



# **FST Commission**

# **Public Hearing**

**Thursday, June 1, 2017**

**9:30AM to 10:30AM**

**Richard M. Flynn Fire Academy**

**98 Smokey Bear Blvd.**

**Concord, NH 03301**

**SUBJECT:**

**Administrative Rules**

**Update**

CHAPTER Fire 100 ORGANIZATIONAL RULES

Statutory Authority: RSA 21-P:27

PART Fire 101 DEFINITIONS

Repeal Fire 101.01, effective 8-1-00 (Doc. # 7331), as follows:

~~Fire 101.01 “Agency” means an establishment engaged in doing business for another.~~

Readopt with amendment and renumber Fire 101.02 and Fire 101.03, effective 8-1-00 (Doc.# 7331), as Fire 101.01 and Fire 101.02, to read as follows:

Fire 101.02–01 “Appointment” means the act of ~~naming~~ officially assigning a person to a fire service personnel position of fire fighter in a fire department or fire-related state agency.

Fire 101.03–02 “Candidate” means a person who has made ~~an application for appointment to become a fire fighter~~ to a fire service personnel position in a fire department or fire-related state agency.

Adopt Fire 101.03 to read as follows:

Fire 101.03 "Certification" means official confirmation by the commission of a person that has successfully completed all required components of a curriculum and certification testing.

Repeal Fire 101.04, effective 8-1-00 (Doc. # 7331), as follows:

~~Fire 101.04 “Certified career fire fighter” means a fire fighter who has successfully completed the commission’s prescribed course of study for a career firefighter in accordance with Fire 701.02.~~

Readopt with amendment and renumber Fire 101.05 – Fire 101.08, effective 8-1-00 (Doc. # 7331), as Fire 101.04 – Fire 101.07, to read as follows:

Fire 101.04~~5~~ “~~Chairman~~Chair” means ~~chairman-presiding officer of the New Hampshire fire standards and training commission.~~

Fire 101.05~~6~~ “Commission” means the New Hampshire fire standards and training “commission,” as defined in RSA 21-P:25,II(a).

Fire 101.06~~7~~ “Complaint” means any submitted written ~~comment petition which protests either:~~ protests an action of any person in a fire service personnel position who holds a certification issued by the commission, where a remedy regarding the person’s certification or rights under these rules is available.

Fire 101.07~~8~~ “Course” means the entire progression of training, consisting of one or more modules, leading to a person achieving commission certification by the commission at a particular level.

Repeal Fire 101.09, effective 8-1-00 (Doc. # 7331), as follows:

~~Fire 101.09 “Course coordinator” means an individual instructor who is present and oversees each area of instruction. The course coordinator is the primary person responsible for training delivery.~~

Adopt Fire 101.08 to read as follows:

Fire 101.08 “Curricula” means the combination of subject matter, learning objectives, instructional methodology, testing procedures and other specifications established for courses approved by the commission in accordance with Fire 701.02.

Readopt and renumber Fire 101.10, effective 8-1-00 (Doc. # 7331), as Fire 101.09, to read as follows:

Fire 101.09~~10~~ “Days” means working days excluding Saturdays, Sundays, or state legal holidays.

Readopt with amendment and renumber Fire 101.11 – Fire 101.15, effective 8-1-00 (Doc. # 7331), as Fire 101.10 – Fire 101.14, to read as follows:

Fire 101.10~~11~~ “Director” means the director of the division of fire standards and training and emergency medical services of the department of safety, as defined in RSA 21-P:25, II(b).

Fire 101.11~~12~~ “Discharge” means the hiring authority’s dismissal of a person from ~~an office or agency~~ fire service personnel position.

Fire 101.12~~13~~ “Division” means the division of fire standards and training and emergency medical services of the department of safety.

Fire 101.13~~14~~ “Effective date” means the dates on which action was taken concerning an appointment, a death, a promotion, retirement, or termination of a person in a fire service personnel position.

Fire 101.14~~15~~ “Fire department” means the legally constituted municipal or privately incorporated ~~agency entity~~ that provides services such as, but not limited to, fire suppression, fire prevention, rescue, hazardous materials, emergency medical care, fire investigation, and fire or building inspections in the state, county, municipality, organized fire district, or area.

Readopt and renumber Fire 101.16, effective 11-12-08 (Doc. # 9319-A), as Fire 101.15, to read as follows:

Fire 101.15~~16~~ “Fire service personnel” means “fire service personnel” as defined in RSA 21-P:25, II(c).

Readopt with amendment and renumber Fire 101.17 and Fire 101.18, effective 11-12-08 (Doc. # 7331), as Fire 101.16 and Fire 101.17, to read as follows:

Fire 101.16~~17~~ “Full-time career fire service personnel” means permanent fireman as defined in RSA 100-A:1, VIII. ~~any fire service personnel, as defined in Fire 101.16 who is:~~

~~(a) Employed as a member of one or more fire departments of the state, political subdivision of the state, or private fire department providing fire services to the general public; and~~

~~\_\_\_\_\_ (b) Working in such a capacity for an average of 30 hours per week or more during any consecutive 12-month period.~~

~~Fire 101.17+8 “Hiring authority” means any public, private, incorporated or unincorporated agency or authorized official of an agency that has authority to employ personnel. legally designated official(s) of a private, incorporated or unincorporated entity or body politic that authorizes the appointment of fire service personnel.~~

Adopt Fire 101.18 and Fire 101.19 to read as follows:

Fire 101.18 “Mental disorder” means a condition defined in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (5<sup>th</sup> edition), diagnosed by a psychologist or psychiatrist, based upon mental status examination or psychological testing.

Fire 101.19 “Mentor” means an instructor who has been trained to properly evaluate education methodology

Readopt and renumber Fire 101.19, effective 8-1-00 (Doc. # 7331), as Fire 101.20, to read as follows:

Fire 101.19–20 “Module” means a specific area of instruction which is a part of a course leading to certification.

Readopt with amendment and renumber Fire 101.20 - Fire 101.23, effective 8-1-00 (Doc. # 7331), as Fire 101.21 – Fire 101.24, to read as follows:

Fire 101.21–24 “Petition” means any of the following:

(a) A written request submitted to the commission complaining of the actions of a person in a fire service personnel position where a specific remedy regarding that person’s certification or rights under these rules is requested available;

(b) A written request submitted to the commission to adopt, amend or repeal a rule; or

(c) A written request submitted to the commission for a declaratory ruling.

Fire 101.22+ “Promotion” means a raise in rank or a change authorized by a hiring authority in a fire service personnel position which allows for increased duties and responsibilities.

Fire 101.23+ “Resignation” means a person gives up ~~an office or~~ fire service personnel position or related office.

Fire 101.24+ “~~Specialty instructor~~ Subject Matter Expert” means a person who possesses a specialized expertise in a particular subject area and who has met the requirements of these rules to teach only in that particular area ~~as a course coordinator.~~

Adopt Fire 101.25 to read as follows:

Fire 101.25 “Student” means a person enrolled and participating in an approved New Hampshire fire standards and training course or related module.

Readopt with amendment and renumber Fire 101.24, effective 8-1-00 (Doc. # 7331), as Fire 101.26, to read as follows:

Fire 101.26~~4~~ “Termination” means resignation or discharge of a person from a fire service personnel position.

Repeal Fire 101.25, effective 8-1-00 (Doc. # 7331), as follows:

~~Fire 101.25 “Training coordinator” means the person responsible for the administration of a course or module.~~

Readopt with amendment and renumber Fire 101.26, effective 8-1-00 (Doc. # 7331), as Fire 101.27, to read as follows:

Fire 101.27~~26~~ “Training outline” means the written compilation of the curricula information regarding a module or course which is approved by the commission in accordance with these rules.

Readopt with amendment Fire 102.01, effective 11-12-08 (Doc. # 9319-A), cited and to read as follows:

#### PART Fire 102 COMMISSION

Fire 102.01 Composition of the Commission. Pursuant to RSA 21-P:26, the commission consists of the commissioner of safety or designee, ~~and of the commissioner of~~ education or designee, the attorney general or designee, the chief of the forest protection, the director of the division of fire standards and training and emergency medical services, the director of the division of fire safety and 10 members, appointed by governor and executive council for a term specified by law.

