

FIRE FIGHTER ADVISORY COMMITTEE

AGENDA

March 8, 2018, 10:00 A.M.

1701 N. Congress Ave., William B. Travis Building, Room 1-104, Austin, Texas

The Fire Fighter Advisory Committee will convene in open session to deliberate and possibly take formal action on any of the following agenda items:

- 1. Roll call - 10:00 a.m.**
- 2. Discussion and possible action on the election of officers.**
- 3. Adoption of December 14, 2017 Fire Fighter Advisory Committee meeting minutes.**
- 4. Report from the Curriculum and Testing Committee with discussion and possible action on recommendations regarding possible changes to the Certification Curriculum Manual as follows:**
 - a. Reference lists for Hazardous Materials Incident Commander Curriculum**
 - b. Reference lists for Hazardous Materials Technician Curriculum**
- 5. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 427, Training Facility Certification.**
- 6. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 433 Driver Operator.**
- 7. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 453, Hazardous Materials.**
- 8. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification.**
- 9. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 437, Fees.**
- 10. Discussion and possible action on setting future meeting dates, locations and agenda items.**
- 11. Adjourn meeting.**

1. Roll call---10:00 a.m.

2. Discussion and possible action on the election of officers.

3. Adoption of the December 14, 2017 Fire Fighter Advisory Committee meeting minutes.

TEXAS COMMISSION ON FIRE PROTECTION

Presiding Officer Jim Reidy called the December 14, 2017 meeting of the Fire Fighter Advisory Committee to order at 10:00 a.m. at the William B. Travis Building, 1701 N. Congress Ave., Room 1-104, in Austin, Texas.

Member Jim Reidy Michael Wisko* Amado Cano, Jr. Ken Swindle Keith Schmidt
Attendance Jason Collier Daniel DeYear Daniel Buford

*absent entire meeting

**absent part of meeting

Staff Tim Rutland Deborah Cowan Mark Roughton Joyce Guinn
Andrew Lutostanski, Assistant Attorney General

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1. Roll call Presiding Officer Jim Reidy called roll and a quorum was present.
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2. Adoption of Minutes A motion was made by Amado Cano, Jr. and seconded by Jason Collier to approve the minutes of the June 29, 2017, fire fighter advisory committee meeting as discussed. The motion carried.
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3. Report from Curriculum & Testing Committee Grace Wilson, Curriculum and Testing Program Specialist discussed the updates to the Fire Investigator Curriculum, reference list, course outline and phase outline. After discussion a motion was made by Jason Collier and seconded by Daniel Buford to forward to the commission for approval with changes noted. The motion carried.

After discussion, a motion was made by Daniel DeYear and seconded by Jason Collier to forward to the commission for approval the reference list updates for Fire Officer III & Fire Officer IV. The motion carried.

After discussion, a motion was made by Daniel DeYear and seconded by Daniel Buford to forward to the commission for approval the new Fire and Life Safety Educator Curriculum overview, course instructor information, reference list and curriculum outline. The motion carried.

After discussion, a motion was made by Amado Cano, Jr. and seconded by Daniel Buford to forward to the commission for approval updates to the reference lists for Haz-Mat Awareness, Haz-Mat Operations, Haz-Mat Operations – Mission Specific Competencies, Haz-Mat Incident Commander, and Basic Fire Inspector with changes as noted. The motion carried.
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4. 37 TAC, Chapter 451 A motion was made by Keith Schmidt and seconded by Jason Collier to approve the amendments to 37 TAC, Chapter 451, §§451.303, 451.307, 451.403 and 451.407 as proposed by the commission. The motion carried.
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5. 37 TAC, Chapter 459 A motion was made by Daniel DeYear and seconded by Jason Collier to approve new, 37 TAC, Chapter 459, §§459.1, 459.3, 459.5 as proposed by the commission. The motion carried.

