



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: 1, 4, 2, and 1. He received the scores of 3, 4, 4, and 3 for the oral communication components.

The appellant challenges his score for the technical components for the Incident Command – Non-fire Incident, Supervision, and Incident Command – Fire Incident scenarios. As a result, the appellant's test material, audiotape, and a listing of PCAs for the scenario were reviewed.

The Incident Command – Non-Fire Incident scenario pertained to a report of a freight train derailment near the train station in the middle of town. It is 9:00 PM on a winter evening, 20°F, with wind blowing from the east at 15 mph. Upon arrival, the Deputy Fire Chief finds that the derailment is limited to one car, which did not overturn. There were no serious injuries and no fire, but a gasoline tank car has a sizable leak and gasoline is flowing onto the rail bed, and onto Main Street below, and possibly into the shops below the tracks. The candidate has performed a 360° reconnaissance, established command and a command post, and given dispatch an initial report including requesting additional alarms. Instructions to candidates were to base their responses on the text *Hazardous Materials: Managing the Incident*, and their experience. Question 1 asked for specific concerns and tactical objectives at the incident. Question 2 asked for specific actions regarding the leak/spill that should be taken at this hazardous materials incident.

For this incident, the assessor noted that the appellant failed to verify that rail traffic has been halted, a mandatory response to question 1, and that he failed to search and rescue/evacuate all surrounding occupancies (e.g., theater, restaurants, shops, etc.), a mandatory response to question 2. They also indicated that he missed the opportunities to provide for decontamination, which was an additional response to question 1, and to consider having railroad personnel remove other railway cars, in response to question 2. On appeal, the appellant argues that he stated he would evacuate the area several times.

In this scenario, certain responses to the situation presented are mandatory. That is, 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: however, the SMEs cannot provide a score higher than a 3 in those cases. All mandatory responses must be given in order for a performance to be acceptable, whether there is one

mandatory response or five of them. It is not assumed that candidates receive a score of 5 which is then lowered for lack of responses. Performances that include mandatory responses get a score of 3, and those without mandatory responses get a score of 1 or 2. Additional responses only increase a score from 3 to 4 or from 3 to 5.

The appellant received a score of 1 for this component which reflects a much less than acceptable response as he did not address two mandatory responses. For question 1, verifying that rail traffic has been halted was a mandatory response. For question 2, rescuing individuals from, or evacuating, all surrounding occupancies (e.g., theater, restaurants, shops, etc.), was a mandatory response as there was a hazardous material spill. The scene remains very dangerous if the candidate does not take these actions, and a review of the appellant's audiotape indicates that he missed these responses.

In addition, 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. In his response, the appellant began answering question 1 and stated, "Evacuation is going to be a number one priority here um, you know, of the area and ah, contain and control the spill." This response indicates that the appellant is concerned about evacuation, but making evacuation a number one priority in response to question 1 is a different response than actually evacuating the surrounding occupancies, including the theater, restaurants, and shops, in response to question 2. The appellant received credit for indicating that life safety was a specific concern in response to question 1.

The appellant stated he would establish hot, warm and cold zones and "evacuate as necessary." This response is ambiguous and does not specify what he would evacuate. He could have evacuated the train, the general area, or the surrounding occupancies, as the appellant did not indicate what "as necessary" entailed. The assessor notes refer to a definite search and rescue and/or evacuation of all surrounding occupancies as a specific action that should be taken in response to the hazmat spill. In fact, the assessor then asked he appellant, "What do you mean by evacuate?" The appellant replied, "Um, evacuate ah everybody out of the hot and warm, warm zones, or whatever those zones are to be determined by the haz... hazmat officer, the expert on the scene obviously." As such, the appellant would not definitively take the action noted by the assessor, but evacuated the hot and warm zone per the judgment of the hazmat officer. The appellant's response is not the same is that listed by the assessor, and credit cannot be given for information that is implied or assumed. For question 1, the appellant missed the mandatory responses as noted by the assessor, to verify that all rail traffic has been halted, and he missed the additional responses as well. His score of 1 for this component is correct.

In the supervision scenario, the candidate receives the previous shift commander's report at the start of his shift, which indicates that one of his Battalion Fire Chiefs called the office yesterday to request off, and was denied because calling in someone to replace him on the shift would cause a violation of overtime policy. Later that night, the Battalion Fire Chief called the communication center and informed them he would not be reporting for work today. This was in violation of the leave policy, which states that he needed to speak to a superior officer in order to request leave. Instructions to candidates were to base their responses on the text *The Fire Chief's Handbook*, and their experience. Question 1 asked for specific actions to take to investigate the incident with the Battalion Fire Chief. Question 2 provided additional information. It indicated that, during the investigation, the candidate discovers the same Battalion Fire Chief has received an oral reprimand for violating the same leave policy in the same manner, less than two years ago. This question asked for specific topics to be discussed in a meeting with the Battalion Fire Chief and actions that should be taken based on this new information.

