & Wages:	1,575,354.56	131,182.39	1,444,172.17	92%
Education, Information and Assistance	1,680.00	120.00	1,560.00	
Fire Department Standards	23,172.00	1,676.25	21,495.75	
Indirect Administration	41,960.00	440.00	41,520.00	
1002 - Other Personnel Costs	66,812.00	2,236.25	64,575.75	97%
Education, Information and Assistance	100.00	0.00	100.00	
Fire Department Standards	1,000.00	0.00	1,000.00	
Indirect Administration	2,800.00	0.00	2,800.00	
2001 - Professional Fees and Services:	3,900.00	0.00	3,900.00	100%
Education, Information and Assistance	495.00	0.98	494.02	
Fire Department Standards	4,000.00	770.40	3,229.60	
Indirect Administration	3,000.00	4.33	2,995.67	
2003 - Consumable Supplies:	7,495.00	775.71	6,719.29	90%
Education, Information and Assistance	10.00	0.00	10.00	
Fire Department Standards	3,260.00	445.24	2,814.76	
Indirect Administration	40.00	0.00	40.00	
2004 - Utilities:	3,310.00	445.24	2,864.76	87%
Education, Information and Assistance	4,425.00	3.98	4,421.02	
Fire Department Standards	87,856.00	1,830.66	86,025.34	
Indirect Administration	19,274.82	129.78	19,145.04	
2005 - Travel:	111,555.82	1,964.42	109,591.40	98%
Education, Information and Assistance	10.00	0.00	10.00	
Fire Department Standards	90.00	0.00	90.00	
Indirect Administration	325.00	60.00	265.00	
2006 - Rent - Building (storage):	425.00	60.00	365.00	86%
Education, Information and Assistance	290.32	0.00	290.32	
Fire Department Standards	2,903.23	0.00	2,903.23	
Indirect Administration	1,306.45	0.00	1,306.45	
2007 - Rent - Machine and Other:	4,500.00	0.00	4,500.00	100%
Education, Information and Assistance	5,972.09	338.89	5,633.20	
Fire Department Standards	47,475.17	4,051.62	43,423.55	
Indirect Administration	31,306.67	25,723.51	5,583.16	
2009 - Other Operating Expense:	84,753.93	30,114.02	54,639.91	64%
Education, Information and Assistance	0.00	0.00	0.00	
Fire Department Standards	0.00	0.00	0.00	
Indirect Administration	0.00	0.00	0.00	
4000 - Grants:	0.00	0.00	0.00	0%
TOTAL - ALL EXPENDITURES		166,778.03		
APPROVED APPROPRIATION	1,881,488.00		1,691,328.31	90%

Texas Commission on Fire Protection
Fiscal Year 2022 - Operating Budget
10/1/2021

Summary

01

Goals:		Sept	TOTALS	% Remaining	Budget
1001 - Salaries & Wages:	Education	\$ 5,000.00	\$ 5,000.00	93.75%	\$ 80,000
	Standards	\$ 80,523.47	\$ 80,523.47	91.46%	\$ 942,953
	Admin	\$ 45,658.92	\$ 45,658.92	91.73%	\$ 552,402
			\$ 131,182.39	92%	\$ 1,575,355
1002 - Other Personnel Costs	Education	\$ 120.00	\$ 120.00	92.86%	\$ 1,680
	Standards	\$ 1,676.25	\$ 1,676.25	92.77%	\$ 23,172
	Admin	\$ 440.00	\$ 440.00	98.95%	\$ 41,960
			\$ 2,236.25	97%	\$ 66,812
2001 - Professional Fees/Services:	Education	\$ -	\$ -	100.00%	\$ 100
	Standards	\$ -	\$ -	100.00%	\$ 1,000
	Admin	\$ -	\$ -	100.00%	\$ 2,800
			\$ -	100%	\$ 3,900
2003 - Consumable Supplies:	Education	\$ 0.98	\$ 0.98	99.80%	\$ 495
	Standards	\$ 770.40	\$ 770.40	80.74%	\$ 4,000
	Admin	\$ 4.33	\$ 4.33	99.86%	\$ 3,000
			\$ 775.71	90%	\$ 7,495
2004 - Utilities:	Education	\$ -	\$ -	100.00%	\$ 10
	Standards	\$ 445.24	\$ 445.24	86.34%	\$ 3,260
	Admin	\$ -	\$ -	100.00%	\$ 40
			\$ 445.24	87%	\$ 3,310
2005 - Travel:	Education	\$ 3.98	\$ 3.98	99.91%	\$ 4,425
	Standards	\$ 1,830.66	\$ 1,830.66	97.92%	\$ 87,856
	Admin	\$ 129.78	\$ 129.78	99.33%	\$ 19,275
			\$ 1,964.42	98%	\$ 111,556

**Texas Commission on Fire Protection
Fiscal Year 2022 - Operating Budget
10/1/2021**

Summary 01

Goals:		Sept	TOTALS	% Remaining	Budget
2006 - Rent - Building (storage):	Education	\$ -	\$ -	100.00%	\$ 10
	Standards	\$ -	\$ -	100.00%	\$ 90
	Admin	\$ 60.00	\$ 60.00	81.54%	\$ 325
			\$ 60.00	86%	\$ 425
2007 - Rent - Machine and Other:	Education	\$ -	\$ -	100.00%	\$ 290
	Standards	\$ -	\$ -	100.00%	\$ 2,903
	Admin	\$ -	\$ -	100.00%	\$ 1,306
			\$ -	100%	\$ 4,500
2009 - Other Operating Expense:	Education	\$ 338.89	\$ 338.89	94.33%	\$ 5,972
	Standards	\$ 4,051.62	\$ 4,051.62	91.47%	\$ 47,475
	Admin	\$ 25,723.51	\$ 25,723.51	17.83%	\$ 31,307
			\$ 30,114.02	64%	\$ 84,754
4000 - Grants:	Standards	\$ -	\$ -	0%	\$ -
		\$ 166,778.03	\$ 166,778.03	91%	\$ 1,858,106
Education, Information and Assistance			\$ 5,463.85	94%	\$ 92,982.41
Fire Department Standards			\$ 89,297.64	92%	\$ 1,112,708.96
Indirect Administration			\$ 72,016.54	89%	\$ 652,414.94

Fiscal Year 2022 - Operating Budget 13008
10/1/2021

Appr. 3008

PCA

4001

Goal A: Education and Assistance

	<u>Education & Assistance</u>	<u>Total</u>	<u>% Remaining</u>
Salaries and Wages:			
7002- Salaries	5,000.00	5,000.00	
Budget:	80,000.00	80,000.00	
Expended:	5,000.00	5,000.00	
1001 - Balance Salaries & Wages:	75,000.00	75,000.00	94%
Other Personnel Costs:			
7022- Longevity Pay	120.00	120.00	
Budget:	1,680.00	1,680.00	
Expended:	120.00	120.00	
1002 - Balance Other Personnel Costs	1,560.00	1,560.00	93%
Professional Fees and Services:			
7253- Other Professional Fees (EAP)	0.00	0.00	
Budget:	100.00	100.00	
Expended:	0.00	0.00	
2001 - Balance Professional Fees and Services:	100.00	100.00	100%
Consumables:			
7300- Consumables	0.98	0.98	
Budget:	495.00	495.00	
Expended:	0.98	0.98	
2003 - Balance Consumable Supplies:	494.02	494.02	100%
Utilities:			
Budget:	10.00	10.00	
Expended:	0.00	0.00	
2004 - Balance Utilities:	10.00	10.00	100%
Travel:			
7101- Travel I/S - Public Transportation Fares	0.00	0.00	
7102- Mileage	0.00	0.00	
7105- Travel I/S - Incidental Expenses	0.00	0.00	
7106- Travel I/S - Meals & Lodging	3.98	3.98	
Budget:	4,425.00	4,425.00	
Expended:	3.98	3.98	
2005 - Balance Travel:	4,421.02	4,421.02	100%
Rent:			
7470- Rent Space - storage	0.00	0.00	
Budget:	10.00	10.00	
Expended:	0.00	0.00	
2006 - Balance Rent - Building (storage):	10.00	10.00	100%
Rent - Machine and Other:			
7406- Rental - Furnishings & Equipment (copier)	0.00	0.00	
Budget:	290.32	290.32	
Expended:	0.00	0.00	
2007 - Balance Rent - Machine and Other:	290.32	290.32	100%

Fiscal Year 2022 - Operating Budget 13008
10/1/2021

Appr. 3008

PCA

4001

Goal A: Education and Assistance

	<u>Education & Assistance</u>	<u>Total</u>	<u>% Remaining</u>
Other Operating Expense:			
7040- ERS-Retirement Contribution	25.00	25.00	
7042- ERS Insurance Payment	50.00	50.00	
7947- Workers Compensation Transfer (SORM)	112.69	112.69	
7961- STS Transfers-Telecommunications (TexAn)	0.00	0.00	
7962- Capitol Complex (CCTS)	0.00	0.00	
Budget:	5,972.09	5,972.09	
Expended:	338.89	338.89	
2009 - Balance Other Operating Expense:	5,633.20	5,633.20	94%
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Budget:	92,982.41	92,982.41	
Expended:	5,463.85	5,463.85	
TOTAL BALANCE - 3008	87,518.56	87,518.56	94%
% Remaining	94%	94%	