Readopt with amendment Fire 102.02, effective 8-1-00 (Doc. # 7331), to read as follows:

Fire 102.02 Duties of the Commission.

~~(a)~~ The responsibilities of the commission shall include:

(~~a~~) Adopting rules pursuant to RSA 21-P:27;

(~~b~~) Establishing minimum educational and training standards for employment as ~~a full-time firefighter~~ career fire service personnel;

(~~c~~) Establishing minimum selection standards for full-time career fire service personnel;

(~~d~~) Establishing educational and training standards for fire service personnel;

(~~e~~) Certifying fire service personnel as meeting the educational and training standard;

(~~f~~) Holding hearings as required by RSA 21-P:~~27~~29, III(c); and

(~~g~~) Any other duty or power specified by statute.

Readopt with amendment Fire 103.01, effective 8-1-00 (Doc. #7331), as amended effective 11-12-08 (Doc. # 9319-A), cited and to read as follows:

PART Fire 103 ACCESS TO INFORMATION

Fire 103.01 Requests for Information.

(a) Requests for information from the commission shall be sent to the:

Director, Division of Fire Standards and Training and Emergency Medical Services  
33 Hazen Drive  
Concord, NH 03305.

(b) Public records, not otherwise declared confidential by law, shall be available for inspection by appointment.

(c) A person who receives copies of documents in response to a request pursuant to (a) above, shall be assessed the fee, as provided in RSA 91-A:4, IV.

Readopt with amendment Fire 201.01, effective 11-12-08 (Doc. # 9319-A), cited and to read as follows:

CHAPTER Fire 200 ~~PETITIONS AND HEARING PROCEDURES~~ PETITIONS AND HEARING PRACTICE AND PROCEDURES

PART Fire 201 ~~PETITIONS~~ GENERAL PROVISIONS FOR PETITIONS AND HEARINGS

Fire 201.01 Applicability. This part shall apply to all petitions ~~to petitions and~~ where a hearing is required by law.

Adopt Fire 201.02 to read as follows:

Fire 201.02 Presiding Officer.

(a) The chair, with the advice and consent of a majority of the commission, may appoint as designee any member of the commission to act as the presiding officer.

(b) A presiding officer shall, at any stage of the hearing process, withdraw from a case if he or she:

(1) Presently, or in the past, has had a personal or business relationship with a party, witness or attorney that could hinder him or her from arriving at an impartial decision on the issue(s);  
or

(2) Cannot render an impartial decision for any other reason.

Readopt with amendment and renumber Fire 201.02 – Fire 201.05, effective 11-12-08 (Doc. # 9319-A), as Fire 201.03 – Fire 201.06, to read as follows:

Fire 201.03 Waiver. The commission or presiding officer, upon his or her own initiative or upon the motion of any party, ~~shall~~ may suspend or waive any requirement or limitation imposed by this

chapter upon reasonable notice to affected persons when the proposed waiver or suspension appears to be lawful, and would be more likely to promote the fair, accurate and efficient resolution of issues pending before the agency commission than would adherence to a particular rule or procedure.

Fire 201.043 Computation of Time Periods.

(a) In computing any period of time prescribed or allowed by these rules or RSA 21-P:27:

(a1) The day of the act, event, or default after which the designated period of time begins to run shall not be included; and

(b2) The last day of the period so computed shall be included unless it is a Saturday, Sunday, or state legal holiday, in which event the period shall extend until the end of the next day that is not a Saturday, Sunday, or state legal holiday as specified in RSA 288.

Fire 201.054 Filing of Documents.

(a) Each petition ~~for a hearing~~ shall be in writing, signed, and shall accurately describe the nature of the petition and the relief sought.

(b) All petitions, motions, replies, answers, notices, and other pleadings relating to any petition shall, if mailed or hand-delivered, be addressed to:

Chairman, Fire Standards and Training Commission  
c/o Director, Division of Fire Standards and Training and Emergency Medical Services  
33 Hazen Drive  
Concord, NH 03305

(c) All documents shall be deemed to have been filed when received by the director.

Fire 201.065 Action on Petitions.

(a) Upon receipt, all petitions, or other documents shall be forwarded by the director to the chairman.

(b) Within 60 days of receipt by the director, the chairman shall examine the petition and notify the ~~applicant~~ petitioner of any apparent errors or omissions. The ~~applicant~~ petitioner may resubmit the completed petition within 30 days of the receipt of the chairman's or presiding officer's notification. The commission shall deny in writing any untimely petitions.

Insert a new part heading for Fire 202, to read as follows:

PART Fire 202 PETITIONS OF COMPLAINT

Readopt with amendment and renumber Fire 201.06, effective 2-2-17 (Doc. #12099, Interim), as Fire 202.01, to read as follows:

Fire 2021.016 Investigations of Complaints. The chairman shall consult with the director and appoint ~~appoint any commission member or staff member(s)~~ of the division to investigate any complaint submitted by petition to the commission. Should the complaint pertain to any staff member of the

~~division, the chair shall consult with the commissioner of the department of safety to coordinate the investigation, other than a written request to adopt, amend or repeal a rule or a written request for a declaratory ruling.~~ The investigator(s) shall report their findings and recommendations to the ~~chairman or presiding officer~~ within 60 days of receipt of a complaint or petition.

Readopt with amendment and renumber Fire 201.07 – Fire 201.09, effective 11-12-08 (Doc. #9319-A), as Fire 202.02 – Fire 202.04, to read as follows:

Fire ~~2024.027~~ 2027 Informal Settlements and Uncontested Cases.

(a) ~~The chairman or presiding officer with the advice and consent of the majority of the commission, shall may~~ engage in non-adjudicative processes for the purposes of settling a complaint or petition ~~other than a written request to adopt, amend or repeal a rule or a written request for a declaratory ruling, when to determine if~~ settlement can be reached without a hearing.

(b) ~~The chairman or presiding officer~~ shall, if needed, schedule one or more informal prehearing conferences, pursuant to RSA 541-A:31, V.

(c) No party shall be required to utilize informal procedures when a hearing is required.

(d) In the event a proposed informal settlement is reached, the ~~chairman or presiding officer~~ shall advise the commission of the nature of the proposed settlement, which shall be approved by a majority of the commission prior to the settlement being entered.

Fire ~~2024.038~~ 2038 Contested Cases.

(a) In the event a complaint petition is considered a contested case which cannot be settled under Fire ~~2024.027~~, and a hearing is scheduled, all parties shall be notified of the:

- (1) Time, place, and nature of the hearing;
- (2) Statutory authority under which the hearing is to be held;
- (3) Particular sections of the statutes or rules involved;
- (4) Issues involved;
- (5) Right to have an attorney present to represent the party at the party's expense; and

(6) Right to have the commission provide a certified shorthand court reporter at the party's expense.

~~(b) The chairman, with the advice and consent of a majority of the commission, shall appoint any member of the commission to act as the presiding officer.~~

~~(c) A presiding officer shall, at any stage of the hearing process, withdraw from a case if he/she:~~

~~(1) Presently, or in the past, has had a personal or business relationship with a party, witness or attorney that could hinder him/her from arriving at an impartial decision on the issue(s); or~~

~~(2) Cannot render an impartial decision for any other reason.~~



Fire ~~2021.049~~ 2024.049 Continuances.

(a) The presiding officer shall grant up to a 30-day extension of time to schedule a hearing pursuant to RSA 21-P:27 if a party:

- (1) Is absent from the jurisdiction;
- (2) Has a serious illness;
- (3) Is incarcerated; ~~or~~
- (4) Has had a death in his or her family; ~~or~~ or
- (5) Other good cause shown.

(b) All requests for continuances shall:

- (1) Be in writing;
- (2) Be submitted to the presiding officer at least 5 working days before the scheduled hearing; and
- (3) Include:
  - a. The reason for the request; and
  - b. Optional dates when the party shall be available.