6. 37 TAC, Chapter 429 After discussion, a motion was made by Jim Reidy and seconded by Daniel Buford to recommend to the commission to amend 37 TAC, Chapter 429, Subchapter A, §429.1(e) to insert an exclusion that no plans review or approval can be conducted by personnel certified as Fire Inspector I/II and to strike subsection (f). Then in Subchapter B, §429.201 amend subsection (g) by striking the word “after” and inserting “prior to”. The motion failed, 7 against, 1 absent
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7. Request for rule amendment by the Texas State Association of Fire Fighters After discussion, no action necessary. The item will be placed on the agenda for the January 2018 commission meeting for discussion.
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8. Future meeting dates and agenda items The committee scheduled the following dates in 2018 for its meetings: March 8, June 21, September 20, and December 13. All meetings will begin at 10:00 a.m.
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9. Adjournment A motion to adjourn was made by Ken Swindle and seconded by Jason Collier. The motion carried.

Jim Reidy
Presiding Officer

- 4. Report from the Curriculum and Testing Committee with discussion and possible action on recommendations regarding possible changes to the Certification Curriculum Manual as follows:**
 - a. Reference lists for Hazardous Materials Incident Commander Curriculum**
 - b. Reference lists for Hazardous Materials Technician Curriculum**

REFERENCE LIST FOR THE HAZARDOUS MATERIALS INCIDENT COMMANDER CURRICULUM

This Reference List is provided as a general guide for both instructors and students to locate information pertaining to the specific objectives in the TCFP Curriculum. This list is **not** all-inclusive and does not in any way limit TCFP development and use of questions to test the objectives of the curriculum:

Required References

Texts

Certification Curriculum Manual. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

Code of Federal Regulations, Title 29 Part 1910.120, Appendix A. United States. U.S. Department of Labor, Occupational Safety & Health Administration.
http://edocket.access.gpo.gov/cfr_2007/julqtr/pdf/29cfr1910.120.pdf

Emergency Response Guidebook. United States. (Most current edition). Washington, DC: U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration.

Fire Fighter's Handbook of Hazardous Materials, Baker, Charles T., 7th edition. (2006). Sudbury, MA: Jones and Bartlett. **(OUT OF PRINT, DIFFICULT TO ACQUIRE + EXPENSIVE)**

Hazardous Materials Awareness and Operations, 2nd edition. Schnepf, Rob (2016). Sudbury, MA: Jones & Bartlett.

Hazardous Materials for First Responders, 5th edition (2017). Stillwater, OK: Fire Protection Publications, Oklahoma State University.

Hazardous Materials: Managing the Incident. Chester Noll, G. G., Hildebrand, M. S., & Yvorra, J. G. (2005). MD: Red Hat Publishing Company, Inc.

Hazardous Materials/Weapons of Mass Destruction Response Handbook, 5th edition. Trebisacci, D. G. (2008). Quincy, MA: National Fire Protection Association.

NFPA 472: Standard for Professional Competence of Responders to Hazardous Materials Incidents. (2008 ed.). Quincy, MA: NFPA Publications. National Fire Protection Association

NIOSH Pocket Guide to Chemical Hazards. Cincinnati National Institute for Occupational Safety and Health. (Most current edition). OH: US Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health. <http://www.cdc.gov/niosh/npg/>

Standards Manual for Fire Protection Personnel. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

Recommended References

The most current edition of the following publications and media are recommended (not required) supplemental material for program use.

Texts

Bretherick's Handbook of Reactive Chemical Hazards. Urben, P. G., Pitt, M. J., & Bretherick, L. (2007). Amsterdam: Elsevier.

Chlorine Emergencies: An Overview for First Responders. Chlorine Institute. (2007). Arlington, VA: The Chlorine Institute.

CHRIS: Chemical Hazards Response Information System. United States. (1992). COMDTINST, M16465.11B. Washington, DC: U.S. Dept. of Transportation, U.S. Coast Guard.

Dangerous Properties of Industrial and Consumer Chemicals. Cheremisinoff, N. P., King, J. A., & Boyko, R. (1994). New York, NY: M. Dekker.

Emergency Care for Hazardous Materials Exposure. Currance, P., Bronstein, A. C., & Clements, B. (2005). St. Louis, MO: Mosby.

Emergency Handling of Hazardous Materials in Surface Transportation. Association of American Railroads. (2009). Washington, DC: Association of American Railroads.