Fiscal Year 2022 - Operating Budget - 13014
10/1/2021

Appr. 3014 PCA 4005 4006 4007 4008

**Goal B: Fire Department
Standards**

	<u>Compliance</u>	<u>Certification</u>	<u>Testing</u>	<u>Curriculum</u>	<u>Total</u>	<u>% Remaining</u>
Salaries and Wages:						
7002- Salaries	31,523.84	15,834.65	29,164.98	4,000.00	80,523.47	
	Budget:	380,641.32	214,615.80	299,695.44	48,000.00	942,952.56
	Expended:	31,523.84	15,834.65	29,164.98	4,000.00	80,523.47
1001 - Balance Salaries & Wages:	349,117.48	198,781.15	270,530.46	44,000.00	862,429.09	91%
Other Personnel Costs:						
7022- Longevity Pay	440.00	320.00	540.00	20.00	1,320.00	
7033- Employee Retirement - Other expenses	356.25	0.00	0.00	0.00	356.25	
	Budget:	8,640.00	9,492.00	4,800.00	240.00	23,172.00
	Expended:	796.25	320.00	540.00	20.00	1,676.25
1002 - Balance Other Personnel Costs	7,843.75	9,172.00	4,260.00	220.00	21,495.75	93%
Professional Fees and Services:						
7253- Other Professional Fees (EAP)	0.00	0.00	0.00	0.00	0.00	
	Budget:	388.89	222.22	333.33	55.56	1,000.00
	Expended:	0.00	0.00	0.00	0.00	0.00
2001 - Balance Professional Fees and Services:	388.89	222.22	333.33	55.56	1,000.00	100%
Consumables:						
7300- Consumables	275.67	1.40	492.77	0.56	770.40	
	Budget:	1,555.56	888.89	1,333.33	222.22	4,000.00
	Expended:	275.67	1.40	492.77	0.56	770.40
2003 - Balance Consumable Supplies:	1,279.89	887.49	840.56	221.66	3,229.60	81%
Utilities:						
7516- Telecom-Other (reg voice/internet)	355.88	44.68	44.68	0.00	445.24	
	Budget:	2,282.00	489.00	489.00	0.00	3,260.00
	Expended:	355.88	44.68	44.68	0.00	445.24
2004 - Balance Utilities:	1,926.12	444.32	444.32	0.00	2,814.76	86%
Travel:						
7101- Travel I/S - Public Transportation Fares	0.00	0.00	0.00	0.00	0.00	
7102- Mileage	1,258.33	0.00	0.00	0.00	1,258.33	
7105- Travel I/S - Incidental Expenses	0.00	0.00	0.00	0.00	0.00	
7106- Travel I/S - Meals & Lodging	536.33	0.00	36.00	0.00	572.33	
	Budget:	74,677.60	4,392.80	8,785.60	0.00	87,856.00
	Expended:	1,794.66	0.00	36.00	0.00	1,830.66
2005 - Balance Travel:	72,882.94	4,392.80	8,749.60	0.00	86,025.34	98%
Rent:						
7470- Rent Space - storage	0.00	0.00	0.00	0.00	0.00	
	Budget:	35.00	20.00	30.00	5.00	90.00
	Expended:	0.00	0.00	0.00	0.00	0.00
2006 - Balance Rent - Building :	35.00	20.00	30.00	5.00	90.00	100%
Rent - Machine and Other:						
7406- Rental - Furnishings & Equipment (copier)	0.00	0.00	0.00	0.00	0.00	
	Budget:	1,129.03	645.16	967.74	161.29	2,903.23
	Expended:	0.00	0.00	0.00	0.00	0.00
2007 - Balance Rent - Machine and Other:	1,129.03	645.16	967.74	161.29	2,903.23	100%

Fiscal Year 2022- Operating Budget - 13800

10/1/2021

Appr. 3800

PCA

4801

4802

4803

Goal C: Indirect Administration

%

	Exec Office	Fin Svcs	Commis	Total	Remaining
Salaries and Wages:					
7001- Salaries & Wages - Exempt	9,758.58	0.00	0.00	9,758.58	
7002- Salaries & Wages - Non-Exempt	22,050.34	13,850.00	0.00	35,900.34	
	Budget:	386,202.00	166,200.00	0.00	552,402.00
	Expended:	31,808.92	13,850.00	0.00	45,658.92
1001 - Balance Salaries & Wages:	354,393.08	152,350.00	0.00	506,743.08	92%
Other Personnel Costs:					
7004- Non-Permanent Full-Time Employee	0.00	0.00	0.00	0.00	
7017- One-Time Merit	0.00	0.00	0.00	0.00	
7022- Longevity Pay	220.00	220.00	0.00	440.00	
7023- Lump Sum Termination	0.00	0.00	0.00	0.00	
7033- Employee Retirement - Other expenses	0.00	0.00	0.00	0.00	
7984- Unemployment/TWC	0.00	0.00	0.00	0.00	
	Budget:	38,654.00	3,306.00	0.00	41,960.00
	Expended:	220.00	220.00	0.00	440.00
1002 - Balance Other Personnel Costs	38,434.00	3,086.00	0.00	41,520.00	99%
Professional Fees and Services:					
7253- Other Professional Fees (EAP)	0.00	0.00	0.00	0.00	
	Budget:	2,488.89	311.11	0.00	2,800.00
	Expended:	0.00	0.00	0.00	0.00
2001 - Balance Professional Fees and Services:	2,488.89	311.11	0.00	2,800.00	100%
Consumables:					
7300- Consumables	2.93	1.40	0.00	4.33	
	Budget:	2,666.67	333.33	0.00	3,000.00
	Expended:	2.93	1.40	0.00	4.33
2003 - Balance Consumable Supplies:	2,663.74	331.93	0.00	2,995.67	100%
Utilities:					
	Budget:	35.56	4.44	0.00	40.00
	Expended:	0.00	0.00	0.00	0.00
2004 - Balance Utilities:	35.56	4.44	0.00	40.00	100%
Travel:					
7101- Travel I/S - Public Transportation Fares	0.00	0.00	0.00	0.00	
7102- Mileage	0.00	0.00	0.00	0.00	
7104- Travel I/S - Actual Expense Overnight	0.00	0.00	0.00	0.00	
7105- Travel I/S - Incidental Expenses	129.78	0.00	0.00	129.78	
7106- Travel I/S - Meals & Lodging	0.00	0.00	0.00	0.00	
7110- Travel I/S - Board Member Meals & Lodging	0.00	0.00	0.00	0.00	
	Budget:	1,927.48	0.00	17,347.34	19,274.82
	Expended:	129.78	0.00	0.00	129.78
2005 - Balance Travel:	1,797.70	0.00	17,347.34	19,145.04	99%
Rent:					
7470- Rent Space - storage	60.00	0.00	0.00	60.00	
	Budget:	288.89	36.11	0.00	325.00
	Expended:	60.00	0.00	0.00	60.00
2006 - Balance Rent - Building (storage):	228.89	36.11	0.00	265.00	82%
Rent - Machine and Other:					
7406- Rental - Furnishings & Equipment (copier)	0.00	0.00	0.00	0.00	
	Budget:	1,161.29	145.16	0.00	1,306.45
	Expended:	0.00	0.00	0.00	0.00
2007 - Balance Rent - Machine and Other:	1,161.29	145.16	0.00	1,306.45	100%

Fiscal Year 2022- Operating Budget - 13800

10/1/2021

Appr. 3800

PCA

4801

4802

4803

Goal C: Indirect Administration

%

	<u>Exec Office</u>	<u>Fin Svcs</u>	<u>Commis</u>	<u>Total</u>	<u>Remaining</u>
Other Operating Expense:					
7040- ERS Retirement Contribution	131.16	69.25	0.00	200.41	
7042- ERS Insurance Payment	318.09	138.50	0.00	456.59	
7201- Membership Dues	75.00	0.00	0.00	75.00	
7262- Maint & Repair - Computer Software	11,582.85	0.00	0.00	11,582.85	
7267- Maint & Repair - Computer Equipment	401.10	191.00	0.00	592.10	
7299- Purchased Contracted Services	52.50	25.00	0.00	77.50	
7380- Computer Software - Expensed	12,240.00	0.00	0.00	12,240.00	
7947- Workers Compensation Transfer (SORM)	338.07	160.99	0.00	499.06	
7961- STS Transfers-Telecommunications (TexAn)	0.00	0.00	0.00	0.00	
7962- STS transfer to GR (CCTS)	0.00	0.00	0.00	0.00	
Budget:	27,828.15	3,478.52	0.00	31,306.67	
Expended:	25,138.77	584.74	0.00	25,723.51	
2009 - Balance Other Operating Expense:	2,689.38	2,893.78	0.00	5,583.16	18%
Budget:	461,252.92	173,814.68	17,347.34	652,414.94	
Expended:	57,360.40	14,656.14	0.00	72,016.54	
TOTAL - BALANCE Remaining 3800	403,892.52	159,158.54	17,347.34	580,398.40	89%

Texas Commission on Fire Protection
Fiscal Year 2022 - Operating Appropriations
Friday, October 1, 2021

Summary		BT01	BT04	BT11	BT12	BT13	BT15	BT16	
Appropriations		Appr Original Budget	Appr Transfers In	Est. Coll. Revenue	Cash Revenue	Excess Collected Revenue	Cash Expenditures	Cash Reserves - Payroll	Appr Cash Avail.
13008	Fire Safety Information	118,972.00	-	-	-	-	268.85	5,195.00	\$ 113,508.15
13014	Certify & Regulation	1,085,101.00	-	65,000.00	10,095.00	1,545.00	5,927.54	83,370.10	\$ 940,898.36
13800	Indirect Admin	652,415.00	-	-	-	-	4,734.02	46,755.92	\$ 580,398.46
23102	Benefit Replacement	-	1,500.00	-	-	-	-	-	\$ 1,500.00
90327	State Retirement	-	140,000.00	-	-	-	-	11,829.92	\$ 128,170.08
91142	OASI, State Match	-	120,000.00	-	-	-	-	9,644.29	\$ 110,355.71
97768	Convenience Fees	-	-	-	6,057.08	6,057.08	5,842.85	-	\$ 214.23
99327	Group Insurance	-	235,000.00	-	-	-	-	20,103.89	\$ 214,896.11
99906	Unappropriated General Rev	-	-	-	315,812.50	-	-	-	\$ 315,812.50
Totals		\$ 1,856,488.00	\$ 496,500.00	\$ 65,000.00	\$ 331,964.58	\$ 7,602.08	\$ 16,773.26	\$ 176,899.12	\$ 2,405,753.60

Revenue Comparison by Month 2021/2022
Friday, October 1, 2021
YTD Comparisons

FY21 Revenue					FY22 Revenue				
Appr 99906 - General Revenue		Appr 13014 Fund 0001- IFSAC			Appr 99906 - General Revenue		Appr 13014 Fund 0001 - IFSAC		
Sep-18	\$ 442,435.00	100.0%	\$ 11,220.00	100.0%	Sep-19	\$ 315,812.50	100.0%	\$ 10,095.00	100.0%
Oct-18		0.0%		0.0%	Oct-19	\$ -	0.0%	\$ -	0.0%
Nov-18		0.0%		0.0%	Nov-19	\$ -	0.0%	\$ -	0.0%
Dec-18		0.0%		0.0%	Dec-19	\$ -	0.0%	\$ -	0.0%
Jan-19		0.0%		0.0%	Jan-20	\$ -	0.0%	\$ -	0.0%
Feb-19		0.0%		0.0%	Feb-20	\$ -	0.0%	\$ -	0.0%
Mar-19		0.0%		0.0%	Mar-20	\$ -	0.0%	\$ -	0.0%
Apr-19		0.0%		0.0%	Apr-20	\$ -	0.0%	\$ -	0.0%
May-19		0.0%		0.0%	May-20	\$ -	0.0%	\$ -	0.0%
Jun-19		0.0%		0.0%	Jun-20	\$ -	0.0%	\$ -	0.0%
Jul-19		0.0%		0.0%	Jul-20	\$ -	0.0%	\$ -	0.0%
Aug-19		0.0%		0.0%	Aug-20	\$ -	0.0%	\$ -	0.0%
Totals	\$ 442,435.00	100.0%	\$ 11,220.00	100.0%		\$ 315,812.50	100.0%	\$ 10,095.00	100.0%

