

responses to each question were rated on a five-point scale (1 to 5) from nil response through optimum according to determinations made by the SMEs. Oral communication for each question was also rated on the five-point scale. This five-point scale includes 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. The appellant received the following scores for the technical component for each question, in order: 3, 2, 3, and 1. He received the scores of 4, 3, 5, and 5 for the oral communication components.

The appellant challenges his scores for the technical components for all four scenarios. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed. The appellant also maintains that his seniority was incorrect on the eligible list for Deputy Fire Chief (PM1320P), Orange, his name was not correctly spelled on his notification, and the current exam should be cancelled since the list for (PM1320P) is still active.

As to the appellant's seniority on the prior eligible list, the appellant challenged this score in his prior appeal. In *In the Matter of Joseph Juliano, Deputy Fire Chief (PM1320P), Orange* (CSC, decided February 12, 2014), the Commission indicated that the appellant's seniority score would be changed from 81.784 to 84.479 once all appeals for the jurisdiction were resolved. This change was subsequently made, and the appellant is simply mistaken in his belief that it was not. As to the spelling of the appellant's name, a review of the matter indicates that he misspelled his name on his application. On his application, he spelled his last name "Julianno," which was used to produce the notification card. The appellant is encouraged to double-check future applications for typographical errors before submitting them. Finally, there is simply no reason to cancel the current examination, and the existence of a prior list has never resulted in the cancellation of an examination. See *N.J.A.C. 4A:4-3.5* for procedures to consolidate successive eligible lists.

The Incident Command – Non-Fire Incident scenario pertained to a report of an odor of gas in front of two buildings of ordinary construction which were built in the 1940s. It is 10:30 AM in February, 15° F, sunny, with wind blowing from the north at 5 miles per hour. It has been below freezing for over a week and the ground is frozen. Over the years, the buildings have been occupied and vacant at various intervals. Much of the furnishings from previous occupants, along with construction material and debris, remain, and portions of the buildings have also been vandalized. Both structures have masonry walls with no windows and each building has a full basement. In the interior of the buildings, there are openings between the buildings, where people can walk through on the first floor and the basement. One of the buildings had been declared unsafe by the Fire Department; however, it is apparent that the buildings are being worked on by construction

personnel. Several floors have collapsed, creating a maze-like interior space filled with construction materials and debris. Much of the structure appears unstable and visibility is poor. Upon arrival, a civilian immediately states he is the crew chief of workers renovating the two vacant buildings. The crew chief said five or six men were working in the two buildings when he heard a lot of noise and felt the ground rumble. He is not sure of their location, but they are still in there. He started smelling gas several minutes later. Upon inspection, the roof and floors of the building declared unsafe have collapsed, along with portions of the interior of the other building. All of the exterior walls in both buildings are standing but appear to be bulging. Fire fighters also report an odor of gas and the sound of water flowing into the basement. There are no interior lights. The only access to the two buildings is an entry door on Side A of one building and an exit door in the rear of the building declared unsafe. All other access points are sealed. Instructions to candidates were to base their responses on the texts *Hazardous Materials: Managing the Incident*, *Fire Officer's Handbook of Tactics*, and their experience. Question 1 asked for specific actions and orders in order to mitigate this incident.

For this incident, the assessor noted that the appellant failed to eliminate possible ignition sources. He also indicated that the appellant missed the opportunity to eliminate possible vibration sources. He applied the "flex" rule to assign a score of 3. On appeal, the appellant provided a list of actions that he had taken, and these actions were not the same as those listed by the assessor. For example, he argues that he mentioned an incident action plan, requested a safety officer, mentioned a possible explosion and electrical wires, had a charged hose line to put the fire out, mentioned that no fire personnel were to be on the roof, monitored wind conditions, and requested utilities be shut off and debris be removed.

Regarding the flex rule, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response. The flex rule was designed to allow the SMEs to assign a score of 3 to candidates who fail to give a mandatory response but who provide many additional responses. However, the SMEs cannot provide a score higher than a 3 in those cases.

In the instructions listed after the questions, candidates were told that in responding to the questions to be as specific as possible. They were told to not assume or take for granted that general actions would contribute to their score. The monitor read these instructions immediately after reading the questions. A review of the video indicates that, in his response, the appellant stretched protective hose lines, and he received credit for this response. He cannot also receive credit for eliminating possible ignition sources merely because he brought water to the scene. The remaining actions which he lists in his appeal do not

pertain to eliminating possible ignition sources. As this was a mandatory response, the appellant cannot receive a score higher than 3. As to the additional response, monitoring wind conditions is not the same as eliminating possible vibration sources. In his response, the appellant stated that the wind was very important and he wanted to be out of the wind. He did not mention that wind conditions must be monitored as it may cause vibrations. The appellant missed the actions listed by the assessor and his score for this component is correct.