Readopt and renumber Fire 201.10 and Fire 201.11, effective 11-12-08 (Doc. # 9319-A), as Fire 202.05 and Fire 202.06, to read as follows:

Fire ~~2021.0510~~ 2024.0510 Representation of Parties.

(a) Parties may be represented:

- (1) Pro se;
- (2) By legal counsel; or
- (3) Pursuant to RSA 311:1.

Fire ~~2021.1106~~ Discovery.

(a) Parties shall be provided with all documents and records requested relative to the issues raised by the request for hearing no later than 5 working days prior to the hearing date.

(b) All discovery requests shall be in writing and shall be honored unless the presiding officer rules that the request is not relevant to an issue(s).

Readopt with amendment and renumber Fire 201.12 - Fire 201.14, effective 11-12-08 (Doc. # 9319-A), as Fire 202.07 - Fire 202.09, to read as follows:

Fire ~~2021.1207~~ Role of Complainants. Unless called as witnesses or granted party or intervenor status, a person who initiates an adjudicative proceeding by complaining to the commission about the conduct of a person who becomes a party shall have no role in any enforcement or disciplinary hearing and is not a party.

Fire ~~2021.1308~~ Intervenors. If a person meets the criteria of RSA 541-A:32, that person shall be allowed on motion to intervene in any action before the presiding officer.

Fire ~~2021.1409~~ Agency-Division Staff. ~~Agency-Division~~ staff who have been designated by the ~~commission to request a hearing chair to investigate~~ and present the commission's case shall fully participate in the hearing. Other ~~agency-division~~ staff shall have no role in the hearing unless called as a witness.

Readopt and renumber Fire 201.15, effective 11-12-08 (Doc. # 9319-A), as Fire 202.10, to read as follows:

Fire ~~2021.105~~ Motions.

(a) All motions shall be submitted in writing unless presented orally at the hearing.

(b) The presiding officer shall rule on a motion when made or shall advise parties present that the motion shall be taken under advisement.

Readopt with amendment and renumber Fire 201.16 – Fire 201.18, effective 11-12-08 (Doc. # 9319-A), as Fire 202.11 – Fire 202.13, to read as follows:

Fire ~~2021.116~~ Oaths or Affirmations.

(a) An oath or affirmation shall be administered to each witness by the presiding officer prior to receiving testimony in a hearing.

(b) Interpreters shall have an oath or affirmation administered to them to truthfully and accurately translate all questions asked and answers given.

(c) Once a witness has been sworn or affirmed at any hearing, it shall not be necessary for him/her to be sworn or affirmed again for subsequent testimony on the same day and in the same case. The record of the proceeding shall indicate that a person was recalled to testify, and reminded that he or /she was still under oath or affirmation.

Fire ~~2021.127~~ Applicable Rules of Evidence.

(a) The following shall govern the introduction and admissibility of evidence at hearings:

(1) Hearings shall not be bound by the rules of evidence;

(2) All relevant and material evidence shall be admissible;

(3) Evidence shall include but not be limited to:

- a. Depositions;
- b. Affidavits;
- c. Official documents; and
- d. Testimony of witnesses;

(4) The presiding officer shall exclude any irrelevant, immaterial, or unduly cumulative or repetitious evidence; and

(5) Applicable statutory and constitutional provisions and immunities requiring exclusion of evidence shall be recognized provided however, that nothing contained herein shall prohibit a party from waiving his or her privilege or immunity.

Fire 2024.138 Burden of Proof and Standard of Proof.

~~(a) The party asserting the affirmative of a proposition shall have the burden of proving the truth of that proposition by a preponderance of the evidence.~~

~~(b) Without limiting the generality of paragraph (a) above, each moving party and each petitioner shall have the burden of persuading the commission that the motion or petition should be granted.~~

Readopt and renumber Fire 201.19, effective 11-12-08 (Doc. # 9319-A) as Fire 202.14, to read as follows:

Fire 2024.149 Proposed Findings of Fact and Conclusions of Law.

(a) Any party may submit proposed findings of fact and conclusions of law to the presiding officer prior to or at the hearing.

(b) Upon request of any party, or if the presiding officer determines that proposed findings of fact and conclusions of law would serve to clarify the issues presented at the hearing, the presiding officer shall specify a date after the hearing for the submission of proposed findings of fact and conclusions of law.

(c) In any case where proposed findings of fact and conclusions of law are submitted, the decision shall include rulings on the proposals.

Readopt with amendment and renumber Fire 201.20 and Fire 201.21, effective 11-12-08 (Doc. # 9319-A), as Fire 202.15 and Fire 202.16, to read as follows:

Fire ~~2024.1520~~ Rendering a Decision.

(a) A commission member shall not participate in making a decision unless he or she personally heard the testimony in the case, unless the matter's disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.

(b) If a presiding officer has been delegated the authority to conduct a hearing in the absence of a majority of the commission who are to render a final decision, the presiding officer shall submit to the ~~agency~~commission a written proposal for decision, which shall contain a statement of the reasons for the decision and findings of fact and rulings of law necessary to the proposed decision.

(c) If a proposal for decision in a matter not personally heard by a commission member is adverse to a party to the proceeding other than the commission itself, the commission shall serve a copy of the proposal for decision on each party to the proceeding and provide an opportunity to file exceptions and present briefs and oral arguments to the ~~agency~~commission.

(d) A proposal for decision shall become a final decision upon its approval by the commission.

(e) All decisions shall be reached on the basis of a preponderance of the evidence.

(f) The commission shall keep a decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

Fire ~~2024.1624~~ Record.

(a) The record in a contested case shall include:

- (1) All notices, pleading, motions, orders and rulings;
- (2) All evidence received or considered;
- (3) A statement of any matter officially noticed;
- (4) Objections and rulings on questions, and offers of proof;
- (5) Proposed findings and exceptions;
- (6) Any decision, opinion, or report by the presiding officer at the hearing;
- (7) All staff memoranda or data submitted to or considered by the presiding officer before making the decision;
- (8) The tape recording or stenographic notes or symbols prepared for the presiding officer at the hearing, together with any transcript of all or part of the hearing considered by the presiding officer before making the decision; and
- (9) Matters placed on the record after an ex parte communication.

Readopt and renumber Fire 201.22, effective 11-12-08 (Doc. # 9319-A), as Fire 202.17, to read as follows:

Fire ~~201.17~~<sup>22</sup> Transcripts.

- (a) There shall be an audio recording of all hearings and all parties who are present shall be so notified.
- (b) A copy of the recording, pursuant to RSA 541-A:31, VII shall be made available on written request by a party.
- (c) All written requests for audio recordings or transcripts shall include the following:
  - (1) Name and address of the party making the request;
  - (2) Date of the hearing;
  - (3) Name of the presiding officer; and
  - (4) Docket number of the hearing.
- (d) A party may request, in writing, a transcript of the hearing if all reasonable costs for transcription are paid first.
- (e) The commission shall retain a copy of hearing recordings, for at least 60 days.
- (f) Any person attending a hearing may tape or otherwise record the hearing. The presiding officer shall notify all parties present that the record is in addition to the official record being made by the commission.

Readopt with amendment and renumber Fire 201.23, effective 11-12-08 (Doc. # 9319-A), as Fire 202.18, to read as follows:

Fire ~~201.18~~<sup>23</sup> Reopening of Cases.

- (a) A case shall be reopened whenever:
  - (1) A party alleges the existence of newly-discovered material evidence which due diligence would not have discovered prior to the hearing; or
  - (2) A party alleges any material error, omission, misconstruction of applicable statutes or rules or misrepresentation of applicable precedents.
- (b) A request to reopen a case shall be in writing, and shall be filed within 30 days of the issuance of the decision. It shall outline newly discovered evidence or an allegation of material error, omission, or misconstrued statutes, rules, or misrepresentation of applicable precedents.
- (c) A request to reopen a case shall be denied if it is determined that the request is:
  - (1) Made solely to obtain a delay in the disposition of the case; or

(2) Not in compliance with this section.