FY21 Revenue Collected **\$ 453,655 13.53%**

FY22 Revenue Collected **\$ 325,908 10.00%**

Revenue for Biennium:

Annual GR & Appropriated Receipts
 IFSAC Seals
 GAA Other Direct & Indirect
 Budget Rider
 Subtotal
 5% Contingency
Total Reqd

	FY21	FY22
Annual GR & Appropriated Receipts	\$ 1,888,152	\$ 1,791,488
IFSAC Seals	\$ 65,000	\$ 65,000
GAA Other Direct & Indirect	\$ 491,003	\$ 496,500
Budget Rider	\$ 750,000	\$ 750,000
Subtotal	\$ 3,194,155	\$ 3,102,988
5% Contingency	\$ 159,708	\$ 155,149
Total Reqd	\$ 3,353,863	\$ 3,258,137

Amount Over or (Under) Required Revenue **\$ (2,900,208) \$ (2,932,230)**

FY21	
Collected	13.53%
As of Date	10/1/2020

FY22		Percentage of Revenue Collected
Collected	10.00%	
As of Date	10/1/2021	

- 6. Reports from fire service interest groups and agencies on matters relating to organizational purposes, functions, and objectives, including, but not limited to, Texas Fire Chiefs Association, the Texas State Association of Fire Fighters, the State Firefighters and Fire Marshals' Association of Texas, the Texas Fire Marshal's Association, the Texas Association of Fire Educators, the Texas A&M Forest Service, the National Fire Protection Association, Texas State Association of Fire and Emergency Districts, the Center for Public Safety Excellence, and the State Fire Marshal's Office.**

7. Subjects for future commission agendas.

8. Future meeting dates.

9. Report from commission representative to the Homeland Security Council.

10. Report from the Health and Wellness ad-hoc committee.

11. Report from the Curriculum and Testing Committee.

12. Update from the Chapter 435 and Chapter 427 ad-hoc committees.

13. Possible final adoption of the proposed amendments as follows:

- 1. 37 Tex. Administrative Code, Part 13, Chapter 421, Standards For Certification.**



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission
DATE: 10/28/21

Agenda Item #: 13-1

Agenda Title: Chapter 421, Standards For Certification

Action to be taken: Discussion and possible final adoption

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The purpose of the item is to amend rules regarding agency advisory committees.

2. DESCRIPTION/ JUSTIFICATION

By amending the rule, it would bring the agency into compliance with the 2021 Sunset Review recommendations.

3. BUDGET IMPACT

No budget impact is anticipated

4. TIMELINE CONSIDERATIONS

This proposal is for possible final adoption.

5. RECOMMENDATION

Propose for final adoption

6. REFERENCES

Title 37, Chapter 421, Standards For Certification

CHAPTER 421

STANDARDS FOR CERTIFICATION

§421.1. Procedures for Meetings.

(a) The Commission may maintain advisory committees and ad hoc committees to assist with rulemaking, curriculum development, and the performance of the Commission's duties. These committee names, make-up, term limits, roles and meeting requirements will be outlined within this rule. These committees shall exist for no more than five (5) years and shall be reviewed and evaluated for continuance before the end of the fifth year.

(b)~~(a)~~ Time and place. The **committees** ~~[Fire Fighter Advisory Committee and the Curriculum and Testing Committee]~~ shall meet at such time and place in the State of Texas as they deem proper. ~~[The Fire Fighter Advisory Committee shall meet at least twice each calendar year.]~~

(c)~~(b)~~ Meeting called. Meetings shall be called by the chairman, by the Commission, or upon the written request of **a quorum of** ~~[five]~~ members.

(d)~~(c)~~ Quorum. A majority of members shall constitute a quorum.

(e)~~(d)~~ Members. **Committee members serve at the will of the Commission and may serve six-year staggered terms but may not serve more than two (2) consecutive terms.** ~~[The Fire Fighter Advisory Committee shall consist of nine members appointed by the Commission. The Curriculum and Testing Committee shall consist of members appointed by the Commission upon the recommendation of the Fire Fighter Advisory Committee. Committee members serve at the will of the Commission.]~~

(f)~~(e)~~ Officers. **Committee** ~~Officers~~ ~~[of the Fire Fighter Advisory Committee and the Curriculum and Testing Committee]~~ shall consist of a chairman~~[,]~~ **and** vice-chairman **appointed by the Commission.** ~~[, and secretary. Each committee shall elect its officers from the appointed members at its first meeting and thereafter at its first meeting following January 1 of each year or upon the vacancy of an office.]~~

(g)~~(f)~~ Responsibility. **Committee responsibilities shall be established by the Commission.** ~~[The Fire Fighter Advisory Committee shall review Commission rules relating to fire protection personnel and fire departments and recommend changes in the rules to the Commission.]~~

(h)~~(g)~~ Effective Date. **All committees will have designated effective dates not to exceed five years without review and reestablishment by the Commission.** ~~[Rules shall become effective no sooner than 20 days after filing with the Texas Register for final adoption. The committee or Commission may recommend a later effective date.]~~

(i)~~(h)~~ Removal. It is a ground for removal from an advisory committee appointed by the Commission if a member is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year unless the absence is excused by a majority vote of the committee.

(j) Effective in 2021, the Commission established three (3) advisory committees, the Curriculum and Testing, Firefighter Advisory, and Health & Wellness. These committees will expire in 2026 unless reviewed and reestablished by the Commission. The Commission has established two (2) ad hoc committees, 427 and 435, which will exist for the period of time needed, not to exceed two years.

13. Possible final adoption of the proposed amendments as follows:

- 2. 37 Tex. Administrative Code, Part 13, Chapter 441, Continuing Education.**



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission
DATE: 10/28/21

Agenda Item #: 13-2

Agenda Title: Chapter 441, Continuing Education

Action to be taken: Discussion and possible final adoption

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The purpose of the item is for discussion to amend the rule regarding continuing education requirements.

2. DESCRIPTION/ JUSTIFICATION

By amending the rule language, it will require that at least 2 hours of the 18 hours required for continuing education for renewal of a certification include a review of the agency's Injury Report.

3. BUDGET IMPACT

No budget impact is anticipated

4. TIMELINE CONSIDERATIONS

This proposal is for possible final adoption.

5. RECOMMENDATION

Propose for final adoption

6. REFERENCES

Title 37, Chapter 441 Continuing Education

CHAPTER 441
CONTINUING EDUCATION

§441.5. Requirements.

- (a) Continuing education shall be required in order to renew certification.
- (b) The continuing education requirement for renewal shall consist of a minimum of 18 hours of training to be conducted during the certification period. **Of the 18 hours, two hours shall be a review of the most recent TCFP injury report, with a focus on the top three leading causes of injuries during the reporting period.** All documentation of training used to satisfy the continuing education requirements must be maintained for a period of three years from the date of the training. Continuing education records shall be maintained by the department in accordance with the Texas State Library and Archives Commission, State and Local Records Management Division, Records Schedule, Local Schedule (GR 1050-28), whichever is greater.
- (c) Level 1 training must be conducted by a certified instructor. Interactive computer-based continuing education training that is supervised and verified by a certified instructor is acceptable.
- (d) The continuing education program of a regulated entity must be administered and maintained in accordance with commission rule by a certified instructor.
- (e) No more than four hours per year in any one subject of Level 1 training may be counted toward the continuing education requirement for a particular certification.
- (f) There shall be no "hour per subject limit" placed on Level 2 courses, except that emergency medical courses shall be limited to four hours per year.
- (g) The head of a fire department may select subject matter for continuing education appropriate for a particular discipline.
- (h) The head of a fire department must certify whether or not the individuals whose certificates are being renewed have complied with the continuing education requirements of this chapter on the certification renewal document. Unless exempted from the continuing education requirements, an individual who fails to comply with the continuing education requirements in this chapter shall be notified by the commission of the failure to comply.
- (i) After notification from the commission of a failure to comply with continuing education requirements, an individual who holds a certificate is prohibited from performing any duties authorized by a required certificate until such time as the deficiency has been resolved and written documentation is furnished by the department head for approval by the commission. Continuing education hours obtained to resolve a deficiency may not be applied to the continuing education requirements for the current certification period.
- (j) Any person who is a member of a paid or volunteer fire department who is on extended leave for a cumulative period of six months or longer due to a documented illness, injury, or activation to military service may be exempted from the continuing education requirement for the applicable renewal period(s). Such exemptions shall be reported by the head of the department to the commission at renewal time, and a copy kept with the department continuing education records for three years.
- (k) Any individual who is not a member of a paid or volunteer fire department who is unable to perform work, substantially similar in nature as would be performed by fire protection personnel appointed to that discipline, may be exempted from the continuing education requirement for the applicable renewal period(s). Commission staff shall determine the exemption using documentation

provided by the individual and the individual's treating physician of the illness or injury that cumulatively lasts six months or longer, or by documentation of military service or activation to military service.

(l) In order to renew certification for any discipline which has a continuing education requirement stated in this chapter, an individual holder of a certificate not employed by a regulated entity must comply with the continuing education requirements for that discipline. Only 20 total hours of continuing education for each certification period in Level 1 or Level 2 subjects relating to the certification being renewed shall be required to renew all certificates the individual holds, except as provided in §441.17 of this title (relating to Continuing Education for Hazardous Materials Technician).