The Supervision scenario indicated that the candidate was a newly promoted Deputy Fire Chief directly supervising five engine company captains, two ladder company captains, and one rescue company captain. While the candidate was on vacation leave, Fire Captain Eastwood, the tour's senior captain, was acting tour commander. Upon returning to duty, the candidate is informed that there had been a serious fire in an unoccupied, abandoned building where a roof collapsed, resulting in a very close call for the interior and roof crews. Based upon the nature of the incident and department SOGs/SOPs, Fire Captain Eastwood should have used a more cautious approach. There was no post-incident analysis of this incident, and the candidate calls a tour meeting to discuss what happened. During the analysis, the candidate asks Fire Captain Eastwood, the Incident Commander (IC) about his decision to order an aggressive interior attack. He states, "What else could we do? The only way to put the fire out is to go in and get it. If I hadn't used an aggressive attack, we would have been there all night in a surround-and-drown situation. What else could we do?" The candidate decides that this would be a good opportunity to review the tactics involved in a non-aggressive interior attack with the tour. Instructions to candidates are to answer the questions based on the texts *Managing Fire and Emergency Service* and *Safety and Survival on the Fireground* and their experience. Question 1 asks which tactics should have been more appropriate for a non-aggressive interior attack based upon Fire Captain Eastwood's actions at this incident. Question 2 adds that the candidate already has had a one-on-one meeting with Fire Captain Eastwood on how to take a non-aggressive approach in these types of incidents. It asks for types of training to be arranged for the tour to prevent a similar dangerous incident from re-occurring.

The assessor indicated that the appellant missed the opportunities to start a primary and secondary search after the fire is under control, and to charge the line before entering the building to search for fire in response to question 1. They also indicated that he missed the opportunity to arrange for training on the theory and practice of a non-aggressive interior attack in response to question 2. On appeal, the appellant argues that he stated that primary and secondary searches would be performed after the fire was under control. He states, "interior fire attack would be arranged for training on theory and practice and non-aggressive only." It is unclear what the appellant means by this. He provides other actions that he took which are not the same as those listed by the assessor, such as reprimanding the fire captain, requesting counseling and critical incident stress debriefing, providing training

from the National Fire Academy Division of Fire Safety and the County Fire Academy, using training books, and discussing hazards, weather conditions, and non-aggressive fire attack hazards.

In reply, again, credit cannot be given for information that is implied are assumed. A review of the appellant's presentation indicates that he did not state that he would start a primary and secondary search after the fire is under control. The appellant argues that he stated that primary and secondary searches would be performed after the fire was under control, but he did not take these actions. Instead of directly responding to question 1, the appellant spoke of meeting with and reprimanding Captain Eastwood, and the actions he would take in the meeting. As part of the meeting, he incorporated a proper response to question 1, which asks which tactics should have been more appropriate for a non-aggressive interior attack based upon Fire Captain Eastwood's actions at this incident. He stated, "I would tell him that the actions would be, and what the proper actions would be. And that would be to do a non... it would, it would be not to put any one at risk, and not to put anyone on that roof, I mean there's several fires Walgreens, from Brooklyn, we've studied book after book after book to stay off the roof in this type of situation." For this response, the appellant received credit for not operating on a roof above the fire. He then continued with his meeting with the Fire Captain, which was superfluous information as question 1 asked what tactics would be more appropriate for a non-aggressive interior attack. The question did not ask the candidate to conduct a meeting with the Captain. The assessor then asked the appellant to read the question again and he did so. He then said he would ladder the building from the exterior, review roof tactics with him, devise a roof plan and policy, and review standard operating procedures. He then began responding to question 2. The appellant's response to question 1 was brief and showed an insufficient understanding of appropriate tactics for a non-aggressive interior attack. After responding to question 2, the appellant returned to discussing the meeting with Captain Eastwood.

The appellant's mention of the national fire academy was not responsive to the question. The question was looking for specific training, such as training on building construction and roof collapse, which the appellant stated, or training on the theory and practice of a non-aggressive interior attack, which the appellant did not state. As the appellant was not directly responding to this question, the assessor asked the appellant what his training program would be. The appellant's response focused on roof collapse and how the training would be developed. The assessor then asked for the topics, and the appellant provided only topics related to roof collapse such as types of beams, masonry walls, abandoned buildings, spalling, types of roofs, etc. While some of these topics were applicable, the appellant missed the one listed by the assessor and his response to this question was clearly not comprehensive. His score of 2 for this component is correct.

The administration scenario indicated that the Fire Chief has informed the newly promoted Deputy Fire Chief that the department is updating the Fire and Life Safety Education Programs, and is in the process of conducting a community risk assessment of the candidate's response jurisdiction. The Fire Chief has informed the candidate that the first step in the process is to develop a population profile of the community, and has asked the candidate to identify the trends, types, and number of emergency response incidents in the community. Instructions to candidates were to base their responses on the text *The Fire Chief's Handbook* and their experience. Question 1 asked for specific sources of information that they should refer to in order to identify the community profile. Question 2 asked how the candidate should identify the trends, types, and number of response incidents in the community. Again, instructions to candidates were to be as specific as possible and not assume or take for granted the general actions will contribute to their score.