Fire Protection Guide to Hazardous Materials. National Fire Protection Association. (2001). Quincy, MA: National Fire Protection Association.

Hazardous Materials: Managing the Incident: Field Operations Guide. Chester Bevelacqua, A. S., Hildebrand, M. S., & Noll, G. G. (2007). MD: Red Hat Publishing, Inc.

Hawley's Condensed Chemical Dictionary. Lewis, R. J., & Hawley, G. G. (2007). West Sussex, England: Wiley.

Symbol Seeker: Hazard Identification Manual. Burns, P. P. (2002). Preston, England: Symbol Seeker.

Media

Hazardous Materials Containment Series. Action Training Systems. [4 Disc DVD Set]. Hazardous materials containment - series of 4 titles. Seattle, WA: Action Training Systems.

Hazardous Materials: Managing the Incident DVD Series. Massingham, G., Noll, G. G., Hildebrand, M. S., & Noll, G. G. (2005). [8 Disc DVD Set]. Edgartown, MA: Emergency Film Group.

REFERENCE LIST FOR THE HAZARDOUS MATERIALS TECHNICIAN CURRICULUM

This Reference List is provided as a general guide for both instructors and students to locate information pertaining to the specific objectives in the TCFP Curriculum. This list is **not** all-inclusive and does not in any way limit TCFP development and use of questions to test the objectives of the curriculum:

Required References

Texts

Certification Curriculum Manual. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

Code of Federal Regulations, Title 29 Part 1910.120, Appendix A. United States. U.S. Department of Labor, Occupational Safety & Health Administration.
http://edocket.access.gpo.gov/cfr_2007/julqtr/pdf/29cfr1910.120.pdf

Emergency Response Guidebook. United States. (Most current edition). Washington, DC: U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration.

Hazardous Materials: Managing the Incident. 4th Edition. Noll, G. G., Hildebrand, M. S., Schnepf, R. & Rudner, G.D. (2014). Burlington, MA: Jones and Bartlett.

Hazardous Materials Technician, 1st Edition. (2013) Stillwater, OK: International Fire Service Training Association.

Hazardous Materials/Weapons of Mass Destruction Response Handbook, 6th/2013 edition. McGowan, T. (2012). Quincy, MA: National Fire Protection Association.

NFPA 472: Standard for Professional Competence of Responders to Hazardous Materials Incidents. (2013 ed.). Quincy, MA: NFPA Publications. National Fire Protection Association

NIOSH Pocket Guide to Chemical Hazards. National Institute for Occupational Safety and Health. (Most current edition). Cincinnati, OH: US Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health.

Standards Manual for Fire Protection Personnel. Texas Commission on Fire Protection. (Most current edition). Austin, TX: Texas Commission on Fire Protection.

Recommended References

The most current edition of the following publications and media are recommended (not required) supplemental material for program use.

Texts

Bretherick's Handbook of Reactive Chemical Hazards. Urben, P. G., Pitt, M. J., & Bretherick, L. (2007). Amsterdam: Elsevier.

Field Guide to Tank Cars. Bureau of Explosives. (2010). Pueblo, Colorado: Association of American Railroads.

~~*Fire Fighter's Handbook of Hazardous Materials, 7th edition.* Baker, Charles T., (2006). Sudsbury, MA: Jones and Bartlett. (OUT OF PRINT, DIFFICULT TO ACQUIRE + EXPENSIVE)~~

Fire Protection Guide to Hazardous Materials. National Fire Protection Association. (2010 edition). Quincy, MA: National Fire Protection Association.

Hawley's Condensed Chemical Dictionary. Lewis, R. J., & Hawley, G. G. (2007). West Sussex, England: Wiley.

Hazardous Materials: Managing the Incident: Field Operations Guide. Bevelacqua, A. 2nd Edition (2013). MD: Jones and Bartlett Publishing.

Hazardous Materials Technician. Weber, Chris (2013). Upper Saddle River, NJ: Pearson Education, Inc.

Media

Chlorine Emergencies: An Overview for First Responders. Chlorine Institute. (2007). Arlington, VA: The Chlorine Institute.