(m) An individual certificate holder, not employed by a regulated entity, shall submit documentation of continuing education training upon notification by the commission. An example of documentation of continuing education training may include, but not be limited to a Certificate of Completion, a college or training facility transcript, a fire department training roster, etc. Commission staff will review and may approve or disapprove such documentation of training in accordance with applicable commission rules and/or procedures. The training for a resident of Texas at the time the continuing education training is conducted shall be administered by a commission instructor, commission certified training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The training for a nonresident of Texas, shall be delivered by a state fire academy, a fire department training facility, an accredited institution of higher education, or a military or nationally recognized provider of training. The individual must submit training documentation to the commission for evaluation of the equivalency of the training required by this chapter. The individual certificate holder is responsible for maintaining all of his/her training records for a period of three years from the date of the training.

(n) If an individual has completed a commission approved academy in the 12 months prior to his or her certification expiration date, a copy of that certificate of completion will be acceptable documentation of continuing education for that certification renewal period.

14. Request from Chief Brandon Seery, Heath Department of Public Safety regarding possible implementation of a field training firefighter certification.

From: Brandon Seery
Sent: Sunday, September 19, 2021, 20:25
To: certifications
Cc: Brian K. Meroney
Subject: Field Training Firefighter Certification

Good evening,

I am not sure if this is the correct department to contact with this, but I am inquiring on how to implement a field training firefighter certification within TCFP. As we hire new members they are assigned to a "field training firefighter" (qualified firefighter), that checks them off on various tasks in the department before they are released from their probationary status. TCOLE has a course where line level police officers obtain a certification to train new members in the department. I think this would be a great addition to all of the certifications that TCFP offers and will also ensure the members we are allowing to train new firefighters have some type of qualification through our regulating agency. I would be glad to help out in any way possible or provide further information if needed. Thank you for the time and consideration.

Respectfully,

Chief Brandon Seery #301



P O L I C E ★ F I R E ★ R E S C U E
HEATH
D E P A R T M E N T O F P U B L I C S A F E T Y

200 LAURENCE DRIVE • HEATH, TX 75032 • (972) 961-4900

15. Tex. Administrative Code, Part 13, Chapter 437, Fees regarding IFSAC seals.



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 10/28/2021

Agenda Item #: 15

Agenda Title: Chapter 437, Fees

Action to be taken: Discussion and possible publication

Origin of Item: Staff

1. INTRODUCTION/PURPOSE

The purpose of the item is for discussion regarding agency IFSAC fees.

2. DESCRIPTION/ JUSTIFICATION

The agenda item allows for discussion regarding a possible fee increase for IFSAC seals.

3. BUDGET IMPACT

The budget impact will be minimal.

4. TIMELINE CONSIDERATIONS

This proposal is for publication, to be considered for final adoption at the commission's January 2022 commission meeting.

5. RECOMMENDATION

Propose for publication

6. REFERENCES

Title 37, Chapter 437, Fees

CHAPTER 437**FEEES****§437.15. International Fire Service Accreditation Congress (IFSAC) Seal Fees.**

A non-refundable **\$30** [~~\$15~~] fee shall be charged for each IFSAC seal issued by the commission.

16.37 Tex. Administrative Code, Part 13, Chapter 455, Minimum Standards for Wildland Fire Protection Certification.



Texas Commission on Fire Protection Agenda Item Summary

MEETING: Commission

DATE: 10/28/2021

Agenda Item #: 16

Agenda Title: Chapter 455, Minimum Standards for Wildland Fire Protection Certification

Action to be taken: Discussion and possible publication

Origin of Item: Texas A&M Forest Service/Staff

1. INTRODUCTION/PURPOSE

The purpose of the item is for discussion regarding request from Texas A&M Forest Service for approval of on-line courses.

2. DESCRIPTION/ JUSTIFICATION

The agenda item allows for discussion regarding the approval of an online hybrid course for (I-100, S-130, S-190 & L-180).

3. BUDGET IMPACT

No budget impact is anticipated

4. TIMELINE CONSIDERATIONS

This proposal is for publication, to be considered for final adoption at the commission's January 2022 meeting.

5. RECOMMENDATION

Propose for publication

6. REFERENCES

Title 37, Chapter 455, Minimum Standards for Wildland Fire Protection Certification

Chapter 455

Minimum Standards for Wildland Fire Protection Certification

§455.3. Minimum Standards for Basic Wildland Fire Protection Certification.

In order to be certified as Basic Wildland Fire Protection personnel, an individual must:

(1) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as Wildland Fire Fighter Level I; or

(2) complete a commission approved Basic Wildland Fire Protection program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Basic Wildland Fire Protection training program shall consist of one of the following:

(A) completion of the commission approved Basic Wildland Fire Fighter training program, as specified in the applicable chapter of the commission's Certification Curriculum Manual; or

(B) completion of the following National Wildfire Coordinating Group (NWCG) courses:

(i) S-130: Firefighter Training;

(ii) S-190: Introduction to Wildland Fire Behavior;

(iii) L-180: Human Factors on the Fireline; and

(iv) I-100: Introduction to the Incident Command System, or an equivalent basic incident command system course such as NIMS IS-100; **or**

(C) Completion of a Texas A&M Forest Service approved online Hybrid (I-100, S-130, S-190 & L-180) with in-person test and field day.

17. Proposed rule review for the following:

- 1. 37 Tex. Administrative Code, Part 13, Chapter 403, Criminal Convictions and Eligibility For Certification**

CHAPTER 403

CRIMINAL CONVICTIONS AND ELIGIBILITY FOR CERTIFICATION

§403.1. Purpose.

(a) The purpose of this chapter is to establish policy, procedures and criteria on the eligibility of persons with a criminal conviction for a certificate or renewal of a certificate issued by the Texas Commission on Fire Protection (the commission) and to establish procedures for suspension, probation, revocation, or denial of a certificate held or applied for by persons with a criminal conviction pursuant to Chapter 53, Texas Occupations Code.

(b) The duties and responsibilities of persons who hold certifications issued by the commission each involve matters that directly relate to public safety, specifically to the reduction of loss of life and property from fire. Thus, conduct involving the injury to a person or the destruction of property by fire, relates directly to the fitness of the individual to be fire protection personnel. Fire protection personnel often have access to areas not generally open to the public. The public relies on the honesty, trustworthiness, and reliability of persons certified by the commission. Thus, crimes involving moral turpitude, including, but not limited to, fraud and dishonesty, are directly relevant. In addition, the ability of such persons to function unimpaired by alcohol or the illegal use of drugs, in dangerous or potentially dangerous circumstances, including, but not limited to, the operation of emergency vehicles is paramount in light of the duty to protect the health and safety of the public.

§403.3. Scope.

(a) The policy and procedures established in this chapter apply to a person who holds or applies for any certificate issued under the commission's regulatory authority contained in Government Code, Chapter 419.

(b) When a person is convicted of a crime of a sexual nature, the conviction of which would require the individual to be registered as a sex offender under Chapter 62 of the Code of Criminal Procedure; or

(c) When a person is convicted of a crime that is an offense under Title 7 of the Texas Penal Code, or a similar offense under the laws of the United States of America, another state, or other jurisdiction, the person's conduct directly relates to the competency and reliability of the person to assume and discharge the responsibilities of fire protection personnel. Such conduct includes, but is not limited to, intentional or knowing conduct, without a legal privilege, that causes or is intended to cause a fire or explosion with the intent to injure or kill any person or animal or to destroy or damage any property. The commission may:

(1) deny a person the opportunity to be examined for a certificate;

(2) deny the application for a certificate;

(3) grant the application for a new certificate with the condition that a probated suspension be placed on the newly granted certificate;

(4) refuse to renew a certificate;

(5) suspend, revoke or probate the suspension or revocation of an existing certificate; or

(6) limit the terms or practice of a certificate holder to areas prescribed by the commission.

(d) When a person's criminal conviction of a felony or misdemeanor directly relates to the duties and responsibilities of the holder of a certificate issued by the commission, the commission may:

- (1) deny a person the opportunity to be examined for a certificate;
- (2) deny the application for a certificate;
- (3) grant the application for a new certificate with the condition that a probated suspension be placed on the newly granted certificate;
- (4) refuse to renew a certificate;
- (5) suspend, revoke or probate the suspension or revocation of an existing certificate; or
- (6) limit the terms or practice of a certificate holder to areas prescribed by the commission.

§403.5. Access to Criminal History Record Information.

(a) Criminal history record. The commission is entitled to obtain criminal history record information maintained by the Department of Public Safety, or another law enforcement agency to investigate the eligibility of a person applying to the commission for or holding a certificate.

(b) Confidentiality of information. All information received under this section is confidential and may not be released to any person outside the agency except in the following instances:

- (1) a court order;
- (2) with written consent of the person being investigated;
- (3) in a criminal proceeding; or
- (4) in a hearing conducted under the authority of the commission.

(c) Early review. A fire department that employs a person regulated by the commission, a person seeking to apply for a beginning position with a regulated entity, a volunteer fire department, or an individual participating in the commission certification program may seek the early review under this chapter of the person's present fitness to be certified. Prior to completing the requirements for certification, the individual may request such a review in writing by following the required procedure. A decision by the commission based on an early review does not bind the commission if there is a change in circumstances. The following pertains to early reviews:

- (1) The commission will complete its review and notify the requestor in writing concerning potential eligibility or ineligibility within 90 days following receipt of all required and necessary information for the review.
- (2) A notification by the commission regarding the results of an early review is not a guarantee of certification, admission to any training program, or employment with a local government.
- (3) A fee assessed by the commission for conducting an early review will be in an amount sufficient to cover the cost to conduct the review process, as provided in §437.19 of this title (relating to Early Review Fees).
- (4) An early review request will be considered incomplete until the requestor submits all required and necessary information. Early review requests that remain incomplete for 90 days following receipt of the initial request will expire. If the request expires and an early review is still desired, a new request and fee must be submitted.

§403.7. Criminal Convictions Guidelines.

(a) The following crimes are considered to relate directly to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of persons certified by the commission:

(1) offenses under the Government Code, Chapter 419, relating to the Texas Commission on Fire Protection;

(2) offenses under the Texas Transportation Code Title 6 Roadways, which are punishable by fines greater than \$200, or imprisonment, or both fine and imprisonment;

(3) offenses under the Health and Safety Code, Chapter 481, concerning controlled substances;

(4) offenses under the Health and Safety Code, Chapter 483, concerning dangerous drugs;

(5) offenses under the following titles of the Texas Penal Code:

(A) Title 5--offenses against the person;

(B) Title 6--offenses against the family;

(C) Title 7--offenses against property;

(D) Title 8--offenses against public administration;

(E) Title 9--offenses against public order and decency;

(F) Title 10--offenses against public health, safety and morals;

(G) Title 11--offenses involving organized crime; and

(H) Title 4--inchoate offenses Chapter 15 preparatory offenses to any of the offenses in this section;

(6) the offenses listed in this subsection are not inclusive, in that the commission may consider other particular crimes in special cases in order to promote the intent of the statutes administered by the commission.

