

Regulatory Analysis
LSA Document #24-59**I. Description of Rule****a. History and Background of the Rule**

Title 655 provides the rules and regulations of the Board of Fire Personnel Standards and Education Board. Title 655 sets the minimum standards for firefighters in Indiana and establishes voluntary certifications for other disciplines/advanced certifications. The proposed new rule clarifies the overall training and certification framework so first responders better understand the requirements.

In general, the regulations contained within [655 IAC](#) only receive minor updates, if any, every 8-10 years. National Fire Protection Association (NFPA) standards included as part of [655 IAC](#) are updated through an emergency rule process outlined in [IC 4-22-2-37.1](#) every two (2) years. The rule has become very disjointed and difficult for responders to read and comprehend without utilizing additional resources including the emergency rule published in the Indiana Register. This proposal will bring NFPA standards up to date and will allow for more flexibility with the emergency rulemaking process moving forward to only update standards that have significantly changed from previous versions.

b. Scope of the Rule – Describe at a high-level the scope of the changes in the proposed rule. For example, is the rule simplifying a process, clarifying definitions, aligning the rules with current law, or is it a repeal and replace effort to assist with regulatory compliance and implementation. If it is a repeal and replace, explain why this method was chosen rather than simply amending the existing regulations.

The primary reasons for the proposed new rule are as follows:

1. The proposed new rule updates the safety standards for first responders, specifically firefighters.
2. The proposed new rule provides a better reporting structure for criminal issues.
3. The proposed new rule clarifies expectations for fire investigators' continuing education to line up with the updated NFPA Standards.
4. The proposed new rule establishes a framework for the "best practices fund."
5. The proposed new rule simplifies the overall training and certification framework so first responders can better understand requirements.
6. The proposed new rule closes the gap between minimum firefighting training standards and the NFPA standards for interior firefighting operations to better protect volunteer firefighters and provide recruitment incentives.
7. The proposed new rule updates the NFPA standards so that these NFPA standards no longer need to be updated via emergency rulemaking process every two (2) years; Moving forward, these standards will only need to be updated if they have significantly changed since the previous version.

c. Statement of Need

See Description of Rule (above).

d. Statutory Authority for the Proposed Rule

IC § 22-14-2-7

e. Fees, Fines, and Civil Penalties

The rule adds a \$50.00 fee that will be effective upon effectiveness of the rule and will stay in effect until amendment or expiration of the rule. The fee will be paid by: (a) fire investigators and fire and emergency services instructors who failed to recertify prior to expiration of their certificate but within 120 days of its expirations; and (b) applicants for certifications issued by the Indiana Board of Firefighting Personnel Standards and Education who have not met the general Indiana requirements but have completed equivalent training and testing. (Note: This fee was presented to and approved by the State Budget Committee on August 4, 2023.

II. Fiscal Impact Analysis**a. Anticipated Effective Date of the Rule**

July 1, 2024.

b. Estimated Fiscal Impact on State and Local Government

If a fire investigator is not currently participating in continuing education courses, there may be minimal cost to the individual or the entity for which they work to cover the requisite training hours. Instructors for fire investigator courses are typically paid \$25/hr. If a student is required to attend twenty (20) hours of continuing education every two (2) years and assuming approximately ten (1) students per class, that would equate to approximately \$50 per fire investigator for each renewal cycle.

However, fire investigators impacted by continuing education requirements are likely already participating in continuing education seminars, conferences, and trainings to maintain knowledge of current and updated standards for fire investigations. This means the fiscal impact for the regulated community will be significantly lower than the \$50 per fire investigator calculated in the paragraph above.

In summation, the proposed new rule has minimal fiscal impact on state or local government and individuals in the regulated community.

c. Sources of Expenditures or Revenues Affected by the Rule

The expansion of the fee to the new applications discussed above is estimated to generate an additional \$8,750 in revenue. The money will be used to cover the administrative costs of processing these special requests.