Readopt and renumber Fire 201.24, effective 11-12-08 (Doc. # 9319-A), as Fire 202.19, to read as follows:

Fire ~~201.19~~<sup>24</sup> Appeal of Administrative Action. The result of an administrative action shall remain in full force and effect, pending the outcome of the appeal or expiration of the sanction imposed.

Readopt with amendment and renumber Fire 202 – Fire 204, effective 11-12-08 (Doc. # 9319-A), as Fire 203 – Fire 205, to read as follows:

PART Fire ~~203~~<sup>2</sup> PETITION FOR ADOPTION, AMENDMENT OR REPEAL OF A RULE

Fire ~~203~~<sup>2</sup>.01 Petitions for Rulemaking.

(a) Any person may request the commission to commence a proceeding for the purpose of adopting, amending, or repealing a rule by filing a petition.

(b) The petition for rulemaking shall contain the following:

(1) The text of the proposed rule or a statement of the results intended by the petitioner to flow from the implementation of the proposed rules; or

(2) If the petitioner proposed to amend or repeal an existing rule, an identification of the particular rule sought to be amended or repealed.

(c) Petitions shall be filed in accordance with Fire 201.0~~54~~<sup>4</sup>(~~b~~) and (~~e~~).

(d) The petition shall be granted if the commission determines:

(1) The commission has rulemaking authority pursuant to RSA 21-P:27 or RSA 541-A;

(2) The petition clearly identifies issues which require rulemaking;

(3) There is not an existing rule which addresses the issues raised in the petition; and

(4) The petition is consistent with RSA 21-P:27 and any applicable case law.

Fire ~~203~~<sup>2</sup>.02 Commission Action Upon Adoption, Amendment or Repeal of a Rule Petition. Within 30 days of filing, the commission shall, in writing, grant or deny a petition for rulemaking. If the petition is denied, the commission shall state the reasons in the letter denying the petition. If the petition is granted, the commission shall commence rulemaking proceedings as prescribed by law.

PART Fire ~~204~~<sup>3</sup> DECLARATORY RULINGS

Fire ~~204~~<sup>3</sup>.01 Petitions for Declaratory Rulings.

(a) Any person may file a petition requesting a declaratory ruling from the commission on the following matters:

- (1) Any statutory provision that vests authority in the commission;
- (2) Any rule of the commission; or
- (3) Any order of the commission.

(b) The petition for a declaratory ruling shall contain the following information:

- (1) The exact ruling being requested;
- (2) The statutory and factual basis for the ruling, including any supporting affidavits or memoranda of law;
- (3) Interest of the petitioner; and
- (4) The petitioner's name and mailing address.

(c) Petitions shall be filed in accordance with Fire 201.054~~(b) and (c)~~.

Fire 2043.02 Commission Action Upon Petition. Within 60 days of filing, the commission shall respond to the petitioner in writing. If the commission grants the petition, the commission shall provide its ruling to the director of legislative services as required by law. The commission shall reject the petition if it is inadequate or beyond the scope of the commission's authority as specified in RSA 21-P:27.

#### PART Fire 2054 RULEMAKING HEARINGS

Fire 2054.01 Scope. This part shall apply to rulemaking hearings required pursuant to RSA 541-A:11.

Fire 2054.02 Notice. The commission shall cause to be published in the New Hampshire Rulemaking Register a notice of its intent to hold a rulemaking hearing pursuant to RSA 541-A:6.

Fire 2054.03 Presiding Officer.

(a) The hearing shall be presided over by the chair~~person~~ of the commission or his or her designee.

(b) The chair~~person~~ or designee shall:

- (1) Determine whether a quorum of the commission is present for the hearing;
- (2) Call the hearing to order;
- (3) Cause a recording of the hearing to be heard;
- (4) Recognize those who wish to be heard;
- (5) Maintain order during the hearing; and
- (6) Adjourn the hearing.

Fire 2054.04 Order of the Hearing.

(a) Any individual who wishes to testify at the hearing shall provide his or her full name on a speakers list furnished by the commission.

(b) Individuals shall be called to testify in the order in which they signed up.

(c) Before adjourning the public hearing and after all individuals who signed up have been heard, the chairperson or designee shall call for any new testimony from any new speaker.

(d) When the chairperson or designee has determined that no other individual wishes to testify, he or she shall close the public hearing.

Fire 2054.05 Postponement and Continuations.

(a) The chairperson or designee shall postpone a hearing to a later date, time or place in the event of:

(1) Inclement weather;

(2) A lack of quorum; or

(3) Determination by the commission that postponement of the hearing shall facilitate greater participation by the public.

(b) The chairperson or designee shall continue a hearing to a later date, time or place in the event that:

(1) The time allotted is not sufficient to give each individual who wishes to testify an opportunity to do so; or

(2) A lack of a quorum due to unavoidable absence.

(c) Notice of postponement or continuation of a public hearing or of extension of the public comment period shall be provided pursuant to RSA 541-A:11, III and IV(d).

Fire 2054.06 Written Comments. Individuals may submit comments in writing or electronic format to the commission on proposed rulemaking actions any time from the time notice has been published until the end of the public comment period as set forth in the notice of rulemaking.

Fire 2054.07 Copies of Tapes.

(a) All hearings shall be recorded.

(b) A copy of the recording may be requested by submitting a written request to:

Fire Standards and Training Commission

c/o ~~Executive Officer~~

Director of Fire Standards and Training and Emergency Medical Services

33 Hazen Drive



Concord, NH 03305

(c) Pursuant to RSA 91-A:4, persons requesting a copy of the recording shall pay the actual cost of duplication.

(d) Recordings of proceedings shall be preserved for no less than 75 days from the conclusion of the hearing date.

Adopt Fire 206, previously effective 11-12-08 (Doc. # 9319-B) as Fire 205 and expired 11-12-16, to read as follows:

PART Fire 206 EXPLANATION OF RULE

Fire 206.01 Request for Rule Explanation.

(a) Within 30 days after the adoption of a rule, any interested person may request the commission to issue a statement explaining the following:

- (1) The principle reason(s) for and against the adoption of a rule in its final form; or
- (2) Reasons why the commission overruled arguments and considerations relative to the rule.

(b) Rule explanation requests shall be received and disposed of in the following manner:

(1) Requests shall be submitted to the commission at:

Chair, Fire Standards and Training Commission  
 c/o Director, Division of Fire Standards and Training and Emergency Medical Services  
 33 Hazen Drive  
 Concord, NH 03305

(2) When a request for rule explanation has been received by the commission, the commission shall issue a statement responsive to the request within 90 days. The statement shall provide the information required by (a) above.

Readopt with amendment Fire 300 – Fire 900, effective 2-2-17 (Doc. #12099, Interim), to read as follows:

CHAPTER Fire 300 CONDUCT OF MEETINGS

PART Fire 301 MEETINGS OF THE COMMISSION

Fire 301.01 Chairman of the Commission. The ~~chairman~~ shall delegate his or/~~her~~ duties to the vice ~~chairman~~, or any other member of the commission, whenever he or/~~she~~ is unable to perform his or/~~her~~ duties.

Fire 301.02 Robert’s Rules of Order. Meetings shall be conducted in accordance with “Robert’s Rules of Order, 9<sup>th</sup>-11<sup>th</sup> Edition”.

Fire 301.03 Public Participation.

(a) Parties wishing to bring issues to the attention of the commission during a meeting shall first notify the division in writing at least 7 days prior to the date of the scheduled meeting and state the nature of the issue for inclusion on the commission's agenda.

(b) The chairman shall request additional information if it will enable the commission to accurately and completely address an issue.

(c) A person in attendance of a meeting of the commission who wishes to raise an issue but has not complied with the notice requirement in (a) shall request a waiver from the commission.

(d) All requests for waivers shall be made orally and include the following:

(1) Person's name; and

(2) Nature of the issue to be considered.

(e) The chairman shall waive the requirements of paragraph (a) if:

(1) The issue can be addressed given the time available to the commission; and

(2) The commission has the resources available necessary to respond to the issue.