(b) In all cases the commission shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring the certificate issued by the commission;

(3) the extent to which the certificate might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the certificate holder;

(5) the level and nature of supervision of the person by others; and

(6) the level and nature of access to public, commercial, and residential properties, including access after regular business hours and access to areas not open to the general public.

§403.9. Mitigating Factors.

(a) In addition to the factors that must be considered under §403.7 of this title (relating to Criminal Convictions Guidelines), in determining the present fitness of a person who has been convicted of a crime, the commission shall consider the following evidence:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person prior to and following the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of the person's present fitness, including letters of recommendation from:
 - (A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; and
 - (C) any other persons in contact with the convicted person.

(b) It shall be the responsibility of the applicant to the extent possible to secure and provide to the commission as required the recommendations of prosecution, law enforcement, and correctional authorities as required by statute and these rules upon request by the commission staff. The applicant shall upon request also furnish:

- (1) a copy of the indictment, information or complaint;
- (2) a copy of the judgement(s) or order(s) of the court adjudicating guilt, granting probation, community supervision, deferred adjudication, or discharge from probation or community supervision;
- (3) a record of steady employment in the form of a letter from current or former employers;
- (4) a record that the applicant has supported his or her dependents in the form of a letter from a person in the applicant's community with personal knowledge of the circumstances;
- (5) evidence that the applicant has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted, in the form of copies of official records, documents, or a letter from the person's probation or parole officer where applicable concerning his or her current status; and
- (6) a copy of the police or offense report(s).

§403.11. Procedures for Suspension, Revocation, or Denial of a Certificate to Persons with Criminal Backgrounds.

- (a) If the commission proposes to suspend, revoke, limit, or deny a certificate based on the criteria in this chapter, the division shall notify the individual per Government Code, Chapter 2001. The notice of intended action shall specify the facts or conduct alleged to warrant the intended action.
- (b) If the proposed action is to limit, suspend, revoke, or refuse to renew a current certificate, or deny an application for a new certificate, a written notice of intended action shall comply with the preliminary notice requirements of Government Code §2001.054(c). The individual may request, in writing, an informal conference with the commission staff in order to show compliance with all requirements of law for the retention of the certificate, pursuant to Government Code §2001.054(c). A written request for an informal staff conference must be submitted to the division director no later than 15 days after the date of the notice of intended action. If the informal staff conference does not result in an agreed consent order, a formal hearing shall be conducted in accordance with the Administrative Procedure Act, Government Code, Chapter 2001.

(c) If the individual does not request an informal staff conference or a formal hearing in writing within the time specified in this section, the individual is deemed to have waived the opportunity for a hearing, and the proposed action will be taken.

(d) If the commission limits, suspends, revokes, or denies a certificate under this chapter, a written notice shall be provided to the person that includes:

(1) the reasons for the decision;

(2) that the person may appeal the decision of the executive director to the commission in accordance with §401.63 of this title (relating to Final Decision and Orders) within 30 days from the date the decision is final and appealable;

(3) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, Texas, for judicial review of the evidence presented to the commission and its decision; and that such petition must be filed with the court no later than 30 days after the commission action is final and appealable.

§403.15. Report of Convictions by an Individual or a Department.

(a) A certificate holder must report to the commission, any conviction, other than a minor traffic offense (Class C misdemeanor) under the laws of this state, another state, the United States, or foreign country, within 14 days of the conviction date.

(b) A fire department or local government entity shall report to the commission, any conviction of a certificate holder other than a minor traffic offense (class C misdemeanor) under the laws of this state, another state, the United States, or foreign country, that it has knowledge of, within 14 days of the conviction date.

(c) A certificate holder is subject to suspension, revocation or denial of any or all certifications for violation of the requirements of subsection (a) of this section. Each day may be considered a separate offense.

(d) A fire department or government entity regulated by the commission violating subsection (b) of this section may be subject to administrative penalties of up to \$500. Each day may be considered a separate offense.

(e) Notification may be made by mail, e-mail, or in person to the Texas Commission on Fire Protection (TCFP) Austin office. TCFP Form #014 shall be used.

17. Proposed rule review for the following:

2. 37 Tex. Administrative Code, Part 13, Chapter 423, Fire Suppression

CHAPTER 423**FIRE SUPPRESSION****SUBCHAPTER A****MINIMUM STANDARDS FOR STRUCTURE FIRE PROTECTION PERSONNEL CERTIFICATION****§423.1. Minimum Standards for Structure Fire Protection Personnel.**

(a) Fire protection personnel who are appointed to structure fire protection duties must be certified by the commission within one year from the date of their appointment.

(b) Prior to being appointed to structure fire protection duties, personnel must:

(1) complete a commission approved basic structure fire protection program;

(2) successfully pass the commission examination as required by §423.3 of this title (relating to Minimum Standards for Basic Structure Fire Protection Personnel Certification); and

(3) successfully complete a commission recognized emergency medical training program. The commission recognizes the following emergency medical training:

(A) Department of State Health Services Emergency Medical Service Personnel certification training;

(B) an American Red Cross Emergency Response course, including the optional lessons and enrichment sections;

(C) an American Safety and Health Institute First Responder course;

(D) National Registry of Emergency Medical Technicians certification; or

(E) medical training deemed equivalent by the commission.

(c) Personnel holding any level of structure fire protection personnel certification must comply with the continuing education requirements specified in Chapter 441 of this title (relating to Continuing Education).

§423.3. Minimum Standards for Basic Structure Fire Protection Personnel Certification.

(a) In order to be certified as Basic Structure Fire Protection Personnel, an individual must:

(1) possess valid documentation from the International Fire Service Accreditation Congress or the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1 of this title (relating to Requirements—General) as:

(A) Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness Level Personnel; and

(B) Hazardous Materials Operations Level Responders including the Mission-Specific Competencies for Personal Protective Equipment and Product Control under the current edition; or

(C) NFPA 472 Hazardous Materials Operations prior to the 2008 edition; and

(D) meet the medical requirements outlined in §423.1 of this title (relating to Minimum Standards for Structure Fire Protection Personnel); or

(2) complete a commission approved basic structure fire protection program, meet the medical requirements outlined in §423.1(c) of this title (relating to Minimum Standards for Structure Fire Protection Personnel), and successfully pass the commission examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved basic structure fire suppression program shall consist of one or any combination of the following:

(A) completion of a commission approved Basic Fire Suppression Curriculum, as specified in the commission's Certification Curriculum Manual; or

(B) completion of an out-of-state, and/or military training program deemed equivalent to the commission approved Basic Fire Suppression Curriculum; or

(C) documentation of the receipt of a Fire Fighter II certificate, an advanced certificate, or confirmation of training from the State Firemen's and Fire Marshals' Association of Texas that is deemed equivalent to a commission approved Basic Fire Suppression Curriculum.

§423.5. Minimum Standards for Intermediate Structure Fire Protection Personnel Certification.

(a) Applicants for Intermediate Structure Fire Protection Personnel certification must complete the following requirements:

(1) hold, as a prerequisite, a Basic Structure Fire Protection Personnel certification as defined in §423.3 of this title (relating to Minimum Standards for Basic Structure Fire Protection Personnel Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1, with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Structure Fire Protection Personnel certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.7. Minimum Standards for Advanced Structure Fire Protection Personnel Certification.

(a) Applicants for Advanced Structure Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Structure Fire Protection Personnel certification as defined in §423.5 of this title (relating to Minimum Standards for Intermediate Structure Fire Protection Personnel Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Structure Fire Protection Personnel certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.9. Minimum Standards for Master Structure Fire Protection Personnel Certification.

(a) Applicants for Master Structure Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Advanced Structure Fire Protection Personnel certification as defined in § 423.7 of this title (relating to Minimum Standards for Advanced Structure Fire Protection Personnel Certification); and

(2) acquire a minimum of twelve years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

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

§423.11. Higher Levels of Certification.

(a) An individual may receive higher levels of certification in structure fire protection while being assigned to another discipline, provided all requirements for the higher level or levels of certification are met.

(b) Repetitive training cannot be used toward higher levels of certification.

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

(a) Individuals completing a commission approved basic structure fire protection program, meeting any other NFPA requirement, and passing the applicable commission examination(s) may be granted IFSAC seal(s) for Hazardous Materials Awareness Level Personnel, Hazardous Materials Operations Level Responders (including the Mission-Specific Competencies for Personal Protective Equipment

and Product Control), Fire Fighter I, and/or Fire Fighter II by making application to the commission for the IFSAC seal(s) and paying applicable fees, provided they meet the following provisions:

(1) To receive the IFSAC Hazardous Materials Awareness Level Personnel seal, the individual must:

- (A) complete the Hazardous Materials Awareness section of a commission approved course; and
- (B) pass the Hazardous Materials Awareness section of a commission examination.

(2) To receive the IFSAC Hazardous Materials Operations Level Responders seal (including the Mission-Specific Competencies for Personal Protective Equipment and Product Control) the individual must:

- (A) complete the Hazardous Materials Operation section of a commission approved course; and
- (B) document possession of an IFSAC Hazardous Materials Awareness Level Personnel seal; and
- (C) pass the Hazardous Materials Operations section of a commission examination.

(3) To receive the IFSAC Fire Fighter I seal, the individual must:

- (A) complete a commission approved Fire Fighter I course; and
- (B) provide medical documentation as outlined in subsection (c) of this section; and
- (C) document possession of an IFSAC Hazardous Materials Awareness Level Personnel seal; and
- (D) document possession of an IFSAC Hazardous Materials Operations Level Responders seal; and
- (E) pass the Fire Fighter I section of a commission examination.

(4) To receive the IFSAC Fire Fighter II seal, the individual must:

- (A) complete a commission approved Fire Fighter II course; and
- (B) document possession of an IFSAC Fire Fighter I seal; and
- (C) pass the Fire Fighter II section of a commission examination.

(b) In order to qualify for a Fire Fighter I seal, the individual must document successful completion of an emergency medical training course or program that includes those subject areas required by NFPA 1001.