III. Impacted Parties

The impacted parties include the State of Indiana, the Indiana Department of Homeland Security and its staff, local fire departments, and the individuals holding and obtaining fire certifications, and the public-at-large being served. There are roughly 9,500 individuals certified as an investigator and instructor that will be affected by this rule.

IV. Changes in Proposed Rule

The proposed new rule updates the safety standards for first responders, provides a better reporting structure for criminal issues, clarifies expectations for fire investigators' continuing education to line up with the updated NFPA Standards, establishes a framework for the "best practices fund," simplifies the overall training and certification framework so first responders can better understand requirements, closes the gap between minimum firefighting training standards and the NFPA standards for interior firefighting operations to better protect volunteer firefighters and provide recruitment incentives, lays out the framework of the "variance" process which has already been taking place per [IC 22-13-2-7.5](#) but had not yet been included in rule, and establishes the \$50 fee described in the Fiscal Impact Analysis (above).

By updating the NFPA standards, the proposed new rule ensures that these standards will no longer need to be updated via emergency rule every two (2) years. With the existing rule, IDHS is reliant on the emergency rulemaking process to keep these NFPA standards updated, and the proposed new rule will allow more flexibility in the emergency rulemaking process moving forward to only update standards that have significantly changed from previous versions.

For further explanation and analysis, see [655 IAC](#) – Proposed New Rule Analysis' (attached).

V. Benefit Analysis

The proposed rule includes numerous benefits and imposes minimal costs, if any.

The proposed rule lays out the framework for "variances," which are no cost to anyone, and provide a major benefit to everyone involved, including the State, IDHS staff, and the individual seeking a variance. Variances save everyone the time and money it would otherwise cost to meet the requirements of certification in the absence of the variance. Variances are a benefit to the State/IDHS because they allow the State and its employees to save the money and time it would otherwise take to put on a learning course and examination. Variances are a benefit to the individual seeking the variance because they save him/her the time and money it would otherwise cost to take the learning course/examination. Typically, there are 80-100 variances granted in a year. This variance process is already in place, just not including in the existing [655 IAC](#).

The "Minimum Training Requirements for Emergency Response Support," found in Article 3 of the proposed rule, provides significant benefits and savings to fire departments and firefighters because this new minimum

standard significantly reduces the total number of training hour required (from roughly 100 hours to 30-some hours). This reduction in training hours is a major benefit because it allows for more responders and increases the number of volunteer firefighters available in supporting roles. This increases the pool of available people for volunteer fire departments in support roles. This is a benefit to everyone. It is a benefit to the public-at-large because there are more responders able to respond to emergencies. It is a benefit to IDS because it allows for more responders and addresses any issue of there being a shortage of responders. It is a benefit to the individuals who would like to be volunteer firefighters but may not have been able to complete the existing requirement of 100 hours of training. Additionally, this minimum training requirement is a gateway for more individuals minimally trained to continue their training in more advanced certifications. It opens the door to more individuals. This is a major benefit to all impacted parties and there is no cost.

Article 4 of the proposed new rule lays out the advanced certifications beyond the minimum training requirements of Article 3. [655 IAC 4-3](#) of the proposed rule updates certification requirements to the current NFPA standards, to match the NFPA standards in emergency rules. This is a benefit that comes at no cost. Specifically, it provides the benefit of not having to update via emergency rule every 2 years.

The proposed rule provides new "continued education" language that clarifies the expectations of fire investigators to line up with the updated NFPA standards. In practice, this is already taking place, so it is new to the rule, but not new to fire investigators. There may be minimal fiscal impact for fire investigators to complete this continued education, but, most fire investigators are already required to complete this continued education, and there are also free continued education courses available. Even if there is a minimal cost, this cost is greatly outweighed by the benefit of fire investigators keeping abreast with continued education so they can serve the public competently.