CHAPTER Fire 400 MINIMUM STANDARDS FOR TRAINING AND CERTIFICATION

PART Fire 401 GENERAL INFORMATION

Fire 401.01 Eligibility of Certification.

~~(a) All fire personnel~~ Any person shall be certified by the commission if:

~~(a1)~~ They successfully complete a commission approved course; and

~~(b2)~~ They satisfactorily complete the commission required certification testing.

Fire 401.02 Methods of Completing Certification Courses. Courses shall be provided either in their entirety or in modules. Students shall complete courses, but they ~~Students~~ may complete courses as a part of one program, or may complete the required modules independently, except when prerequisite training is necessary to insure safety or successful completion, as designated in the training ~~outline~~ curricula approved by the commission in accordance with Fire 402.

Fire 401.03 Distinction Between Course Completion and Certification.

(a) Students may complete modules or courses leading to certification by fulfilling all of the requirements specified in the training outline approved by the commission in accordance with Fire 402. After completing these courses, At that time the student shall be eligible for certification testing.

(b) Students shall only be certified by the commission upon fulfilling all course requirements and satisfactory completion of practical and written certification tests as designated by the commission in accordance with these rules.

PART Fire 402 CURRICULA

Fire 402.01 Commission Approval.

(a) Pursuant to RSA 21-P:27, I, the commission shall make a determination as to whether to approve curricula for courses based on a review of a proposed training outline containing the information set forth in Fire 402.03, which shall be provided for the entire course or in modules.

~~(b) The commission shall provide a public review period as outlined in Fire 402.02 prior to final approval of all curricula.~~

~~(c)~~ Approval of curricula shall be by majority vote of the commission.

~~(e)~~ On approval or revision of curricula for a course or module, the date of approval shall be printed on the cover sheet of each training outline and signed by the chair., along with the words “approved by the New Hampshire Fire Standards and Training Commission” and shall include the commission’s seal.

Fire 402.02 Public Review. ~~Pursuant to RSA 21-P:29, III, ¶~~The commission, prior to any final vote regarding minimum standards, selection procedures, or certification, shall allow for public input in accordance with RSA 21-P:29, III.

~~(a) Provide notice of the proposed action to members of the fire service through a direct mailing to all fire departments at least 2 times prior to holding any public hearings on the proposal;~~

~~(b) Allow a 60-day period for the receipt of written comments on the proposal; and~~

~~(c) Hold public hearings on the proposal, one in the daytime hours and another during the evening hours.~~

Fire 402.03 Minimum Information Required for Curricula Approval.

(a) For approval, ~~training outlines~~ curricula shall include, as a minimum, the following information in the form of a written training outline:

- (1) Subject area(s) covered;
- (2) Required number of hours per subject area;
- (3) General content of each subject area;
- (4) Teaching methodology;
- (5) Description of visual aids to be used, if any;
- (6) Description of reference material or information to be used, if any;

- (7) Required facilities;
- (8) Terminal performance objectives, which means the required demonstration by the student of the competencies required;
- (9) Description of written and practical certification tests;
- (10) Statement that the proposed curriculum meets nationally accepted standards;
- (11) Instructor/student ratio;
- (12) Minimum and maximum number of students;
- (~~12~~13) Prerequisites, if any; and
- (~~13~~14) List of equipment required.

Fire 402.04 Curricula for Special Training Needs.

- (a) The commission shall allow the use of curricula other than that approved under these rules if necessary to meet special training needs.
- (b) All curricula submitted pursuant to this section shall include equivalent subject areas and terminal objectives as included in the approved curricula.
- (c) All information specified in Fire 402.03 shall be submitted.
- (d) All items shall be submitted for approval to the commission no less than 60 days prior to the scheduled commencement of training.

PART Fire 403 CERTIFICATION TESTING

Fire 403.01 Certification Testing Generally. At the completion of all courses leading to certification, regardless of whether completed at one time or completed module by module, a certification test shall be passed by the student prior to necessary commission certification.

Fire 403.02 Scope of Testing. Certification testing shall consist of any combination of practical, oral, or written portions. A student shall expect to be tested on any aspect of any course related performance objective.

Fire 403.03 Minimum Scores Required.

- (a) A student shall correctly answer at least 70 percent of the questions on all sections of written and oral tests in order to be eligible for certification.
- (b) A student shall demonstrate the minimum proficiency established in each terminal performance objective in a safe and efficient manner in order to be eligible for certification.

Fire 403.04 Commission Approval of Tests.

(a) All written and practical tests shall be approved as determined in Fire 402.01(a).

(b) Tests offered prior to final commission approval shall be deemed valid for all purposes under these rules, with the exception of any particular questions or objectives subsequently rejected by the commission. In that event, the percentage answered correctly shall be recalculated following removal of rejected questions or standards.

Fire 403.05 Administration of Testing. Testing for certification shall be administered by the ~~commission staff or the division staff~~.

Fire 403.06 Invalidation. Violation of commission procedures or rules that affect the score given to a test shall result in the invalidation of the test.

Fire 403.07 Retesting.

(a) Tests for certification may be taken and failed 2 times after which the ~~candidate student~~ shall ~~retake the specific module or course in which the failure occurred~~ complete the retraining recommended by the director and approved by the commission.

(b) After completion of the retraining recommended by the director and approved by the commission ~~on the failed module, or course~~, the student may retake the test 2 more times.

#### PART Fire 404 INSTRUCTORS

Fire 404.01 General Requirements for Instructors.

(a) Approval for all curricula for the instructor certification program shall be determined in accordance with Fire 402.

(b) All instructors teaching courses approved by the commission shall be state instructors, ~~who shall meet the requirements set forth in Fire 402 and Fire 404.02~~.

Fire 404.02 Initial Minimum Standards for State Instructors.

(a) All state instructors shall:

(1) Be certified in the course, level, or module to be taught, ~~and have:~~

a. ~~Passed the required certification testing program with a minimum score of 85 percent; and~~

b. ~~Have passed all modules with a minimum score of 70 percent;~~

(2) Have completed an approved educational methodology course, pursuant to Fire 402.03, which includes a module on instructing students with adult learning disabilities;

(3) Student teach under the supervision of an assigned ~~state instructor~~ mentor who shall document the student teaching hours and determine teaching proficiency; and

(4) Have at least one mentor (~~senior instructor~~) recommend the student to the commission for designation as a state instructor.

Fire 404.03 Performance Evaluations.

(a) Upon receipt of a complaint, state instructors shall be evaluated by an assigned mentor who shall document the instructor teaching and determine teaching proficiency.

(b) As a result of a negative performance evaluation, the commission shall require the state instructor to successfully complete any of the following or combination of the following in order to maintain the minimum standards required in Fire 404.02:

- (1) Attendance at additional training;
- (2) Student teaching under an assigned supervising instructor; or
- (3) Performance of other activities as deemed necessary by the commission.

Fire 404.04 State Instructors: Maintenance of Status.

(a) In order to maintain status as a state instructor, a state instructor shall:

(1) ~~Either:~~

~~a. Have taught or assisted in a minimum of 3 courses in a 12-month period; or~~

b. Have participated in a commission-approved continuing education program;

(2) Have not been sanctioned or suspended for disciplinary action under Fire 500;

(3) Be current with all paperwork and have completed such paperwork in a complete and timely fashion to the extent necessary for effective administration of training programs; and

(4) Be in compliance with all applicable commission rules.

(b) A state instructor whose status has lapsed less than 1 year may become current by successfully completing (a)(1) and (a)(2). ~~may become current by supplying the commission with documentation of compliance with this section.~~

(c) A state instructor fire service instructor whose status has lapsed greater than 1 year may become current by meeting the requirements outlined in the 404.02 initial minimum standards for state instructors.

(d) A state instructor shall provide the commission documentation of compliance with section (a)(1) and (a)(2) every two years. ~~(e) A state instructor shall provide the commission documentation of compliance with this section.~~

~~(d) Acceptable documentation shall include, but not be limited to the following:~~

~~(1) Letter of recommendation from hiring authority; or~~

~~————— (2) Personnel files.~~

Fire 404.05 Subject Matter Experts~~Specialty Instructors~~.

