

DEPARTMENT OF PUBLIC SAFETY

Division of Fire Prevention and Control

8 CCR 1507- 10

HAZARDUS MATERIALS RESPONDER VOLUNTARY CERTIFICATION PROGRAM

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to Section 24-33.5-1203.5, C.R.S., the Director of the Colorado Division of Fire Prevention and Control shall promulgate rules as necessary to carry out the duties of the Division of Fire Prevention and Control. Further, pursuant to Section 24-33.5-1205, the Director has the duty to promulgate rules establishing standards for the firefighter and hazardous materials responder certification programs. This rule repeal is proposed pursuant to this authority and is intended to be consistent with the requirements of the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

The purpose of this rule change is to repeal the rule, 8 CCR 1507-10, in its entirety. In order to reduce redundancy and increase efficiency, this rule regarding the Hazardous Materials Responder Voluntary Certification Program is repealed and the rule's content will be incorporated into 8 CCR 1507-3 with the Firefighter Voluntary Certificate Program. Going forward 8 CCR 1507-3 will address both the Firefighter and the Hazardous Materials Responder Voluntary Certification Programs.

Mike Morgan, Director
Colorado Department of Public Safety
Division of Fire Prevention and Control

Date of Adoption

DEPARTMENT OF PUBLIC SAFETY
Division of Fire Safety
HAZARDOUS MATERIALS RESPONDER VOLUNTARY CERTIFICATION PROGRAM
8 CCR 1507-10

SECTION 1 INTRODUCTION AND BACKGROUND INFORMATION

The "Hazardous Materials Responder Voluntary Certification Program" was created by HB89-1223 which was enacted effective July 1, 1989. The general purpose of the certification program is to measure the level of knowledge, skills and abilities possessed by responders to hazardous materials incidents and to attest that these individuals meet nationally recognized standards. These competency based standards permit evaluation of training programs and promotes uniformity in hazardous materials responder training.

The Colorado Hazardous Materials Responder Certification Program is a voluntary program, meaning that there is no statutory requirement that hazardous materials responders become certified. The certification program establishes a means to judge the proficiency of hazardous materials responders, irrespective of their organizational affiliation and regardless of whether they are career or volunteer.

Hazardous Materials Responder Certification Program Advisory Board

CRS 24-33.5, Part 14 creates the Hazardous Materials Responder Certification Advisory Board, the general purpose of which is to:

- Establish a hazardous materials responder voluntary certification program and to set minimum standards for the training of such responders and for the instructors;
- Establish procedures for determining if hazardous materials responders meet these minimum standards;
- Certify applicants who meet the established minimum standards; and
- Ensure the quality and uniformity of the certification program and any training program established.

The Hazardous Materials Responder Certification Board is comprised of seven members appointed by the Governor. One member of the Advisory Board shall be from each of the following:

Fire chief from a municipality or special district;
Hazardous materials team leader;
Transportation industry;
Private industry fixed-site facility;
Local government law enforcement agency;
Colorado State Patrol; and
Emergency Medical Services.

Additionally, no more than three members shall be from the Denver metropolitan area and at least two members shall be residents of the western slope.

SECTION 2 PURPOSE AND AUTHORITY FOR ESTABLISHING RULES

2.1 Purpose and Objectives

2.1.1 To establish and promulgate professional Hazardous Materials Response in c.

2.1.2 To improve the performance and coordination of hazardous materials response through the development of minimum performance requirements for all responders.