(c) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

CHAPTER 423
FIRE SUPPRESSION
SUBCHAPTER B
MINIMUM STANDARDS FOR AIRCRAFT RESCUE FIRE FIGHTING PERSONNEL

§423.201. Minimum Standards for Aircraft Rescue Fire Fighting Personnel.

(a) Aircraft rescue fire fighting personnel are employees of a local governmental entity who are appointed to aircraft rescue fire fighting duties. These duties may include fighting aircraft fires at airports, standing by for potential crash landings, and performing aircraft rescue and fire fighting duties.

(b) Personnel appointed to aircraft rescue fire fighting duties must be certified by the commission within one year from the date of their employment.

(c) Prior to being appointed to aircraft rescue fire fighting duties, all personnel must:

(1) successfully complete a commission approved basic structure fire protection program and pass the commission's examination; and

(2) successfully complete a commission approved basic aircraft rescue fire fighting program and pass the commission's examination.

(d) "Stand by" means the act of responding to a designated position in the movement area on the airfield at which initial response fire and rescue units will await the arrival of an aircraft experiencing an announced emergency.

(e) "Movement area" is comprised of all runways, taxiways, and other areas of the airport which are used for taxiing or hover taxiing, take-off, and landing of aircraft, exclusive of loading ramps and aircraft parking areas.

(f) Personnel holding any level of aircraft rescue fire fighting personnel certification shall be required to comply with the continuing education specified in Chapter 441 of this title (relating to Continuing Education).

(g) Aircraft rescue fire fighting personnel that perform structure fire protection duties must be certified, as a minimum, as basic structure fire protection personnel.

§423.203. Minimum Standards for Basic Aircraft Rescue Fire Fighting Personnel Certification.

In order to be certified as Basic Aircraft Rescue Fire Fighting Personnel an individual must:

(1) hold a Basic Structure Fire Protection Personnel certification; and

(2) possess valid documentation as an Airport Fire Fighter from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2010 or later edition of the NFPA standard applicable to this

discipline and meeting the requirements specified in §439.1 of this title (relating to Requirements—General); or

(3) complete a commission approved aircraft rescue fire fighting program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved aircraft rescue fire fighting program shall consist of one of the following:

(A) a commission approved Basic Aircraft Rescue Fire Suppression Curriculum as specified in the commission's Certification Curriculum Manual; or

(B) an out-of-state, and/or military training program that has been submitted to the commission for evaluation and found to be equivalent to or exceeds the commission approved Basic Aircraft Rescue Fire Suppression Curriculum.

§423.205. Minimum Standards for Intermediate Aircraft Rescue Fire Fighting Personnel Certification.

(a) Applicants for Intermediate Aircraft Rescue Fire Fighting Personnel certification must complete the following requirements:

(1) hold as a prerequisite a Basic Aircraft Rescue Fire Fighting Personnel certification as defined in §423.203 of this title (relating to Minimum Standards for Basic Aircraft Rescue Fire Fighting Personnel Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Aircraft Rescue Fire Fighting certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.207. Minimum Standards for Advanced Aircraft Rescue Fire Fighting Personnel Certification.

(a) Applicants for Advanced Aircraft Rescue Fire Fighting Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Aircraft Rescue Fire Fighting Personnel certification as defined in §423.205 of this title (relating to Minimum Standards for Intermediate Aircraft Rescue Fire Fighting Personnel Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Aircraft Rescue Fire Fighting Personnel certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.209. Minimum Standards for Master Aircraft Rescue Fire Fighting Personnel Certification.

(a) Applicants for Master Aircraft Rescue Fire Fighting Personnel certification must complete the following requirements:

(1) hold, as a prerequisite, an Advanced Aircraft Rescue Fire Fighting Personnel certification as defined in §423.207 of this title (relating to Minimum Standards for Advanced Aircraft Rescue Fire Fighting Personnel Certification); and

(2) acquire a minimum of twelve years of fire protection experience, and 60 college semester hours or an associate's degree, which includes at least 18 college semester hours in fire science subjects.

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

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

Individuals completing a commission approved basic aircraft rescue fire fighting program, documenting an IFSAC seal for Fire Fighter II, and passing the applicable commission examination may be granted an IFSAC seal as an Airport Fire Fighter by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

CHAPTER 423
FIRE SUPPRESSION
SUBCHAPTER C
MINIMUM STANDARDS FOR MARINE FIRE PROTECTION PERSONNEL

§423.301. Minimum Standards for Marine Fire Protection Personnel.

(a) Marine fire protection personnel are employees of a local governmental entity who work aboard a fire boat with a minimum pumping capacity of 2,000 gallons per minute, and fight fires that occur on or adjacent to a waterway, waterfront, channel, or turning basin.

(b) Fire protection personnel appointed to marine fire protection duties must be certified by the commission within one year from the date of their appointment.

(c) Prior to being appointed to marine fire protection duties, all personnel must:

(1) successfully complete a commission approved basic structure fire protection program and pass the commission's examination; and

(2) successfully complete a commission approved basic marine fire protection program and pass the commission's examination.

(d) Personnel holding any level of Marine Fire Protection Personnel certification shall be required to comply with the continuing education specified in Chapter 441 of this title (relating to Continuing Education).

§423.303. Minimum Standards for Basic Marine Fire Protection Personnel Certification.

In order to be certified as Basic Marine Fire Protection Personnel an individual must:

(1) hold a Basic Structure Fire Protection Personnel certification; and

(2) complete a commission approved marine fire protection program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved marine fire protection program shall consist of one of the following:

(A) the commission approved Basic Marine Fire Protection Curriculum as specified in Chapter 3 of the commission's Certification Curriculum Manual; or

(B) An out-of-state, and/or military training program that has been submitted to the commission for evaluation and found to be equivalent to or exceed the commission approved Basic Marine Fire Protection Curriculum.

§423.305. Minimum Standards for Intermediate Marine Fire Protection Personnel Certification.

(a) Applicants for Intermediate Marine Fire Protection Personnel certification must complete the following requirements:

(1) hold, as a prerequisite, a Basic Marine Fire Protection Personnel certification as defined in §423.303 of this title (relating to Minimum Standards for Basic Marine Fire Protection Personnel Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section).

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in fire service, may not be counted towards this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Marine Fire Protection Personnel certification. Repeating a course, or a course of similar content, cannot be used towards this level of certification.

§423.307. Minimum Standards for Advanced Marine Fire Protection Personnel Certification.

(a) Applicants for Advanced Marine Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Marine Fire Protection Personnel certification as defined in §423.305 of this title (relating to Minimum Standards for Intermediate Marine Fire Protection Personnel Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted towards this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Marine Fire Protection Personnel certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.309. Minimum Standards for Master Marine Fire Protection Personnel Certification.

(a) Applicants for Master Marine Fire Protection Personnel certification must complete the following requirements:

(1) hold, as a prerequisite, an Advanced Marine Fire Protection Personnel certification as defined in §423.307 of this title (relating to Minimum Standards for Advanced Marine Fire Protection Personnel Certification); and

(2) acquire a minimum of twelve years of fire protection experience, 60 college semester hours or an associate's degree, which includes at least 18 college semester hours in fire science subjects.

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

17. Proposed rule review for the following:

3.37 Tex. Administrative Code, Part 13, Chapter 425, Fire Service Instructors

CHAPTER 425

FIRE SERVICE INSTRUCTORS

§425.1. Minimum Standards for Fire Service Instructor Certification.

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

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

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

(1) have a minimum of three years of experience as defined in §421.5 of this title (relating to Definitions) in fire protection in one or more or any combination of the following:

- (A) a paid, volunteer, or regulated non-governmental fire department; or
- (B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(2) possess valid documentation as a Fire Instructor I, II or III from either:

- (A) the International Fire Service Accreditation Congress (IFSAC); or
- (B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2007 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements—General); or

(3) have completed the appropriate curriculum for Fire Service Instructor I contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(4) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification).

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

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

(1) hold as a prerequisite a Fire Instructor I certification as defined in §425.3 of this title (relating to Minimum Standards for Fire Service Instructor I Certification); and

(2) have a minimum of three years of experience as defined in §421.5 of this title (relating to Definitions) in fire protection in one or more or any combination of the following:

(A) a paid, volunteer, or regulated non-governmental fire department; or

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(3) possess valid documentation as a Fire Instructor II or III from either:

(A) the International Fire Service Accreditation Congress (IFSAC); or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2007 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements—General); or

(4) have completed the appropriate curriculum for Fire Service Instructor II contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1(d) or (e) of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(5) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification).

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

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

(1) hold as a prerequisite, a Fire Instructor II Certification as defined in §425.5 of this title (relating to Minimum Standards for Fire Service Instructor II Certification); and

(2) have a minimum of three years of experience (as defined in §421.5(47) of this title (relating to Definitions)) in fire protection in one or more or any combination of the following:

(A) a paid, volunteer, or regulated non-governmental fire department; or

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(3) possess valid documentation of accreditation from the International Fire Service Accreditation Congress (IFSAC) as a Fire Instructor III; or

(4) have completed the appropriate curriculum for Fire Service Instructor III contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in

§425.1(d) or (e) of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(5) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification) and either:

(A) hold as a prerequisite an advanced structural fire protection personnel certification, an advanced aircraft fire protection personnel certification, advanced marine fire protection personnel certification, advanced inspector certification, advanced fire investigator, or advanced arson investigator certification; or

(B) have 60 college hours from a regionally accredited educational institution; or

(C) hold an associate's degree from a regionally accredited educational institution.

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

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

(1) hold as a prerequisite a Fire Service Instructor III certification; and

(2) be a member of a paid, volunteer, or regulated non-governmental fire department; or a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(3) hold as a prerequisite a master structural fire protection personnel certification, a master aircraft rescue fire fighting personnel certification, master marine fire protection personnel certification, master inspector certification, master fire investigator certification, or master arson investigator certification; or

(4) hold a bachelor's degree or higher in education from a regionally accredited educational institution or a teaching certificate issued by the Texas State Board of Education.

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

(a) Individuals completing a commission approved Fire Service Instructor I training program and passing the applicable state examination may be granted an IFSAC seal for Instructor I by making application to the commission and paying the applicable fee.

(b) Individuals holding an IFSAC Instructor I seal, completing a commission approved Fire Service Instructor II training program, and passing the applicable state examination may be granted an IFSAC seal for Instructor II by making application to the commission and paying the applicable fee.

(c) Individuals holding an IFSAC Instructor II seal, completing a commission approved Fire Service Instructor III training program, and passing the applicable state examination may be granted an IFSAC seal for Instructor III by making application to the commission and paying the applicable fee.