Hazardous Materials Containment Series. Action Training Systems. [4 Disc DVD Set] Hazardous materials containment - series of 4 titles. Seattle, WA: Action Training Systems.

Hazardous Materials: Managing the Incident DVD Series. Massingham, G., Noll, G. G., Hildebrand, M. S., & Noll, G. G. (2005). [8 Disc DVD Set] Edgartown, MA: Emergency Film Group.

How to Use the Chlorine Institute Emergency Kit "A" for 100 lb. and 150 lb. Chlorine Cylinders. Chlorine Institute. (Sept. 2013). New York, NY: The Chlorine Institute. [DVD + pamphlet]

How to Use the Chlorine Institute Emergency Kit "B" for Chlorine Ton Containers. New Chlorine Institute. (Dec. 2013). York, NY: The Chlorine Institute. [DVD + pamphlet]

How to Use the Chlorine Institute Emergency Kit "C" for Chlorine Tank Cars and Tank Trucks. Chlorine Institute. (Feb. 2014). New York, NY: The Chlorine Institute. [DVD + pamphlet]

Intermodal Containers. Noll, G. G., Hildebrand, M. S., & Donahue, M. L. (2002). [DVD] Edgartown, MA: Emergency Film Group.

Petroleum Storage Tanks. Hildebrand, M. S., & Noll, G. G. (2003). [DVD] Edgartown, MA: Emergency Film Group.

5. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 427, Training Facility Certification.

CHAPTER 427

TRAINING FACILITY CERTIFICATION

SUBCHAPTER A

ON-SITE CERTIFIED TRAINING PROVIDER

§427.1. Minimum Standards for Certified Training Facilities for Fire Protection Personnel.

- (a) An on-site training facility must be certified by the commission in each discipline ~~[with a commission approved curriculum]~~ for which the facility provides ~~[accredited]~~ training for fire protection personnel certification. An on-site training facility is where instructors and students are in immediate proximity and where content is instructed primarily in classrooms, at demonstration projects, in fire simulation structures, on fire apparatus, or at training sites in the field under direct supervision of the training facility instructors.
- (b) A certified on-site training facility may be approved to instruct in any one or all of the **disciplines for which** fire protection personnel **certification is available** ~~[curricula]. [Minimum requirements for each curriculum must be met to receive certification].~~
- (c) Minimum requirements for certification as a certified on-site training facility shall include facilities, apparatus, equipment, reference materials, standard operating procedures, instructors, and records to support a quality education and training program. The resources must provide for classroom instruction, demonstrations, and practical exercises for the trainees to develop the knowledge and skills required for fire protection personnel certification.
- (d) The on-site facilities and training shall be performance oriented, when required. Practical performance training with maximum participation by trainees shall be an integral part of the training program. The evaluation process ~~[for each phase of training]~~ will emphasize ~~[, as required,]~~ performance testing to determine if the trainee has acquired the knowledge and skills to achieve the required level of competency ~~[as]~~ required by the respective **training program** ~~[curriculum].~~
- (e) It must be clearly understood that the minimum standard for training facilities is applicable only as the title implies and does not address the additional training facility resources which are required for the continuing in-service training essential to the development and maintenance of a well-coordinated and effective fire service organization.
- (f) An organization ~~[, installation, or facility]~~ must submit **an** ~~[a written]~~ application for certification as **an** ~~[a certified]~~ on-site training facility to the commission. **The** ~~[Such]~~ application will include descriptions, ~~[and]~~ addresses of physical facilities **and an** ~~[together with]~~ inventory of apparatus, equipment, and reference material to be utilized in conducting the **training** ~~[basic curriculum as specified by the commission].~~ It is not required that the equipment be owned by, permanently assigned to, nor kept at a training facility, but must be readily available for instructional purposes. **In such a case, the** ~~[A]~~ training facility must submit a letter of commitment **from the provider of the resources** with the original training facility certification application authorizing the use of resources not controlled by the training facility ~~[from the provider of said resources].~~ A copy of the letters of commitment must be maintained on-site and ~~[be]~~ available for review. Photographs of resources annotated to reflect their identity **may be required as part of** ~~[must be included with]~~ the application. When **submitting** ~~[seeking]~~ training approvals, the facility shall certify that the resources are provided in accordance with this chapter.
- (g) The **chief training officer** ~~[academy coordinator]~~ will:
- (1) attest to the fact that the training meets the competencies in the applicable commission curriculum and/or NFPA Standards; and
 - (2) submit a testing schedule for all required academy skills.