The assessor indicated that the appellant missed the opportunity to notify the Chief of the Department, which was a response to question 1. On appeal, the appellant indicates that he said at the end of the scenario that the Battalion Chief's actions would go on paper and be forwarded to the Chief of the Department.

In reply, the assessor notes refer to missed opportunities in regard to question 1, actions to take to investigate the incident. One of the expected actions to take to investigate the incident would be to notify the Chief of the Department. A review of the appellant's presentation indicates that he did not notify the Chief. The appellant stated that the Battalion Fire Chief already had an oral reprimand and would receive a written reprimand. After the assessor asked the appellant to elaborate on the disciplinary procedure, that appellant stated, "Um, yeah, the progressive steps of discipline. Um, the first is the oral, the second, um, would be ah, would go on paper and would go in his file, and then possibly the third time then they could, it could possibly be a, a disciplinary thing to the, to the head of the, to the head of the department, Chief of the Department. So, this is the second time. This is the forward, this is, it's going to go forward into his file and it's going to be a, a permanent, you know, part of his permanent record." The appellant clearly did not notify the Chief of the Department as part of his investigation. The appellant's score of 4 properly reflects the responses given in his presentation.

The Incident Command-Fire scenario concerned a report called in by a passing motorist of heavy smoke at the intersection of North Main Street and Martel Avenue. The fire building is 9 Main Street, an 80-year-old, triangular-shaped, two-story, ordinary constructed building. Originally built as a bank, it had been renovated many times and is currently occupied on the first floor by an art

gallery/antique store, on the second floor by a residential apartment, and there is a workshop in the cellar where furniture is refinished and repaired. It is 3:15 AM on a January morning, 25°F, with the wind blowing from the south at 30 miles per hour. Upon arrival, the first engine reports fire visible on the first floor and in the cellar windows, and smoke coming from the closest two residential buildings on side C. No persons are observed on the street. Instructions to candidates are to answer the questions based on the texts *The Fire Officers Handbook of Tactics* and *The Fire Chiefs Handbook*, and their experience. Question 1 asked for concerns at this incident. Question 2 asked for specific actions to take to address the incident. Question 3 added information. It stated that several minutes into the fire operations, a mayday is transmitted and there is a reported flash over and minor explosion in the cellar causing a partial collapse of the first floor. The partial collapse caused two Firefighters to fall into the cellar of the art gallery. A mayday transmission from one of the fire fighters in the cellar reports that one is injured and they cannot get out. This question asked for specific actions to take now, based on the new information.

The assessor noted that the appellant failed to indicate the concern at this scene of location/extent of the main body fire, in response to question 1. Also, in response to question 2, he failed to have a hose line into #9 between fire and the occupants, a mandatory response to question 2. The assessor also noted that the candidate missed the opportunities to mention utility lines blocking aerial operations as a concern in question 1, and to call for EMS in response to question 2. On appeal, the appellant stated that he did not have roof or ladder operations, so power lines were not an issue. He also states that they would be a tactical consideration of the ladder company officer. The appellant states that he did not mention that this was a basement fire as that information should have been in the size-up, which the scenario said was already given.

In reply, question 1 asked for concerns at this incident, and the SMEs determined that the utility lines blocking aerial operations would be a concern. In the diagram given with the scenario, they are clearly very close to the length of side B of the fire building. Also, there is a residence on the second floor and the building should have been laddered for rescue and for a second means of egress. Although the appellant stated he would rescue the occupants of all buildings, his plan did not include the details on how he would rescue occupants on the second floor. He did not have a hose line into #9 between fire and the occupants or acknowledge that the location/extent of the main body fire is a concern at this fire. The appellant's fire attack lacked many details and specific actions to properly address the incident, including those listed by the assessor. The appellant cannot receive credit for assuming that his personnel would handle the tactical details of the incident. His presentation was much less than acceptable and his score of 1 for this component is correct.

**CONCLUSION**

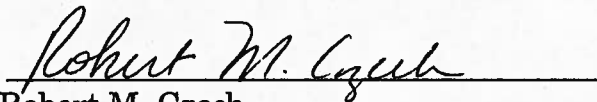
A thorough review of appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

**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 1<sup>st</sup> DAY OF OCTOBER, 2014

  
Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: John Durish  
Dan Hill  
Joseph Gambino