(d) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

17. Proposed rule review for the following:

4.37 Tex. Administrative Code, Part 13, Chapter 439, Examinations For Certification

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 commission rules and; as applicable, with:
- (1) International Fire Service Accreditation Congress (IFSAC) regulations; or
 - (2) National Board on Fire Service Professional Qualifications (Pro Board) regulations for examinations administered by the Texas A&M Engineering Extension Service. Only Pro Board examinations administered by the Texas A&M Engineering Extension Service will be accepted by the commission for certification. In order for a Pro Board document to be accepted for certification, it must:
 - (A) List the commission issued course approval number for which the examination was conducted;
 - (B) Indicate that the examination was conducted in English; and
 - (C) List any special accommodations provided to the examinee. The commission may not issue a certificate for an examination conducted under special accommodations other than those specified in §439.13 of this title (relating to Special Accommodations for Testing).
- (b) It is incumbent upon commission staff, committee members, training officers and field examiners to maintain the integrity of the state certification examination process (or portion thereof) for which they are responsible.
- (c) The commission shall reserve the authority to conduct an annual review of Pro Board examinations, procedures, test banks, and facilities utilized by the Texas A&M Engineering Extension Service. The commission may also conduct a review at any time for cause and as deemed necessary to ensure the integrity of the certification examination process.
- (d) Exams will be based on the job performance requirements and knowledge and skill components of the applicable NFPA standard for that discipline, if a standard exists and has been adopted by the commission. If a standard does not exist or has not been adopted by the commission, the exam will be based on curricula as currently adopted in the commission's Certification Curriculum Manual.
- (e) Commission examinations that receive a passing grade shall expire two years from the date of the examination.
- (f) An examination for Basic Structure Fire Protection shall consist of four sections: Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness Level, and Hazardous Materials Operations Level including the Mission-Specific Competencies for Personal Protective Equipment and Product Control. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.
- (g) An examination for Basic Fire Inspector shall consist of two sections: Inspector I, and Inspector II. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.

(h) An examination for Basic Structure Fire Protection and Intermediate Wildland Fire Protection shall consist of five sections: Fire Fighter I, Fire Fighter II, First Responder Awareness, First Responder Operations, and Intermediate Wildland Fire Protection. The examinee must pass each section of the examination with a minimum score of 70% in order to qualify for certification.

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

(j) The individual who fails to pass a commission examination for state certification will be given one additional opportunity to pass the examination or section(s) thereof. This opportunity must be exercised within 180 days after the date of the first failure. 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.

(k) An individual may obtain a new certificate in a discipline which was previously held by passing a commission proficiency examination.

(l) 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.

(m) If an individual completes a commission approved training program, or a program that has been evaluated and deemed equivalent to a certification curriculum approved by the commission, such as an out-of-state or military training program or a training program administered by the State Firemen's and Fire Marshals' Association of Texas, the individual may use only one of the following examination processes for certification:

(1) pass a commission examination; or

(2) submit documentation of the successful completion of the Pro Board examination process administered by the Texas A&M Engineering Extension Service; and

(3) meet any other certification requirements in order to become eligible for certification as fire protection personnel.

(4) An individual cannot use a combination of the two examination processes in this subsection from a single commission approved class for certification. An individual who chooses to submit to the commission examination process may not utilize the other process toward certification.

(n) An individual or entity may petition the commission for a waiver of the examination required by this section if the person's certificate expired because of the individual's or employing entity's good faith clerical error or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action. All required renewal fees including applicable late fees and all required continuing education must be submitted before the waiver request may be considered.

(1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.

(2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order, ruling or agreement restoring the applicant to employment.

§439.3. Definitions.

The following words and terms, when used in this chapter, have the following definitions unless the context clearly indicates otherwise.

(1) Certificate of Completion--A statement by the provider of training 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 qualifies an individual to take an original certification examination. The certificate expires two years from the date of completion. If an individual does not take the certification examination prior to the expiration of the certificate of completion, he or she must again complete the curriculum in order to obtain a new certificate of completion.

(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 commission staff 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 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 or other instructor qualification as allowed by §427.307(h) and (i) of this title (relating to On-Site and Distance Training Provider Staff Requirements) for Wildland courses only, 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 (relating to Examinations for Certification).

(11) Sectional examination—A test that covers one section of a multiple section examination.

§439.5. Procedures.

(a) Procedures for conducting examinations are determined by the commission.

(b) All application processing fees due to the commission must be paid in a timely manner. 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 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 if the original examination grade is still active, 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, meet any other prerequisite requirements, and submit 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, a current and valid government 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 as indicated on the skill sheet; or

(3) a combination of both paragraphs (1) and (2) of this subsection.

(b) The minimum passing score on each written examination or section thereof 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.

(b) The training provider shall test the commission designated performance skills for competency. The skill evaluations may only 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 system. 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. The individual who served as the instructor of a particular subject may not evaluate the performance skill for the subject.

(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) If performance skill evaluations are not conducted for a student during the course of instruction, they must be conducted within ninety days (90) following the end date of the course. In a case such as

this the training provider must also obtain a new set of commission designated skills for which to evaluate the student; the provider may not use the same set of skills provided during the original course of instruction. If performance skill evaluations are not conducted within the ninety day (90) period, the student must repeat the course. The ninety (90) day period may be extended for students who were unable to complete their performance skill evaluations due to injury, illness, military commitment, or other situation beyond their control.

(e) The training facility must maintain records (electronic or paper) of skills testing on each examinee. Test results must be recorded and saved on the applicable performance skill sheets provided in the commission Curriculum Skills Manual, and must include all information called for on the skill sheet.

(f) 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 changes the condition of the examination or the examination process.

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

Source Note: The provisions of this §439.13 adopted to be effective November 2, 2011, 36 TexReg 7363

§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. The maximum possible number of pilot questions will be 10% of the number of exam questions, rounded up.

(b) The number of questions on an examination, sectional examination, or retest will be based upon the specific examination, or number of recommended hours for a particular curriculum or section as shown in the table below. Any pilot questions added to an examination, sectional examination, or retest will be in addition to the number of exam questions.

Figure: 37 TAC §439.19(b)

Examination	Section	Number of Exam Questions	Maximum Possible Number of Pilot Questions	Time Allowed
Basic Structure FP	Hazardous Materials Awareness	25		
	Hazardous Materials Operations	25		
	Firefighter I	100		
	Firefighter II	75		
	TOTAL	225	25	4.5 Hours
Basic Fire Inspector	Inspector I	50		
	Inspector II	50		
	TOTAL	100	15	2.0 Hours
Basic Structure FP/ Intermediate Wildland FP	Hazardous Materials Awareness	25		
	Hazardous Materials Operations	25		
	Firefighter I	100		
	Firefighter II	75		
	Intermediate Wildland FP	25		
	TOTAL	250	25	5.0 Hours
FOR ALL OTHER EXAMINATIONS, SECTIONAL EXAMINATIONS, AND RETESTS				
	Recommended Hours	Number of Exam Questions	Maximum Possible Number of Pilot Questions	Time Allowed
IF THE RECOMMENDED HOURS FOR THE CURRICULUM OR SECTION IS:	Less than 30	25	3	30 Minutes
	31 to 100	50	5	1.0 Hour
	101 to 200	75	8	1.5 Hours
	201 to 300	100	10	2.0 Hours
	301 to 400	125	13	2.5 Hours
	401 or More	150	15	3.0 Hours

CHAPTER 439
EXAMINATIONS FOR CERTIFICATION
SUBCHAPTER B
EXAMINATIONS FOR DISTANCE TRAINING

§439.201. Requirements—General.

The examination requirements for those completing distance training shall be the same as those in Subchapter A of this chapter, except as noted in this subchapter.

§439.205. Performance Skill Evaluation.

If the performance skill portion of a state exam is to be evaluated by an approved field examiner who will not observe the completion of the skill while in the immediate physical presence of the examinee, a letter of assurance from the candidate's training officer or fire chief is required stating that the fire department assures the integrity of the evaluation procedure. If the candidate is not a member of a fire department, then a certified fire instructor, fire chief, or training officer may provide a letter of assurance that meets the requirements of this section. The provider of distance training is required to keep a record of this assurance and provide it to the commission upon request.

18. Report from ad-hoc committee regarding advisory committees including but not limited to committee make up, term limits, and meeting requirements.

Committees Bylaws

Section 1: GENERAL

The Chairperson of the Commission, by and with the approval of the Commission, shall approve all committees and appoint all Committee Chairs. Committee Chairs are responsible for selecting committee members, which are then presented to the Commission for final approval.

The Chairperson of the Commission, with the approval of the Commission, may convene additional committees that are deemed to be in the best interest of TCFP and its mission.

All committees shall be subject to, and governed by, these bylaws.

Committees shall select from among its members a committee chair. The Chairperson of the Commission, by and with the approval of the Commission, will confirm the chairs, who serve at the pleasure of the Commission and may remain in this position for two (2) years before reappointment.

Committees should be composed of a reasonable odd number of members, with a minimum of 9 and a maximum of 15 members.

The committee shall meet at least twice each calendar year at the call of either the committee chair or the Commission.

All committees shall be validated for relevance by the Commission every odd year.

Committee Chairs may form ad hoc committees when in the judgment of the Chair it will enhance or provide guidance for a specific purpose and time limit/period.

Every October each Committee Chair will present to the Commission an end of year status report and subsequent way ahead for the upcoming year.

Section 2: OBJECTIVES & PURPOSE

TCFP is organized to aid in the protection of lives and property of Texas citizens through the development and enforcement of recognized professional standards for individuals and the fire service. To achieve the goals of TCFP, each committee will evaluate, make recommendations, and issue reports to the Commission on any issue in the committee's purview. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee.

The Commission establishes the following standing committees to assist TCFP:

A. Firefighter Advisory Committee - The Firefighter advisory committees' purpose is to assist the commission in matters relating to fire protection personnel, fire departments, along with suggested guidance to volunteer firefighters and volunteer fire departments. The committee shall periodically review commission rules relating to fire protection personnel, fire departments, other firefighters, and organizations subject to the regulation of TCFP and recommend changes in the rules when applicable. The committee shall be composed of nine members appointed by the commission. Six members of the committee must be certified fire protection personnel who collectively represent various areas in the field of fire protection. Three members of the committee must be certified instructors of fire protection personnel. At least one member of the committee must be a volunteer fire chef or volunteer firefighter.