(a) Subject Matter Experts shall be approved only in the areas of their specialization and shall not teach in any other Commission approved programs~~Persons certified in a specialty course shall be active state instructors only in that area of specialization.~~

(b) ~~Specialty instructors~~Subject Matter Experts shall be approved based on the resume, reputation, and performance evaluation, and shall be required to demonstrate proficiency.

(c) Candidates shall submit to a performance evaluation which shall include the following:

(1) An interview; and

(2) Have at least one mentor recommend the candidate for approval  
~~A skills test to demonstrate proficiency in the specialized area.~~

(d) Subject Matter Experts ~~Specialty instructors~~ shall be deemed provisional ~~specialty instructors~~ until approved.

(e) Subject Matter Experts ~~Specialty instructors~~ shall meet the requirements of ~~Fire 404.03 and~~ Fire 404.04 ~~(a-b) and (e)~~, as applicable.

#### PART Fire 405 TRANSFER OF CREDIT AND CERTIFICATION

Fire 405.01 Reciprocity.

(a) Any person who has been certified in any out-of-state jurisdiction may apply to the commission for certification following 406.02.

~~————— (b) The commission shall impose written and practical examinations of persons coming from approved programs from an out-of-state jurisdiction. Oral examinations shall be given in place of written examinations in order to meet special training needs.~~

~~(e)~~ (b) The commission shall recognize out-of-state certifications that are accredited through a national or international accreditation organization as having the certification in question.

Fire 405.02 Challenges.

(a) A person may submit a petition for declaratory ruling to the commission per Fire 204 to request for credit for training received elsewhere.

(b) The commission shall review the following factors in order to determine whether to grant the person credit:

(1) Subject areas covered;

(2) Actual hours of instruction;

(3) Content of subject areas;

(4) Terminal performance objectives, which means the required demonstration by the student of the competencies required; and

(5) Date of completion.

(c) After reviewing (b)(1)-(5) above, the commission shall grant the person credit if the other training meets or exceeds the ~~same commission's established curricula~~ objectives, subject to section (d) below; or the commission may require additional training needed to meet the objectives as required by the commission approved curricula for the same subject matter.

(d) The person shall complete the following:

(1) A written examination or oral examination in ~~order to meet special training needs~~ the subject matter; or

(2) Skills performance examination.

(e) The person shall be required to provide documentation as is necessary to accurately assess the proficiency of the person. Such documentation shall include certificates, diplomas, and performance in courses taken.

(f) The person may request in writing that the commission to review/reconsider any decisions rendered under this part within 30 days of the original determination.

## CHAPTER Fire 500 OWNERSHIP AND REVOCATION OF CERTIFICATES

### PART Fire 501 OWNERSHIP AND REVOCATION

Fire 501.01 Ownership of Certificates. All certificates and documents issued by the commission shall remain the property of the commission and shall be returned to the commission upon revocation or suspension.

Fire 501.02 Suspension.

(a) After notice and opportunity for a hearing, the commission shall, unless it has just cause to do otherwise as provided in (c) below, order the suspension of certification if a person commits a violation, after prior notice, of commission rules relative to himself or herself or the fire personnel working or training under his or her control and his or her direction.

(b) The provisions of Fire 200 shall apply to hearings held under this subdivision.

(c) The commission shall not order suspension of a certification if it finds just cause not to do so which includes:

(1) The charges against the fire personnel were not proven by a preponderance of the evidence; or

(2) The violation is so minor that a suspension would not have a deterrent or rehabilitative value.



(d) The suspension period shall be set for 90 days unless mitigating circumstances warrant a reduced suspension period.

(e) For the purposes of (d) above, mitigating circumstances include:

- (1) The lack of a prior disciplinary record;
- (2) The seriousness of the violation;
- (3) The certificate holder's acknowledgment of his or her wrongdoing;
- (4) The purpose of the rule or statute violated;
- (5) The potential harm to public health and safety; and
- (6) The deterrent effect upon other firefighters.

Fire 501.03 Revocation.

(a) After notice and opportunity for a hearing, the commission shall, unless it has just cause to do otherwise as provided in (c) below, order the revocation of certification for any of the following reasons:

- (1) The certification was obtained by fraudulent means;
- (2) The certificate was issued through administrative error; or
- (3) The person holding certification is convicted of a felony.

(b) The provisions of Fire 200 shall apply to hearings held under this subdivision.

(c) The commission shall not order revocation of a certification if it finds just cause not to do so which includes the charges against the fire personnel were not proven by a preponderance of the evidence.

CHAPTER Fire 600 MANDATORY STANDARDS AND NOTIFICATION REQUIREMENTS FOR  
~~FULL-TIME CAREER-FIRE~~ SERVICE PERSONNEL

PART Fire 601 NOTIFICATION REQUIREMENTS OF ALL APPOINTED FULL-TIME CAREER  
~~FIRE~~ SERVICE PERSONNEL

Fire 601.01 Fire Department Notification of Employment.

(a) The hiring authority shall notify the commission of newly appointed full-time career fire service personnel ~~by submitting the commission's employee status notification form A~~ within 15 days of the appointment.

(b) The notice required in (a) above shall be provided using the "Employee Status Notification – Form A", updated 102-20175. ~~hiring authority shall supply the following on form A:~~

- ~~(1) Name, address and date of birth of newly appointed full-time career fire service personnel;~~
- ~~(2) Effective date of appointment and position;~~

- ~~(3) Department name and address;~~
- ~~(4) Indication whether the fire fighter newly appointed full time career fire service personnel:~~
  - ~~a. Is over 18;~~
  - ~~b. Has had a criminal background investigation in accordance with Fire 701.01(c);~~
  - ~~c. Has been examined by a licensed physician in accordance Fire 701.01(f); and~~
  - ~~d. Meets minimum physical fitness requirements in accordance with Fire 702; and~~
- ~~(5) Signature of hiring authority, title and date.~~

Fire 601.02 Fire Department Notification of Termination.

(a) The hiring authority shall notify the commission within 15 days of any retirement, termination, or resignation ~~by submitting the employee status notification form B.~~

(b) The notice required in (a) above shall be provided using the "Employee Status Change Notification – Form B", updated 2-2017-10-2015. ~~hiring authority shall supply the following on form B:~~

~~(1) Name and date of birth of the terminating full time career fire service personnel;~~

~~(2) Fire department name and address;~~

~~(3) The effective date of:~~

- ~~a. Discharge;~~
- ~~b. Retirement;~~
- ~~c. Resignation; or~~
- ~~d. Death.~~

~~(4) Signature of hiring authority, title and date.~~

PART Fire 602 NOTIFICATION REQUIREMENTS OF ALL FIRE SERVICE PERSONNEL

Fire 602.01 Annual Submittal of Fire Department Roster of Fire Service Personnel.

(a) Fire departments shall supply the commission with a current roster of all fire service personnel by December 31<sup>st</sup> of each calendar year.

(b) The roster shall contain the following information for each person comprising the fire department's fire service personnel:

(1) Full legal name;

(2) Mailing address;

(3) Telephone number;

(4)(4) Date of birth; and

(5) Fire service status (career full-time, on-call, part-time, paid, or volunteer).

CHAPTER Fire 700 ~~FIRE FIGHTER~~ MANDATORY STANDARDS FOR APPOINTMENT OF FULL-TIME CAREER FIRE SERVICE PERSONNEL

PART Fire 701 ~~REQUIREMENTS OF MANDATORY~~ HIRING STANDARDS

Fire 701.01 ~~Fire Fighter~~ Full-time Career Fire Service Personnel Entrance Requirement.

