

SUMMARY OF PROPOSED RULE

37 Tex. Admin. Code § 221.33. *Standardized Field Sobriety Testing Instructor Proficiency.*

The proposed amendment would update and clarify the requirements to obtain and requalify for a Standardized Field Sobriety Testing instructor proficiency certificate.

RESUMEN DE LA NORMA PROPUESTA

37 Tex. Admin. Code § 221.33. *Competencia del instructor en pruebas estandarizadas de sobriedad en el campo.*

La enmienda propuesta actualizaría y precisaría los requisitos para obtener y recertificar un certificado de competencia como instructor de pruebas estandarizadas de sobriedad en el campo.

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §221.33, SFST Instructor Proficiency. The proposed amended rule would update the rule to the current requirements and terminology for obtaining and requalifying for a standardized field sobriety testing instructor proficiency certificate. It would also clarify the requirements for requalifying for the certificate and that the certificate is required to instruct the SFST Practitioner BPOC Course, the SFST Practitioner Course, the SFST Practitioner Refresher Course, the SFST Instructor Refresher Course, or the SFST Instructor Course.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by updating and clarifying requirements for the standardized field sobriety testing instructor proficiency certificate. There will be no anticipated economic costs to persons required to comply with the proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposal.

Mr. Beauchamp has determined the following:

- (1) the proposed rule does not create or eliminate a government program;
- (2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency;

- (4) the proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) the proposed rule does not create a new regulation;
- (6) the proposed rule does not expand, limit, or repeal an existing regulation;
- (7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed amended rule and information related to the cost, benefit, or effect of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

The proposed amended rule has been reviewed by legal counsel and has been found to be within the Commission's authority to adopt.

§221.33. *Standardized Field Sobriety Testing* [~~SFST~~] *Instructor Proficiency*.

(a) To qualify for a standardized field sobriety testing (SFST) instructor proficiency certificate, an applicant must meet all proficiency requirements including:

- (1) successful completion of the NHTSA SFST Practitioner course;
- (2) at least three years of [~~years'~~] experience as an SFST practitioner;
- (3) current instructor license or certificate issued by the commission;
- (4) successful completion of the commission-~~[]~~approved SFST Instructor Course or Drug Recognition Expert (DRE) Instructor Course;
- (5) completion of a [~~n~~] commission-approved SFST Instructor Refresher [~~Update~~] Course or DRE Refresher [~~Update~~] Course within the last two [~~(2)~~] years;
- (6) demonstrated proficiency in administration of SFST before a certified SFST instructor [~~Instructor~~] or NHTSA representative; and
- (7) submit a completed application, in the format currently prescribed by the commission, and any required fee.

(b) An SFST instructor [~~Instructor~~] proficiency certificate will be valid for two [~~(2)~~] years from date of issue. After that time period, the applicant must requalify by: [~~re-qualify.~~]

- (1) completing a commission-approved SFST Instructor Refresher Course; and

(2) demonstrating proficiency in the administration of a standardized field sobriety test before a certified SFST instructor or NHTSA representative.

(c) This certificate is required to instruct the SFST Practitioner BPOC Course, SFST Practitioner Course, SFST Practitioner Refresher Course, SFST Instructor Refresher Course, or SFST Instructor Course.

(d)~~(e)~~ The effective date of this section is June 1, 2026~~February 24, 2011~~.