The assessor indicated that the appellant missed the opportunities to request information from AARP and senior groups, and to research ISO ratings. On appeal, the appellant states that he mentioned the transient communities, church groups, and community groups for information gathering, and that he mentioned reverse 911, life safety and risk management to research ISO ratings components. He argues that the assessor was rude when he told him that he was going off on a tangent.

In reply, a review of the appellant's video reveals that he missed the actions noted by the assessor. The appellant started his response to question 1 by stating that he would set up a reverse 911 in English, Spanish and French so that people could understand what was going on. He then paraphrased the question by stating that he would try to find out the makeup of the community, have translators, know what kind of people are in the community, and how they live. He wanted to offer smoke detectors, training opportunities and outreach and he asked for approval for this plan. At this point, the appellant had not directly answered either question. He provided actions to draw information out of the community themselves, called it a plan, and wanted to have it approved. He then provided some information regarding question 2, then repeated information regarding translations and communicating with members.

The assessor then stated, "I have to stop you here. You started off on a tangent. I'd like to redirect you to question 1. Just read the first five words of question 1." The assessor is there to assist the candidate who needs redirection when they are not directly responding to the questions, and the assessor did that in this case. The appellant read the first five words of question 1, "What specific sources of information," looked up at the assessor and asked, "How I would mitigate a fire prevention program?" and this led the assessor to tell him to read the rest of the question which was, "should you refer to in order to identify the community profile?" The appellant reiterated that he would ask the community members

themselves what they would like to have from the fire department, and what types of things are going on, like outside fire burning. The appellant then said he wanted the names and phone numbers of superintendents of buildings to prevent damage to buildings. This response shows a lack of understanding of the question. He then performed a needs analysis and indicated that he would help community members with fire prevention. The appellant managed to address some aspects of question 1 in his circuitous response, but he did not directly state that he would research ISO ratings or request information from AARP and senior groups. His response does not warrant a score higher than a 3.

The Incident Command-Fire Incident scenario concerned a report of a hazardous materials incident at a tank farm in February. It is 4:00 PM, 15° F, with little to no wind. There are three tanks in the immediate area and the tank on fire is a flammable liquid storage tank in close proximity to the two other flammable liquid storage tanks. Side A faces a road which is currently experiencing heavy traffic. Upon arrival, the candidate observes the centermost tank on fire and there is liquid leaking from near the top of the tank. There is also a fire in the diked area that surrounds the three tanks. Responding apparatus are having difficulty accessing the emergency scene due to the high traffic and plant workers are beginning to gather at the storage facility entrance. Instructions asked candidates to base their responses on the text *Hazardous Materials: Managing the Incident* and their experience. Question 1 asked for information that should be gathered in the size-up process. Question 2 asked for specific actions that should be taken to mitigate the incident.

The assessor noted that the appellant failed to locate his command post uphill and upwind, did not establish a safety officer, and did not establish a Rapid Intervention Crew (RIC). These were mandatory responses to question 2. He also noted that the appellant missed the opportunity to obtain the time when the incident started, which was an additional response to question 1. On appeal, the appellant argues that he established incident command outside of the explosion and collapse zone. He also established a chem-trek number, notified the EPA, the Coast Guard, a Haz-mat Unit, and asked for salvaged papers. He states that he relieved the current firefighting crew with a new crew and had the Haz-mat unit working. For question 1, he stated he advised dispatch that he arrived and was the IC.

In reply, question 1 asked for the information that should be gathered in the size-up process, and included in this information should be the time when the incident started. The appellant began his presentation by assuming command and describing the situation. This is clearly a response to question 2, and the appellant received credit for assuming command in response to that question. Advising dispatch of arrival and command is clearly not a direct response to question 1, and does not establish that the appellant was aware that the time that the incident started should be included in the information that is given in the size-up process.

Additionally, the appellant did not locate his command post upwind in response to question 2. Instead, the appellant stated that he was concerned with the black smoke and evacuating residents from the area. Establishing a command post outside of the explosion zone, and establishing a command post and staging area outside of the collapse zone, are not the same as locating the command post uphill and upwind. The appellant established a chem-trek number, notified the EPA and the Coast Guard, and requested a Haz-mat Unit, and none of these actions are the same as establishing a safety officer, an action which the appellant did not take. Also, relieving the current firefighting crew with a new crew is a separate action from establishing a RIC. The appellant specifically stated that he would send in the new crews to mitigate the problem, not to act as a RIC. The appellant missed three mandatory responses, as well as additional responses, and his score of 1 for this component is correct.

CONCLUSION


A thorough review of appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION
THE 7th DAY OF DECEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Assistant Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

c: Joseph Juliano Sr.
Michael Johnson
Joseph DeNardo
Records Center