~~2.1.3 To develop more competent and reliable hazardous materials responders by establishing minimum training standards within the emergency services agencies to ensure that hazardous material responders meet minimum competency standards within the State of Colorado.~~

~~2.1.4 To establish and maintain a uniform testing and review system, that insures certification for all applicants who satisfactorily fulfill qualification requirements as adopted by the Board.~~

~~2.1.5 To establish and implement a voluntary certification program that will insure complete impartiality and confidentiality and that it will be designed in such a manner that will safeguard against misuse and abuse.~~

~~2.2 Authority to Promulgate Rules and Regulations~~

~~2.2.1 §24-33.5-1402, CRS, sets forth a seven person advisory board to the Division of Fire Safety, and §24-33.5-1403, CRS, defines their duties.~~

~~2.2.2 The Colorado Division of Fire Safety Hazardous Materials Response Voluntary Certification Advisory Board is authorized by the provisions of §24-33.5-1403 (1) (a) and (d), CRS, to adopt rules and regulations.~~

~~2.2.3 The Colorado Division of Fire Safety Hazardous Materials Response Voluntary Certification Advisory Board, in its discretion, may adopt policies concerning the implementation or interpretation of these rules at any regular or special meeting.~~

~~2.3 Inquiries~~

~~The procedures to certify in the State of Colorado Hazardous Materials Responder Voluntary Certification Program are contained in the following Rules and the Certification Policies and Procedures Manual. Questions, clarification, or interpretation of these rules should be addressed in writing to: Colorado Division of Fire Safety, Hazardous Materials Responder Advisory Board, 9195 East Mineral Avenue, Suite 234, Centennial, CO 80134, 720-852-6735.~~

~~SECTION 3 DEFINITIONS~~

~~The definitions provided in §24-33.5-1401, CRS, shall apply to these rules and regulations. The following additional definitions shall also apply:~~

~~3.1 **ADVISORY BOARD (OR "BOARD")** – Shall mean members appointed by the Governor to serve on the Division of Fire Safety Hazardous Materials Response Voluntary Certification Advisory Board provided in §24-33.5-1402 (1), CRS.~~

~~3.2 **APPLICANT** – Refers to a person who has satisfied the requirements to be examined for accreditation.~~

~~3.3 **CERTIFIED** – Shall mean applicants who have met or exceeded cognitive and job performance requirements of the Voluntary Certification Program.~~

~~3.4 **CERTIFYING AGENCY** – Refers to the Division of Fire Safety, Department of Public Safety, State of Colorado.~~

~~3.5 **COGNITIVE OBJECTIVE** – Pertinent written questions, lists, or problems relative to the level at which a person is being tested.~~

~~3.6 **COMPETENCE** – Possessing knowledge, skills and judgment needed to perform indicated objectives satisfactorily.~~

~~3.7 **CONTINUING EDUCATION TRAINING** – A course of instruction or a self-directed program, extended over a period of three years, which meets the educational requirements for renewal of certification. The emphasis of continuing education training is imparting new or revised information appropriate for the level of certification.~~

~~3.8 **DIRECTOR** – Shall mean Director or Interim Director of the Division of Fire Safety, Department of Public Safety, State of Colorado.~~

~~3.9 **DESIGNATED EMERGENCY RESPONSE AUTHORITY (DERA)** – The Agency designated by the governing body of a town, city, county or city and county by resolution, or in accordance with C.R.S. 29-22-102, for the purpose of taking responsibility for the emergency response to a hazardous materials incident occurring within its jurisdiction and for that emergency response which initially occurs within its jurisdiction but which spreads to another jurisdiction.~~

~~3.10 **EMERGENCY RESPONSE ORGANIZATION** – Any organization, public or private whose services include the response to releases or potential releases of hazardous substances for the purpose of protecting nearby persons, property or the environment from the effects of the release.~~

~~3.11 **EMPLOYEE** – Shall mean anyone who may respond to a hazardous materials incident, either career or volunteer, representing the fire service, law enforcement, search and rescue groups, emergency medical services or industry, and governmental agencies.~~

~~3.12 **EPA** – Shall mean the United States Environmental Protection Agency.~~

~~3.13 **HAZARDOUS MATERIALS** – For the purpose of these Rules, hazardous material means those substances that, upon release, have the potential of causing harm to people, property, or the environment. This definition includes hazardous materials, hazardous substances and hazardous wastes.~~