§427.3. Facilities.

The following minimum resources, applicable to the **discipline**~~[curricula]~~, are required for **an** ~~[certification as a certified]~~ on-site training facility. These **resources** ~~[facilities]~~ may be combined or separated utilizing one or more structures. ~~[In either event the facilities must be available and used by the instructor and trainees.]~~

- (1) A training tower equivalent to two or more stories in height. The term "training tower" as used in these standards is a structure suitable for training in the practical application of required ladder, rescue, hose and rope skills training.
- (2) A facility for classroom instruction and testing shall have seating capacity for anticipated trainees. The facility must be conducive for an effective learning environment including environmental comfort for instructors and students, physical requirements needed for good seeing and hearing, adequate lighting, and free of outside distractions.
- (3) An area for practical application of principles and procedures of fire fighting, hose loading, pumper operation, to include friction loss, nozzle reaction, fire stream patterns, and GPM discharge utilizing various layouts for hand lines and/or master stream appliances.
- (4) An enclosed area or room for use in practical training with self-contained breathing apparatus. This may be a smoke and fire room or enclosed area which can be charged with smoke-producing devices to provide a realistic training environment.
- (5) A structure suitable for interior live fire training **as required by** ~~[and meeting the requirements of the basic curriculum pertaining to]~~ the particular discipline(s) ~~[which the training facility is approved to teach, shall be available for use by the instructors to teach interior live fire training].~~
- (6) Facilities to conduct exterior live fire training as required by ~~[the basic curriculum pertaining to]~~ the particular discipline(s) ~~[which the training facility is approved to teach, shall be available for use by the instructors to teach exterior live fire training].~~
- (7) If performance or driving skills are part of the **training program** ~~[curriculum]~~, suitable area(s) for practicing required skills, demonstration of skills, and performance testing ~~[must be available].~~

§427.5. Apparatus.

(a) Certified on-site training facility--approved for basic **structure** ~~[structural]~~ fire protection personnel certification training.

- (1) A pumper apparatus fully equipped as required by the basic fire suppression curriculum ~~[shall be readily available for use by the instructors for instructional purposes].~~
- (2) Ladders or a ladder truck as required by the basic fire suppression curriculum ~~[shall be readily available for use by the instructors for instructional purposes].~~

(b) Certified on-site training facility--approved for basic aircraft rescue fire fighting personnel certification training. Fire apparatus that is equipped to perform aircraft operations as required by the basic aircraft fire protection curriculum ~~[must be readily available for use by the instructors for instructional purposes].~~

(c) Certified on-site training facility--approved for Driver/Operator ~~[Pumper]~~ certification training.

- (1) Driver/Operator-Pumper--** A ~~[piece of]~~ fire apparatus with a permanently mounted fire pump that has a rated discharge capacity of 750 gpm (2850 L/min) or greater as defined in NFPA 1901, Standard for Automotive Fire Apparatus.

(2) Driver/Operator-Aerial-- A fire apparatus with a permanently mounted, power-operated elevating device such as a ladder, ladder platform, telescoping platform, or articulating platform, with an elevating water delivery system.

~~[(d) Certified on-site training facility approved for hazardous materials technician certification training must have access to props and/or simulators, protective suits and monitoring equipment required for skills training and testing.]~~

§427.7. Protective Clothing.

~~All~~~~[Each and every set of]~~ protective clothing, including proximity clothing, that will be used during the course of instruction for a commission approved fire protection personnel **training program** ~~[curriculum]~~ shall comply with §435.1 of this title (relating to Protective Clothing). This rule applies whether the protective clothing is provided by the academy or the trainee.