[655 IAC 5-4-1](#) of the proposed rule, "Application for certification course administration," modifies a few of the deadlines to match current practices and to match the current practices and realities of technology. This reduces the timeframe from 30 days to 15 days and this is a benefit. It allows for a quicker turnaround time to submit a course and train individuals. This new language is intended to reflect the realities of the times. This imposes no cost. Money is saved through technology and no longer having to pay for postage/shipping.

[655 IAC 5-4-3](#) of the proposed rule provides the following modification from the existing rule: a certification course in emergency response support does not require a written examination. This is a benefit because the modification will remove a requirement for new firefighter training standards. This should remove a burden for volunteer fire departments who are attempting to get members trained and responding as quickly as possible. This is a benefit to everyone because it allows more firefighters to enter the system without taking the full course. More firefighters responding to fire incidents is a benefit to the public-at-large.

[655 IAC 5-4-6](#) of the proposed rule, "Examination security and integrity" is new and gives IDHS and the Fire Marshal the authority and ability to investigate (rather than the Board). This is a benefit because the Board does not have an investigative arm nor the resources for an investigation. In practice, the Board already relies on IDHS to conduct investigations for them. This language clarifies what is already happening in practice.

For further explanation of the Benefits, see '[655 IAC](#) – Proposed New Rule Analysis' (attached).

VI. Cost Analysis

Overall, the proposed rule does not impose new costs on any of the impacted parties but improves safety and creates a better reporting system for criminal convictions, providing the framework for variances, and clarifying the continued education requirements for fire investigators.

The new 'reporting of a criminal conviction' requirement creates no additional cost to the State because no additional technology is needed. The technology system needed to move forward with this, Acadis, is already in place. The State and the individuals are already using the Acadis system. The only cost to the individual is the nominal cost (typically \$5.00) of obtaining certified copies of court documents. The time and effort required to report a criminal conviction may vary, depending on the individual's level of focus and speed, but should not exceed 30 minutes.

Variances are no cost to anyone, and they provide a major benefit to everyone involved (the State, IDHS staff, the individual) because variances save everyone the time and money it would otherwise cost to meet the requirements of certification in the absence of the variance.

There is minimal fiscal impact involved in the continued education requirement for fire investigators because many of these fire investigators are already required to complete 16 hours of continued education every 2 years, and there are online trainings available at no cost. The cost, if any, is the lost productivity of fire departments while an individual is doing continued education, but the benefit outweighs the cost in that the individual is then up to date on training and education. Additionally, this "cost" is unlikely to exist at all because continuing education is already taking place in practice, it just was not laid out in the existing rule. Continuing education is a benefit to all.

The rule adds a \$50.00 that will be effective upon effectiveness of the rule and will stay in effect until amendment or expiration of the rule. The fee will be paid by: (a) fire investigators and fire and emergency services instructors who failed to recertify prior to expiration of their certificate but within 120 days of its expirations; and (b) applicants for certifications issued by the Indiana Board of Firefighting Personnel Standards and Education who have not met the general Indiana requirements but have completed equivalent training and testing. (Note: This fee was presented to and approved by the State Budget Committee on August 4, 2023. See Budget Committee Report below.)

HEA 1623-2023 Budget Committee Report

New Fee

Agency/Department: Indiana Department of Homeland Security - Board of Firefighter Personnel Standards and Education

Fee/Fine/Penalty: Fire personnel Re-certification and Reciprocity Fee

Pursuant to [IC 4-22-2-19.6](#) in HEA 1623, the following analysis must be completed to comply with the requirements of the provision.

Fee, Fine, or Penalty Specifics

1) What is the new amount of the proposed fee, fine, or penalty? 2) When will the fee, fine, or penalty be effective and for how long? 3) Who is going to have to pay the fee, fine, or penalty?

1) Fee amount: \$50

2) The fee will be effective upon effectiveness of the rule and will stay in effect until amendment or expiration of the rule.