~~3.14 **HAZARDOUS MATERIALS INCIDENT** – A fire involving a hazardous materials, or a release or potential release of a hazardous material that, in the judgment of an emergency response authority, threatens sudden and irreparable harm to the environment or the health and safety of any individual, including those incidents of spilling, dumping or abandonment of a hazardous material, whether or not such spilling, dumping, or abandonment is found to threaten harm, but does not include any discharge of a hazardous materials authorized pursuant to any federal, state, or local law or regulation.~~

~~3.15 **HAZARDOUS MATERIALS RESPONSE TEAM** – A group of trained response personnel operating under an emergency response plan and appropriate protocols to control or otherwise minimize or eliminate the hazards to people, property, or the environment from a released hazardous material.~~

~~3.16 **IFSTA MANUAL** – The appropriate International Fire Service Training Association publication, published by the Fire Protection Publications at Oklahoma State University.~~

~~3.17 **ISFSI** – The International Society of Fire Service Instructors.~~

~~3.18 **NFPA** – The National Fire Protection Association.~~

~~3.19 **NON-CERTIFIED** – Any applicant who does not possess a valid certification certificate recognized by the board.~~

~~3.20 **OSHA** – The Occupational Safety and Health Administration.~~

~~3.21 **JOB PERFORMANCE REQUIREMENT (JPR)** – Actual use or performance, safely and efficiently accomplished and in accordance with procedures and standards established for the Hazardous Materials Response Voluntary Certification Program.~~

~~3.22 **REFRESHER TRAINING** – A course of instruction designed to provide training to individuals for the purpose of preparing them for renewal of certification. The emphasis of refresher training is reinforcement of knowledge; skills and abilities learned in the initial training program.~~

~~SECTION 4 ADOPTION OF MATERIAL BY REFERENCE~~

~~The following regulations and standards, including all applicable appendices, are adopted by the Director of the Colorado Division of Fire Safety and the Hazardous Materials Responder Advisory Board:~~

~~4.1 The following federal regulations published by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402. These documents may be ordered from the U.S. Government Bookstore, 1660 Wyncoop Street, Suite 130, Denver, CO 80202.~~

~~4.1.1 Code of Federal Regulations; Title 49, part 171.8, 1993. U.S. Department of Transportation.~~

~~4.1.2 Code of Federal Regulations; Title 29, part 1910, *Hazardous Waste Operations and Emergency Response, Final Rule*, printed in the Federal Register on March 6, 1990. Occupational Safety and Health Administration.~~

~~4.1.3 Code of Federal Regulations; Title 40, part 311, *Worker Protection Standards for Hazardous Waste Operations and Emergency Response, Final Rule*, printed in the Federal Register on June 23, 1989. U.S. Environmental Protection Agency.~~

~~4.2 The following standards published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, Telephone: (800) 344-3555. Copies of these standards can be purchased from the National Fire Protection Association at the address shown above.~~

~~4.2.1 NFPA Standard 471, *Responding to Hazardous Materials Incidents*, 2002.~~

~~4.2.2 NFPA Standard 472, *Professional Competence of Responders to Hazardous Materials Incidents*, 2002.~~

~~4.2.3 NFPA Standard 473, *Competencies for EMS Personnel Responding to Hazardous Materials Incidents*, 2002.~~

~~4.2.4 NFPA Standard 1000, *Fire Service Professional Qualifications Accreditation and Certification Systems*, 2000.~~

~~4.2.5 NFPA Standard 1041, *Fire Service Instructor Professional Qualifications*, 2002.~~

~~4.3 All publications, standards or rules adopted and incorporated by reference in these rules are on file and available for public inspection during normal business hours by contacting the Colorado Division of Fire Safety, 9195 East Mineral Avenue, Suite 234, Centennial, CO 80112. All publications, standards or rules adopted and incorporated by reference in these rules may also be examined at any state publications depository library. This rule does not include later amendments to, or later editions of any materials incorporated by reference.~~