(1) Protective clothing and elements no longer ~~[in]~~ **used** by ~~[use to]~~ the organization for emergency operations ~~[service, but are not contaminated, defective, or damaged,]~~ may be used for training that does not involve live fire training, provided such clothing and elements **are not contaminated, defective, or damaged, and** are appropriately marked to be easily recognized.

(2) Protective clothing used for aircraft rescue, live fire training, shall be suitable for the type of fire the student is being trained for and shall be determined by the chief training officer of the training facility.

§427.9. Equipment.

The following minimum equipment, applicable to the **discipline** ~~[curricula the training facility is certified to teach]~~, is required for **an** ~~[certification as a certified-]~~ on-site training facility. ~~[The equipment must be available for use by the certified training facility.]~~

(1) If instruction in the use of self-contained breathing apparatus is a part of the **training** ~~[curriculum being taught]~~, then self-contained breathing apparatus in sufficient numbers shall be provided to enable each trainee to wear the equipment for at least the life of one breathing air tank during the training. ~~If [during the course of the training,]~~ a trainee will be subjected to a hazardous atmosphere or where the atmosphere is unknown, the trainee shall be provided with a self-contained breathing apparatus. (Note: All self-contained breathing apparatus used by a certified training facility and the air used in self-contained breathing apparatus must comply with §435.3 of this title (relating to Self-Contained Breathing Apparatus)). This rule applies whether the self-contained breathing apparatus is provided by the academy or the trainee. All students, instructors, safety personnel, and other personnel participating in any evolution or operation of fire suppression during the live fire training shall breathe from an SCBA air supply whenever operating under one or more of the following conditions:

(A) in any atmosphere that is oxygen deficient or contaminated by products of combustion, or both;

(B) in any atmosphere that is suspected of being oxygen deficient or contaminated by products of combustion, or both;

(C) in any atmosphere that can become oxygen deficient or contaminated, or both; and/or

(D) below ground level;

(2) standard classroom equipment to include chalkboard **or white board**, speaker rostrum, supportive instructional aids available to include audio-visual projection equipment. The use of cutaways, models, flip charts, and other visual aids are recommended to enhance effectiveness of the instruction ~~[-Note: The instructor needs to ensure all necessary equipment for is available for trainees to use regarding the basic performance skills as identified in appropriate curriculum and to comply with §427.15 of this title (relating to Testing Procedures)]; and~~

- (3) other equipment, which may include training simulators, ~~and mock~~ training aids, **clothing** and tools required by the applicable **training program** ~~curriculum~~. **The training facility must ensure that all equipment necessary for practice of performance skills identified in the commission's Curriculum Manual or Curriculum Skills Manual is available for use by trainees.**

§427.11. Reference Material.

A reference library is required. The library must contain the publications required to conduct research and develop lesson plans covering the material required in the applicable **training program** ~~curriculum~~. The reference library material must be readily and easily accessible to students and instructors.

§427.13. Records.

(a) Training records shall be maintained by the onsite training facility that reflect:

- (1) who was trained, subject, instructor, and date of instruction. (Note: Individual records are required rather than class records); and
- (2) individual trainee test scores to include performance testing.

(b) All training records must be maintained by the onsite training facility for a minimum of three years or in accordance with the requirement of the Texas State Library and Archives Commission, State and Local Records Management Division, whichever is greater.

§427.18. Live Fire Training Evolutions.

The most current edition of NFPA 1403, Standard on Live Fire Training Evolutions, shall be used as a guide when developing standard operating procedures for conducting live fire training. The following requirements shall apply for all **live fire training evolutions** ~~[Live Fire Training Evolutions]~~ conducted during basic certification training of fire protection personnel.

- (1) Prior to being permitted to participate in **live fire training evolutions** ~~[Live Fire Training Evolutions]~~, the student shall have received training to meet the performance requirements for Fire **Fighter** ~~[Fighting]~~ I in NFPA 1001, Standard for Fire Fighter Professional Qualifications, related to the following subjects:
 - (A) safety;
 - (B) fire behavior;
 - (C) portable extinguishers;
 - (D) personal protective equipment to include SCBA;
 - (E) ladders;
 - (F) fire hose, appliances, and streams;
 - (G) overhaul;
 - (H) water supply;
 - (I) ventilation;
 - (J) forcible entry; and
 - (K) building construction.