~~(a) For the purposes of this rule, "mental disorder" means a condition defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association diagnosed by a psychologist or psychiatrist, based upon mental status examination or psychological testing.~~

~~(a)~~ Fire departments, state agencies, or private corporations providing fire/rescue services to the general public and hiring full-time career fire service personnel employees shall have minimum entrance requirements as follows:

(1) The candidate shall have a high school diploma or GED, general educational development;

(2) The candidate shall not have been convicted of a felony under federal law, or the law of this or any other state, province, territory, country; or military unless he or she has been pardoned or the conviction has been annulled; and

(3) The candidate shall be at least 18 years of age;

~~(b) The hiring authority shall conduct, or cause to be conducted, a background investigation before the candidate is employed. Before the candidate is employed the hiring authority shall conduct or cause to be conducted a background check to include at a minimum the existence of a criminal history record and motor vehicle violation history record in New Hampshire.~~

~~(c)~~ The candidate shall not be employed if the candidate:

(1) Has been discharged from the military service under other than honorable conditions, where the circumstances, in the opinion of a reasonable person, would cast doubt on his or her fitness to be a firefighter as a fire service personnel;

(2) Has been convicted of a felony under federal law, or the law of this or any other state, province, territory or country, unless he or she has been pardoned or the conviction annulled;

(3) No person shall be appointed a full-time career fire service personnel unless he or she is a citizen of the United States;

(24) Has been convicted of a misdemeanor by a civilian or military court and for which he or she has not received a pardon or the conviction annulled, which offense or the underlying circumstances surrounding the commission thereof was such that it would cause a reasonable person to doubt the applicant's character, honesty or ability;

(35) Has been convicted in a civilian or military court of more than one misdemeanor or violations for which he or she has not received a pardon or the conviction annulled, and which would indicate to a reasonable person a pattern of disregard for the law;

(46) Has been convicted in a military or civilian court in the 10 years immediately before application for hire as a ~~firefighter~~ fire service personnel of a misdemeanor for which he or she has not received a pardon or the conviction annulled, and which resulted in a serious bodily injury to another person;

(57) Has a history of illegal drug use or has illegally manufactured, transported for sale or sold a controlled substance that would cast doubt of his or her ability to perform as a firefighter;

(68) Has had fire certifications revoked from jurisdictions other than the state of New Hampshire;

(79) Suffers from a mental disorder for which he or she has not undergone effective rehabilitation, which would affect his or her ability to perform fire fighting duties;

(810) Has been discharged or allowed to resign in lieu of termination with other employers for reasons of moral character or moral turpitude for acts or omissions of conduct that would cause a reasonable person to doubt the candidate's honesty or integrity; or

(911) Is found to have a general character and reputation in the community that a reasonable person would doubt that the applicant would conduct him or herself with honesty and integrity.

(de) After written authorization is received from a physician, the candidate shall pass the physical ability test described in Fire 702, unless the candidate has been placed in layoff status due to a reduction in force and the current appointment is by the same hiring authority.

~~(ef) The candidate shall pass a pre-placement medical evaluation as outlined in NFPA 1582. Category "A" conditions as outlined by NFPA 1582 shall be causes for rejection. Waivers for category "B" conditions shall be granted after consultation with the local fire department physician. The candidate shall complete a pre-employment medical evaluation as outlined NFPA 1582 2013 Edition. Based on the medical evaluation, the hiring authority shall determine the candidate's ability to successfully and safely perform essential job tasks, as listed in NFPA 1582 2013 Edition, without posing a significant safety or health risk to themselves, members or civilians.~~

~~— (g) The candidate shall pass a written entrance examination given by the jurisdictional agency to determine the candidate's ability to successfully complete the fire fighter training program, unless the candidate has previously completed the mandated training prescribed in Fire 701.02.~~

(fh) The candidate shall be orally interviewed by the jurisdictional agency hiring authority to determine the candidate's ability to communicate and how the person represents him or herself to others.

Fire 701.02 Full-time Career Fire ~~Fighter~~ Service Personnel Level of Training Required.

(a) Full-time career fire service personnel ~~fighters~~ shall, ~~within~~ prior to completion of their first ~~one~~ year of original appointment, complete the minimum a program of study as adopted by the commission in accordance with Fire 401 and Fire 402 ~~as a career fire fighter~~. Performance required of the person shall be in accordance with all applicable sections of Fire 400.

(b) The requirements of Fire 701.02(a) shall not apply when a full-time career fire service personnel:

- (1) Has previously met the requirements of Fire 701.02(a);
- (2) Is placed in lay off status due to a reduction in force; and
- (3) Is hired by a New Hampshire fire department within one year of the date of the lay off.

PART Fire 702 PHYSICAL ABILITY TESTS REQUIREMENTS

Fire 702.01 Physical Ability Test. The candidate shall pass a physical ability test, as set forth in the Fire Service Joint Labor Management Wellness/Fitness Initiative's "Candidate Physical Ability Test (CPAT)", ~~1999~~ 2<sup>nd</sup> edition in accordance with the current licensing agreement to conduct CPAT. The physical ability test shall be good for 26 months from the time the candidate successfully completes the CPAT.

Fire 702.02 Acrophobia Test. Full-time career fire service personnel ~~fighters~~ shall, within one year of original appointment, complete an acrophobia test. The firefighter, without stopping for more than 30 seconds, shall climb up and down an unsupported aerial ladder at an angle of at least 65 degrees but not more than 75 degrees for a distance of 100 feet as measured from the tip of the ladder to the ground.

PART Fire 703 TRANSFERS/LAPSE IN SERVICE

Fire 703.01 Transfers.

(a) Any full-time career fire service personnel, as defined in Fire 101.17, and employed by a New Hampshire fire department, as defined in Fire 101.15, may transfer employment to another fire department. Said hiring shall meet Fire 701.01(a), Fire 701.01(b), ~~Fire 701.01(c)~~, Fire 701.01(d), Fire 701.01 (f) and Fire 701.02. The individual shall have previously completed the requirements of Fire 702.01 or the physical ability test in effect at the time of original appointment.

(b) Any full-time career fire service personnel that is placed in lay off status due to a reduction in force shall have up to 12 months from the date of lay off to transfer to another fire department.

Fire 703.02 Lapse in Service. The following shall apply to lapses in service:

(a) The employment eligibility for a full-time career fire service personnel shall lapse if the employee terminates employment and is not employed as a fire service personnel within a period of 30 days after such termination.

~~(b) If the person who has lapsed is re-employed as a full-time career fire service personnel after his or her employment eligibility has lapsed, the hiring authority shall following the hiring requirements outline is 701.01 and 701.02. may request eligibility without additional training, which the commission shall grant unless the commission determines that the basic training curriculum has materially changed since the person was originally certified and the commission determines from the record that the person's ongoing training would not adequately familiarize the individual with the substantive changes. Compliance with Fire 701 and Fire 702 shall be met prior to re-employment.~~

## PART Fire 704 WAIVERS

### Fire 704.01 Request for Waiver.

(a) ~~An agency~~ hiring authority may make a written request to waive any of the minimum selection, educational, and training standards for full-time career fire service personnel. The request shall be made within 30 days of the employment date for an employment position.

(b) The request shall specify:

- (1) What rule or rules for which a waiver is requested;
- (2) The reason for waiver request;
- (3) The information and signature required on "Form A" in Fire 601.01;
- (4) The current position description; and
- (5) The description of responsibilities relating to emergency response and/or mitigation.

(c) Waiver requests that do not meet the requirements of this rule shall be returned to the ~~agency~~ hiring authority with a written explanation. ~~A n agency~~ hiring authority may resubmit a waiver request but it shall not stay the tolling of the 30 days set forth in (a) above.

### Fire 704.02 Determination of Waiver.

(a) The commission shall grant a request for a waiver if it determines that the full-time fire service personnel position specified in Fire 704.01 does not include emergency response and mitigation as its predominant responsibilities.

(b) The commission shall deny a request for a waiver if:

- (1) The request is untimely; or
- (2) The commission determines that the fire service position specified in Fire 704.01 includes emergency response and mitigation as its predominant responsibilities.

(c) Anyone aggrieved by a determination by ~~the~~ the commission may request that the commission reconsider any decisions rendered under this part within 30 days of the original determination ~~may request a hearing pursuant to Fire 200.~~

Fire 704.03 Duration of Waiver. When a waiver is granted, it shall only be valid while the employee granted a waiver in Fire 704.01 is employed in that said position.