~~4.4 Questions, clarification, or interpretation of any regulation, policy, procedure or standard adopted by reference in these rules should be addressed in writing to: Colorado Division of Fire Safety, Hazardous Materials Responder Advisory Board, 9195 East Mineral Avenue, Suite 234, Centennial, CO 80134.~~

~~SECTION 5 GENERAL REQUIREMENTS FOR CERTIFICATION~~

~~5.1 Applicants who receive less than a passing score on their written examinations will be required to retake the entire examination. A minimum thirty (30) day waiting period is required between examination attempts.~~

~~5.2 The Advisory Board maintains the right to assign a Board member or designee to observe the job performance requirements of applicants and to review the applicants training records.~~

~~5.3 Certification will be awarded for a three (3) year period, unless earlier revoked. Certificates will be issued with the expiration dates of January 1 or July 1, depending on when the applicant is certified.~~

~~5.4 Certification Levels available through the Colorado Division of Fire Safety:~~

- ~~a. First Responder — Awareness~~
- ~~b. First Responder — Operations~~
- ~~c. Hazardous Materials Technician~~
- ~~d. Hazardous Materials Instructor~~
- ~~e. Hazardous Materials Incident Commander~~

~~SECTION 6 MINIMUM STANDARDS OF TRAINING~~

~~6.1 To be recognized by the Board, the hazardous material training course delivery must meet or exceed the criteria set forth in NFPA 462 Standard, OSHA 1910.120 (q) and/or 40 CFR Part 311.~~

~~6.2 Recognition of Curriculum~~

~~6.2.1 The department head of each organization shall designate the type and kind of training required. However, all training must meet the National Fire Protection Association's professional qualifications standards.~~

~~Explanatory Information: The department head has the ultimate responsibility to ensure the citizens of their jurisdiction that the individual is properly trained. The department head also has the responsibility for certifying to the Division that the individual applying for certification at any level, or renewal of certification, is adequately trained and qualified for the requested level of certification. The department head of each organization is responsible for the credibility of the certification program as it relates to the organization.~~

~~6.2.2 The Advisory Board will consider granting recognition of training curriculum for each level of certification that meets or exceeds the criteria set forth in the NFPA Standards, OSHA and EPA Regulations as adopted in Section 4 and/or published by the Colorado Division of Fire Safety and the Board.~~

~~6.2.3 The applicant requesting recognition of ~ training curriculum must provide the Advisory Board an outline of the curriculum which includes references to the appropriate standards and/or regulations, and identifies the number of recommended student contact hours, and any other information deemed appropriate by the Board.~~

~~SECTION 7 SPECIAL CERTIFICATES AND AWARDS~~

~~7.1 Certificates and awards, including, "Honorary Certification", may be presented by the Board for the purpose of raising the level awareness of the voluntary certification program and to recognize and otherwise foster cooperation among other agencies, group, organizations, jurisdictions, and individuals.~~

~~SECTION 8 PROCEEDINGS PURSUANT TO DENIAL, REVOCATION, SUSPENSION, ANNULMENT, LIMITATION OR MODIFICATION OF CERTIFICATION~~

~~8.1 DENIAL OF CERTIFICATION~~

The Division, in accordance with the Administrative Procedures Act, C.R.S. 24-4-101, et seq., as amended, may deny any certificate or refuse to renew a certificate to any applicant for, but not limited to, the following reasons:

- 8.1.1 Failure to meet requirements specified in these rules pertaining to the issuance of certificates and/or the renewal of certification.
- 8.1.2 Any conduct as described in Section 8.2.2 pertaining to good cause for disciplinary action.
- 8.1.3 Fraud, misrepresentation, or deception in applying for or securing certification, or in taking any written or practical certification examination.
- 8.1.4 Aiding and abetting another person in procuring or attempting to procure certification for any person who is not eligible for certification.
- 8.1.5 Creating a disturbance during a state practical skills evaluation or a state written examination, or conducting themselves in a manner that disrupts other persons taking the examination or prevents the examination proctor from conducting the examination.