- (2) The on-site lead instructor will ensure that the water supply rate and duration for each ~~[individual]~~ **live fire training evolution** ~~[Live Fire Training Evolution]~~ is adequate to control and extinguish the training fire. ~~[,]~~ **The lead instructor will also ensure that the resources** ~~[the supplies]~~ necessary for backup lines to protect personnel ~~[,]~~ and ~~[any water needed to protect]~~ exposed property **are available and deployed.**
- (3) The on-site lead instructor will ensure that the buildings or props being utilized for live fire training are in a condition that would not pose an undue safety risk.
- (4) A safety officer shall be appointed for all **live fire training evolutions** ~~[Live Fire Training Evolutions]~~. The safety officer shall have the authority, regardless of rank, to intervene and control any aspect of the operations when, in his or her judgment, a potential or actual danger, accident, or unsafe condition exists. The safety officer shall not be assigned other duties that interfere with safety responsibilities. The safety officer shall not be a student.
- (5) No person(s) shall play the role of a victim inside the building.
- (6) The participating student-to-instructor ratio shall not be greater than five to one.
- (7) Prior to the ignition of any fire, instructors shall ensure that all personal protective clothing and/or self-contained breathing apparatus are NFPA compliant and being worn in the proper manner.
- (8) Prior to conducting any live fire training, a pre-burn briefing session shall be conducted. All participants shall be required to conduct a walk-through of the structure in order to have a knowledge of, and familiarity with, the layout of the building and to be able to facilitate any necessary evacuation of the building.
- (9) A standard operating procedure shall be developed and utilized for **live fire training evolutions** ~~[Live Fire Training Evolutions]~~. The standard operating procedure shall include, but not be limited to:
 - (A) a Personal Alert Safety System (PASS). A PASS device shall be provided for **each student** ~~[all students]~~ and instructors ~~[instructors]~~ participating in live fire training and shall meet the requirements in §435.9 of this title (relating to PASS devices). This applies whether the PASS device is provided by the academy or the trainee;
 - (B) a Personnel Accountability System that complies with §435.13 of this title ~~[shall be utilized];~~
 - (C) an Incident Management System;
 - (D) use of personal protective clothing and self-contained breathing apparatus;
 - (E) an evacuation signal and procedure; and pre-burn, burn and post-burn procedures.

§427.19. General Information.

- (a) All ~~[Texas]~~ certified training facilities shall meet these minimum requirements. **Training** ~~[No training]~~ credit will **not** be recognized from a ~~[Texas]~~ training facility that has not been certified by the **commission** ~~[Commission]~~, unless the program has been **deemed** ~~[approved by the Commission as being]~~ equivalent. The **commission** ~~[Commission]~~ shall take action on an application for certification of a training facility within 30 days from receipt.
- (b) Certified training facilities shall conduct all training in a controlled and safe manner so that trainees are not subjected to unnecessary risks. Texas Government Code, §419.032(c) provides that fire protection personnel must complete a **commission approved** ~~[Commission approved]~~ training course in fire suppression before being assigned to fire suppression duties. **Certified** ~~[In addition, certified]~~ training facilities ~~[, whether operated by a fire department or other governmental or private training facility,]~~ shall not put trainees at risk by requiring or allowing a trainee to perform the duties of fire protection personnel at actual uncontrolled emergency situations such as, but not limited to,

structure fires, aircraft fires, wildland fires, hazardous materials incidents or dangerous rescue situations.