3) The fee will be paid by: (a) fire investigators and fire and emergency services instructors who failed to recertify prior to expiration of their certificate but within 120 days of its expiration; and (b) applicants for certifications issued by the Indiana board of firefighting personnel standards and education who have not met the general Indiana requirements but have completed equivalent training and testing.

Authority and Accounting

1) What is the statutory authority for the fee, fine, or penalty? 2) Will the money go into the general fund or a dedicated fund? If so, specify which one. 3) Explain the public policy reason for the fee, fine, penalty.

1) Statutory authority: Ind. Code § 22-14-2-7(d).

2) The fee is deposited in the Fire and Building Services Fund established by Ind. Code § 22-12-6-1.

3) The purpose of the fee is to cover the administrative time it takes staff to process applications filed under these special certification processes. For recertification after expiration, the program (including the fee) is being expanded to cover newly expiring certifications. For reciprocity, the fee is new and is intended to cover the time it takes to manually process the application as opposed to the automated process that is followed under the general framework.

Revenue and Uses

1) How much revenue is the fee, fine, or penalty estimated to generate? 2) What will the money be used for?

1) The expansion of the fee to the new applications discussed above is estimated to generate an additional \$8,750 in revenue (this is in addition to the \$12,500 collected under the current rule which is not changing).

2) The money will be used to cover the administrative costs of processing these special requests.

Discussion

1) Discussion of how the amount of the fee, fine, or penalty satisfies the factors in [IC 4-22-2-19.6](#) (c) (fees) or (d) (fines or penalties).

1) This fee is reasonably based on the amount necessary to carry out the purpose for which the fee is imposed. The \$50 fee is imposed to account for the additional administrative time necessary for processing recertification and reciprocity requests. Processing requests for certification under these programs is not automated like the general process to obtain a certification or renewal of a certification. Typically, staff will spend an hour of time processing requests filed under these processes and in some instances much more. Ultimately, the costs imposed upon the agency in manually processing these applications will exceed the revenue collected from the fee.

Additionally, the \$50 recertification fee is reasonable as it maintains the status quo for the cost of recertification

that has been in effect since at least 2012 and it is consistent with the recertification fee charged by the Emergency Medical Services Commission. The new introduction of the fee to applications for reciprocity is reasonable as it is the equivalent fee charged for recertification (the only other process for obtaining a certification that requires a manual review) and it is being charged for the same purpose of covering administrative costs of manually processing these requests. Moreover, the time spent on manually processing reciprocity applications is far greater than the time spent processing recertification requests.

Both the recertification and reciprocity processes are put in place to ease the burden on applicants for certification. These processes offer a quicker and less costly process for applicants who otherwise would need to meet all the standards for obtaining an initial certification.

Therefore, based upon the above information, this \$50 fee is reasonable to account for the administrative time needed to manually process these requests.

VII. Sources of Information

NA. We relied upon subject matter experts internally at the Indiana Department of Homeland Security.

VIII. Regulatory Analysis

It is evident that the cost is greatly outweighed by the numerous benefits of the proposed new rule.

The cost of the new rule includes the \$50 fee described in the Budget Committee Report above, and the potential nominal costs that may be associated with the reporting of criminal convictions and continuing education requirements. The numerous benefits of the new rule, as described in the Benefits analysis and the attached table, demonstrate that the new rule is in the best interest of all the impacted parties, including first responders, local fire departments, the State, and the public.

By clarifying the minimum training requirements and greatly reducing the number of hours needed for basic training, the new rule will allow for more volunteer firefighters, and more first responders is a benefit to everyone in society. By clarifying the overall training and certification framework, first responders will be able to better understand the requirements. By bringing the NFPA standards up to date, the new rule will lessen IDHS' reliance on emergency rulemaking process to ensure that these standards are updated.

In conclusion, the proposed new rule is a benefit to all the impacted parties that comes at minimal cost.

Notice of First Public Comment Period with Proposed Rule: [20240221-IR-655240059FNA](#)

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