B. Curriculum and Testing Committee – The purpose of the Curriculum and Testing Committee is to develop and review curricula, test questions, procedures, and the testing process leading to certifications based on applicable NFPA standards while maintaining compliance with the accreditation process as required by the International Fire Service Accreditation Congress when applicable to paid firefighters. Meetings determining final exam development and review (test questions) should be held in closed meetings per Texas Government Code section 551.088.

C. Health & Wellness – The purpose of the Health & Wellness committee is to provide factual data and practical guidance regarding key areas of health and wellness to educate, inform, and facilitate the development of action guides for individuals and departments.

D. 427 Rule Review – The purpose of the 427 Rule Review committee is to review and recommend changes regarding TAC Chapter 13, Section 427 based on statutorily mandated NFPA standards, best practices, and to ensure compliance is attainable. Additionally, the committee will make recommendations to the Commission regarding rules relevancy, training, and oversight of regulated firefighters serving the state of Texas.

E. 435 Rule Review – The purpose of the 435 Rule Review committee is to review and recommend changes regarding TAC Chapter 13, Section 435 based on statutorily mandated NFPA standards, best practices, and to ensure compliance is attainable. Additionally, the committee will make recommendations to the Commission regarding safety practices pertaining to regulated firefighters serving the state of Texas.

Section 3: ELIGIBILITY

Any person, association, corporation, partnership, or other entity having an interest in the above-recited objectives shall be eligible for membership.

Committee composition should have representatives from each stakeholder group, with emphasis on department size, region, and mission.

Interested candidates may apply for committee appointments between Jan 1 – Mar 31 of each year. The list of candidates will then be presented to the Commission during their April meeting for consideration. Each October, the Commission will vote on committee approval selection; with terms beginning the January following approval. Alternates should also be identified at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed.

Section 4: TERMS

One-third of committee members should be appointed annually to serve six (6) year terms of office, with the intent to stagger and to ensure continuity of membership from year to year. Committee members may serve consecutive six-year terms; however, after a second six-year term, the member will not be eligible for another term until after a lapse of two years.

Section 5: MEETINGS

Committee Chairs, or a designated representative by exception, shall conduct all committee meetings.

Committee meetings should be held in Austin.

Committee chairs will release meeting times, locations, and agendas in the spirit of the Open Meetings Act and should make meetings available by videoconferencing to encourage access and participation throughout the state.

Committee chairs may limit discussion times if in the opinion of the Chair it is warranted. Participants who fail to follow the above rules may be subject to removal from the meeting.

Committees may meet by videoconference calls, but only if they follow requirements of Texas Government Code section 551.127, but still must have a physical location for the public to attend. The member presiding over the meeting must attend in person, while other members and staff may attend remotely.

Section 6: LIMITATIONS OF POWERS

No action by any committee chair or its members shall be binding upon, or constitute an expression of, the policy of TCFP until it has been approved or ratified by the Commission. It shall be the function of the committees to evaluate, to make recommendations, and to report only to the Commission. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee.

Section 7: TESTIMONY

Once committee action has been approved by the Chairperson of the Commission, and approved by the Commission, testimony and or presentations may be given and made before stakeholders, governmental agencies, or any other entity as deemed by the Chairperson of the Commission.

Section 8: EXPULSION

Any committee member may be expelled for conduct unbecoming or prejudicial to the aims or reputation of TCFP or lack of attendance after written notice and a hearing before the Commission.

19. Fee amount for Certificates.

20. Matters from the Agency Chief:

A. Decisions of Agency Chief in contested cases and consent orders.

20. Matters from the Agency Chief.

B. Report on Form J5-Separation of License

20. Matters from the Agency Chief.

C. Status regarding division functions:

a. Update on agency organizational changes

b. Training Approval & Testing – test administered, training approvals, record reviews and online training audits

c. Certification & Professional Development – training applications, IFSAC seals issued, certifications issued, training facilities, curriculum development, library resource requests

d. Compliance – biennial inspections, compliance officers training, issues involving regulated entities

e. Information Technology – public website design, FARM and FIDO improvements, CAPPS (Central Accounting Payroll/Personnel System), IT security policy, service requests

Commission Quarterly Report Training Approval and Testing Section

Test Administration, Training Approvals, Record Reviews, and Training Audits Statistics – 4th Quarter, FY 2021

- Test Administration – 5500 exams were administered during this quarter with a pass rate of 82.96%. ****22,267 FY YTD ****
- Training Approvals – Total of 799 training approvals were submitted with start dates during this quarter in the commission’s Training Facility Management System.
- Record Reviews – Ninety-four (94) record reviews for equivalency were conducted (of those, 24 SFFMA). Two hundred thirty-three (233) Qual#s were issued in the Training Facility Management System.
- Training and Skill Testing Audits – Thirty-one (31) online audits conducted during the 4th quarter. Out of the 31, 11 of the audits did not have any deficiencies noted. The other 20 had deficiencies that ranged from No Syllabus, Course Schedule Inst Info not on Syllabus, Skills Examiners Textbook info No Online Access Skills Not Complete. All deficiencies were corrected. One of the Online Audits the Training Facility was given corrective actions.
- Two (2) additional testing centers began the process of being added as approved TCFP online testing centers.

Activities for the Next Quarter

- Continue scheduling testing dates for Incident Commander in partnership with Compliance Officers and departments. Testing must be completed by December 31, 2021, as the Temporary Provision expires January 1, 2022.
- Continue working to establish online testing centers in areas where availability is lacking or limited.

**2021 4th Quarter: Certification & Professional Development
June 1, 2021- August 31, 2021**

	Q1	Q2	Q3	Q4
<u>Certification/Renewal:</u>				
Professional Development Training Applications	2,606	2,889	3,582	4575
<u>Issued:</u> IFSAC Seals	1,836	1,902	2,239	2009
TCFP Certifications	4,019	2,919	4,081	3914
Criminal History	506	502	605	612
Medical documents:	907	874	1148	970
Confirmation of Commissions (Peace Officer)	74	40	41	48
Service time applications	150	80	111	101
<u>Renewals:</u> Department Personnel	30,529	77	9	8
Certified Training Facilities	0	271	17	3
Individual Certified Holders	2,510	166	89	70
Registered Seals: IFSAC	456	465	494	621
TEEX Proboard	226	179	411	283
Total number of Training Facilities	333	341	348	353

Quarterly Report – Curriculum Development
June 2021 – August 2021

Meetings (Via Zoom):

- June 14th, 2021 – ARFF
- July 26th, 2021 – ARFF

June 2021 – (Meetings)

- June 14 – ARFF
 - Performance Skills – final review and approval of skills.
 - Supporting documents – reviewed all the supporting documents that will be included in the curriculum package.
 - FFAC Report – all documents presented to FFAC were approved and will not be forwarded to the Commission on July 15th.
 - Test Banks – started the review of test questions to include reviewing of the correlation sheets.

July 2021 – (Meetings)

- July 26 – ARFF
 - Commission Meeting Report
 - Test question review
 - Correlation Sheet completion

Commission Quarterly Report Compliance Division

The Compliance Team coordinated, scheduled with host fire departments the following regional meetings then the team made invitations to all regulated entities in the respective regions.

- April 7, 2021, afternoon. Texas Fire Chiefs Conference at College Station.
- Region 2 – Tim Gothard, April 14, 2021, meeting at El Paso Co. ESD #2.
- Region 4 & 5 – Brain Meroney and Lamar Ford, May 4, 2021, meeting at Hallsville, Texas.
- Region 3 & 4 - Brain Meroney and Rick Wallace, June 29, 2021, meeting at Richardson Texas.
- Region 3 - Rick Wallace, June 30, 2021, meeting at Tarrant County College.
- Region 5 – Lamar Ford, July 8, 2021, meeting at Nederland FD.
- Region 6 – Ernie Null, July 9, 2021, meeting at The Woodlands FD Emergency Training Center.
- Region 7 – Tim Gardner, August 2, 2021, meeting at San Marcos FD.
- Region 7 - Tim Gardner, September 3, 2021, meeting at Corpus Christi FD.
- Region 7 – Tim Gardner, October 5, 2021, meeting at Harlingen FD.
- Region 2 – Tim Gothard, October 20, 2021, meeting at Lubbock FD.

The compliance manager worked with each compliance officer to complete the annual performance appraisals.

Compliance Officers coordinated with fire departments to clear structural fire protection personnel appointments made under the governor’s temporary waiver of certain rules that allowed personnel to be appointed without the required certification due to COVID related hardships.

The compliance team provided input for compliance staff assigned to ad hoc groups to consider related to potential rule changes to the Texas Administrative Code (rules) 435 and 427 that are under review by ad hoc committees appointed by the commissioners.

The compliance manager opened an investigation of injury reported in the TCFP Injury Reporting system. The investigation was opened in accordance with the TCFP investigative authority in the Texas Government Code 419.048 and Texas Administrative Code 435.23(d).

The compliance team came together for a week in Austin to receive annual compliance team training. Some of the training topics were as follows:

- Compliance Officer Home Office Discussion.
- Discussion with IT related to programing and Coding FARM related to compliance.
- Updates on compliance inspection, audit, test proctoring policy and procedures.
- Discussion on Injury Reporting System.
- TIFMAS presentation by Texas Fire Chief’s Association representative.
- Discussion related to the Firefighter Air Replenishment System (FARS).
- Discussed the differences in authority and purpose of TCFP investigations based on complaints vs injury reporting system.
- The NFPA Emergency Response and Responder Safety Consolidation Project.
- Chief Wisko provided an agency update along with a Q&A session with the team.

Compliance Officers assigned to 435 & 427 ad hoc committees participated in their perspective meetings.

Initiated detailed analysis of regions to better distribute workload in response to growth across the state.

Worked with testing to accommodate increased demand.

IT Quarterly Report 4th QUARTER FY21

- TCFP Websites and Web Applications Uptime 99.8%
- Azure Cloud
 - Files and Data transferred to Cloud
 - Prepared apps for Go Live
 - Re-integration test conducted for Go Live
- FionaCore updated with memory optimization
- FARM and FIDO updated
 - Performed bug fixes
 - UI & Backend improvements
- Public website updated
- Docs updated to meet third party updates
- Addressed 268 Service Request (Tickets)

21. Personnel matters regarding the appointment, employment, compensation, evaluation, reassignment, and duties of the Agency Chief.

22. Adjourn meeting.