~~PART Fire 705 RENEWAL~~

~~Fire 705.01 Lapse in Service. The following shall apply to lapses in service:~~

~~(a) The employment eligibility for a full time career fire service personnel shall lapse if the employee terminates employment and is not employed as a fire service personnel within a period of 30 days after such termination.~~

~~(b) If the person who has lapsed is re-employed as a full time career fire service personnel after his or her employment eligibility has lapsed, the hiring authority may request eligibility without additional training, which the commission shall grant unless the commission determines that the basic training curriculum has materially changed since the person was originally certified and the commission determines from the record that the person's ongoing training would not adequately familiarize the individual with the substantive changes. Compliance with Fire 701 and Fire 702 shall be met prior to re-employment.~~

CHAPTER Fire 800 ALLEGED CHEATING INCIDENTS, ALL TESTS

PART Fire 801 ALLEGATIONS OF CHEATING

Fire 801.01 ~~Candidates~~ Students Caught Cheating. Any ~~candidate-student~~ caught cheating on any examination shall have his ~~or~~ her test ~~and training leading to certification eligibility~~ invalidated and shall forfeit the right to achieve certification. The ~~candidate-student~~ shall be dismissed and not allowed to complete any other phase of the procedure. The ~~candidate's-student's~~ fire department shall be notified of the incident. This provision is in addition to any other discipline available under Fire 501-020.

Fire 801.02 Settlement of Cheating Complaints. Complaints regarding allegations of cheating shall be handled as set forth in Fire 200 if the complaints could result in suspension or revocation of a student's existing certification(s).

CHAPTER Fire 900 ~~RECORDS~~ COMMISSION APPROVED ENROLLMENT REQUIREMENTS

PART Fire 901 ~~STUDENT RECORDS~~ BACKGROUND REQUIREMENTS

Fire 901.01 ~~Student Record Release~~ Training Program Admittance Requirements. The ~~chief~~ commission shall require persons who are not members of New Hampshire fire departments, state agencies; or units of government to have a background check to include at a minimum the existence of a criminal history record in New Hampshire, to sign a release for disclosure of their criminal and motor vehicle records for every jurisdiction where the applicant has resided, and from the Federal Bureau of Investigations. Any person whose background would disqualify him ~~or~~ her from ~~appointment~~ attaining certification under Fire 501.023 as a fire fighter pursuant to Fire 700 shall be denied admittance to commission sponsored programs.

## APPENDIX A

<b>RULE</b>	<b>STATUTE</b>
Fire 101.01	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.02	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.03	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.04	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7; RSA 541-A:16, I(a)
Fire 101.05	RSA 21-P:25, II(a)
Fire 101.06	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.07	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.08	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.09	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7; RSA 541-A:16, I(a)
Fire 101.10	RSA 21-P:25, II(b)
Fire 101.11	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.12	RSA 21-P:12-a
Fire 101.13	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.14	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.15	RSA 21-P:25, II(c)
Fire 101.16	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 100-A:1, VIII
Fire 101.17	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.18	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.19	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.20	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.21	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7; RSA 541-A:16, I(b)—(d)
Fire 101.22	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.23	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.24	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.25	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.26	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 101.27	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7
Fire 102.01	RSA 21-P:26; RSA 541-A:16, I(a)
Fire 102.02	RSA 21-P:25, I; RSA 21-P:26; RSA 21-P:27; RSA 21-P:28; RSA 21-P:29
Fire 103.01	RSA 541-A:16, I(a); RSA 91-A:4, IV
Fire 201.01	RSA 541-A:16, I(b)
Fire 201.02	RSA 541-A:16, I(b)
Fire 201.03	RSA 541-A:16, I(b); RSA 541-A:30-a, III(j)
Fire 201.04	RSA 541-A:16, I(b); RSA 541-A:30-a, III(f)
Fire 201.05	RSA 541-A:16, I(b); RSA 541-A:30-a, III(a)
Fire 201.06	RSA 541-A:16, I(b)
Fire 202.01	RSA 541-A:16, I(b)
Fire 202.02	RSA 541-A:16, I(b); RSA 541-A:31, V
Fire 202.03	RSA 541-A:16, I(b); RSA 541-A:31, III
Fire 202.04	RSA 541-A:16, I(b); RSA 541-A:30-a, III(h)
Fire 202.05	RSA 541-A:16, I(b); RSA 541-A:30-a, III(b)
Fire 202.06	RSA 541-A:16, I(b); RSA 541-A:30-a, III(c)



Fire 202.07 – 202.09	RSA 541-A:16, I(b); RSA 541-A:30-a, III(g)
Fire 202.10	RSA 541-A:16, I(b)
Fire 202.11	RSA 541-A:33, I
Fire 202.12	RSA 541-A:33, II
Fire 202.13	RSA 541-A:16, I(b); RSA 541-A:30-a, III(d)
Fire 202.14	RSA 541-A:31, VI (c); 541-A:35
Fire 202.15	RSA 541-A:34-35; 541-A:30-a, III (e)
Fire 202.16	RSA 541-A:16, I(b); RSA 541-A:31, VI
Fire 202.17	RSA 541-A:31, VII; RSA 91-A:4, IV
Fire 202.18	RSA 541-A:16, I(b); RSA 541-A:30-a, III(i)
Fire 202.19	RSA 541-A:16, I(b); RSA 541:18
Fire 203	RSA 541-A:4; RSA 541-A:16, I(c)
Fire 204	RSA 541-A:16, I(d)
Fire 205	RSA 541-A:16, I(b)
Fire 206	RSA 541-A:11, VII
Fire 301	RSA 541-A:16, I(a)
Fire 401.01—402.01	RSA 21-P:25, I; RSA 21-P:28, I(a)
Fire 402.02	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, III
Fire 402.03—404.05	RSA 21-P:25, I; RSA 21-P:28, I(a)
Fire 405	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, II
Fire 501	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, II
Fire 601	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, I
Fire 602	RSA 21-P:28, I(c)
Fire 701—702	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, I
Fire 703—704	RSA 21-P:25, I; RSA 21-P:28, I(a)
Fire 801.01	RSA 21-P:25, I; RSA 21-P:28, I(a)
Fire 801.02	RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:30
Fire 900	RSA 21-P:25, I; RSA 21-P:28, I(a)

**APPENDIX B  
MATERIALS INCORPORATED BY REFERENCE**

<b>Rule</b>	<b>Title</b>	<b>Obtain at:</b>
Fire 101.18	Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, 5 <sup>th</sup> Edition (2013).	<p>American Psychiatric Association Publishing 1000 Wilson Boulevard Suite 1825 Arlington, VA 22209 Phone: 1-800-368-5777 Web site: <a href="http://www.appi.org">www.appi.org</a></p> <p>Ordering and pricing options: Hardcover - \$210.00 for non-APA members and \$168.00 for members; Softcover - \$160.00 for non-APA members and \$128.00 for members</p> <p>Membership information is available at <a href="http://www.psychiatry.org/join-apa">www.psychiatry.org/join-apa</a></p>
Fire 301.02	Robert's Rules of Order, 11 <sup>th</sup> Edition (2011).	<p>American Legal Publishing One West Fourth Street, 3<sup>rd</sup> Floor Cincinnati, OH 45202 Telephone: (800) 445-5588 Fax: (513) 763-3562 \$69.95 CD-ROM, excluding S&amp;H</p>
Fire 702.01	Candidate Physical Ability Test, International Association of Fire Fighters, Fire Service Joint Labor Management Wellness/Fitness Initiative, 2d Edition (2007).	<p>Any use of the CPAT is only allowed within the terms and conditions spelled out in a licensing agreement, which must be strictly adhered to by all licensees. While the IAFF may permit the reproduction and reprinting of the CPAT upon request, this does not authorize the licensee to reprint or reproduce, in whole or in part, the CPAT. Specific, written permission is necessary from the IAFF in order to reprint or reproduce the CPAT. CPAT license application information is available at <a href="http://www.iaff.org/HS/CPAT/CPATApplication/form.htm">http://www.iaff.org/HS/CPAT/CPATApplication/form.htm</a></p>