8.2 REVOCATION, SUSPENSION, OR LIMITATION OF CERTIFICATION

- 8.2.1 Any certification issued by the Division may be suspended, summarily suspended, revoked, or limited for good cause in accordance with the Administrative Procedures Act, C.R.S. 24-4-101 et seq., as amended.
- 8.2.2 Good cause for disciplinary sanctions listed in this section (denial, revocation, suspension, annulment, limitation, or modification of certification) shall include, but not be limited to:
- (a) Evidence that the minimum standards for certification set forth in these rules have not been met.
 - (b) Material misstatement or misrepresentation on the application for certification.
 - (c) Proof of unfitness.
 - (d) Proof of individual's failure to meet, and continue to meet, performance standards at the level certified.
 - (e) Obtaining or attempting to obtain certification or recertification by fraud, misrepresentation, deception, or subterfuge.
 - (f) Materially altering any Division certificate, or using and/or possessing any such altered certificate.
 - (g) Unlawfully discriminating in the provisions of services based upon national origin, race, color, creed, religion, sex, age, physical or mental disability, sexual preference, infectious disease, or economic status.
 - (h) Representing qualifications at any level other than the person's current certification level.
 - (i) Failure to pay required fees for certification.

8.3 In addition to those items listed in Rule 13.2.2, good cause for disciplinary sanctions listed in this section (denial, revocation, suspension, annulment, limitation, or modification of certification) against the certification held by a hazardous materials instructor or certified proctor shall include, but not be limited to:

- 8.3.1 Failure to adhere to the policies, procedures, and administrative requirements for delivery, documenting, test administration, and certification as adopted, administered and/or recognized by the Advisory Board and the Division of Fire Safety.
- 8.3.2 Failure to maintain security over written exams, including unauthorized access or reproduction of examination materials.

8.4 If the Board finds that grounds exist for the denial, revocation, suspension, annulment, limitation, or modification of certification of any emergency response personnel or applicant, action will be taken according to the provisions of the Colorado Administrative Procedure Act, Section 24-4-101, et. Sec., of the Colorado Revised Statutes, as amended.

8.5 Upon the denial, revocation, suspension, annulment, limitation, or modification of any member of an emergency response unit or applicant, the person shall return to the Board all certificates, cards, patches or other identification issued by the Board for said certification and accreditation levels.

SECTION 9 FEES

9.1 §24-33.5-902, CRS requires the Hazardous Materials Responder Voluntary Certification Program be funded entirely on a cash funds basis and further requires the Advisory Board establish fees for the direct and indirect costs of administering the program.

9.2 Each applicant shall be assessed the following fees for products or services provided by, or on behalf of the Division (effective 10/30/2007 — 12/31/2007):

9.2.1	Initial Application for Examination	\$20.00
9.2.2	Application for Retake Examination	20.00

9.2.3	Application for Renewal of Certification	10.00
9.2.4	Reinstatement Fee for Expired Certification	30.00
9.2.5	Application for Reciprocity	30.00
9.2.6	Replacement of Lost or Damaged Certificates	5.00
9.2.7	Additional Certification Patches	4.00
9.2.8	Additional Certification Bars	1.50

~~9.3 Each applicant shall be assessed the following fees for products or services provided by, or on behalf of the Division (effective 01/01/2008):~~

9.3.1	Initial Application for Examination	\$30.00
9.3.2	Application for Retake Examination	30.00
9.3.3	Application for Renewal of Certification	20.00
9.3.4	Reinstatement Fee for Expired Certification	40.00
9.3.5	Application for Reciprocity	40.00
9.3.6	Replacement of Lost or Damaged Certificates	5.00
9.3.7	Additional Certification Patches	4.00
9.3.8	Additional Certification Bars	1.50

~~9.4 All application fees payable to the Division must be made at the time of application and are not refundable.~~

~~SECTION 10 SEVERABILITY~~

~~10.1 If any provision of these rules and regulations or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions of these rules and regulations which can be given effect without the invalid provisions. To this end, all provisions of these rules and regulations are declared to be severable.~~