- (c) A certified training facility may transport trainees to the site of an actual emergency for training purposes only if the following requirements are strictly adhered to:
- (1) the trainees are kept in a group under the direct supervision of qualified instructors to maintain accountability and ensure their safety;
 - (2) the trainees are kept outside of the emergency operations area; and
 - (3) the trainees' activities are restricted to observation only and trainees are not allowed to participate in emergency operations.
- (d) Certified training facilities are subject to inspection by the **commission** [~~Commission~~] at any time during regular business hours.
- (e) In order to retain the certification as a certified training facility, schools desiring to make substantial changes in the facility or other conditions under which the school was approved shall coordinate such plans with the **commission** [~~Commission~~].
- (f) The **commission** [~~Commission~~] shall be notified, in writing, within 14 days of any change from the original status under which the certification was issued.
- (g) The **commission** [~~Commission~~] may revoke, suspend, [~~and/or~~] probate, **refuse to renew, or otherwise limit** the certification of a training facility when the **commission** [~~Commission~~] determines that the training facility:
- (1) fails to provide the quality of training for which the facility was approved; or
 - (2) fails to comply with **commission** [~~Commission~~] rules and/or these minimum standards; or
 - (3) fails to submit required reports in a timely manner or submits false reports to the **commission** [~~Commission~~]; or
 - (4) fails to meet at least a 70-percent student pass rate on the [~~state~~] certification examination per course.

SUBCHAPTER B

DISTANCE TRAINING PROVIDER

§427.201. Minimum Standards for Distance Training Provider.

- (a) The following definition is applicable to this subchapter only. Approved distance training is defined as fire training where instructors and students are primarily in different locations and content is instructed primarily using the internet or an intranet. **Courses** [~~and courses~~] must **be interactive** [~~contain some level of interactivity~~]. Distance training that serves as nothing more than electronic text is not acceptable. Online courses must provide the opportunity for the student to interact or ask questions via e-mail, chat rooms or some other method of communication. Other computer-mediated methods of instruction may be used to enhance instruction; however, the primary delivery method must be through the internet or an intranet.
- (b) A distance training provider must seek certification as a training facility in each discipline **for which** it intends to **conduct certification training for fire protection personnel** [~~instruct~~].
- (c) In order to become a **commission approved** [~~Commission-approved~~] distance training provider, [~~]~~ the provider must submit a completed [~~Commission~~] training facility application with supporting documentation and fees. **The** [~~Such~~] application will include descriptions and addresses of where the distance training provider will have their course delivery and materials. A distance training provider must provide documentation of its ability to meet all minimum requirements for each discipline for which it seeks certification. The documentation must also identify how students and instructors will access resources **required to complete the training** [~~as identified in the curriculum~~].
- (d) A distance training provider that applies for certification as a training facility in a discipline that includes skills training shall comply with Subchapter A of this chapter concerning minimum standards, facilities, apparatus, protective clothing, equipment, and live fire training utilized to teach and test the required skills.

§427.203. Records.

- (a) Training records shall be maintained by the distance training provider that reflect:
- (1) Who was trained, subject, instructor, and date of instruction. (Note: Individual records are required rather than class records);
 - (2) Individual trainee test scores to include performance testing; and
 - (3) Evidence to substantiate the test scores received by each trainee to include performance testing. Such records will include materials (completed tests and/or answer sheets, other documents, video or audio recording, etc.), and will provide identification of the examinee, identification of the evaluating field examiner, and the observer as defined in Chapter 439 of this title (relating to Examinations for Certification).
- (b) All distance training provider records must be maintained by the distance training provider for commission review for a minimum of three years or in accordance with the requirement of the Texas State Library and Archives Commission, State and Local Records Management Division, whichever is greater.
- (c) A master copy of tests will be maintained for review by commission representatives. The certified distance training provider shall maintain copies of all tests for a minimum of three years.

§427.209. General Information.

- (a) All distance training providers shall meet these minimum requirements. Training [~~No training~~] credit will **not** be recognized from a distance training provider that has not been certified by the commission [~~Commission~~]. The **commission** [~~Commission~~] shall take action on an application for certification of a distance training provider [~~/training facility provider~~] within 30 days from receipt.
- (b) Distance training providers conducting on-site **activities** [~~programs~~] shall ensure that all training is conducted in a controlled and safe manner so that trainees are not subjected to unnecessary risks. **Certified** [~~In addition, certified~~] training facilities shall not put trainees at risk by requiring or allowing a trainee to perform the duties of fire protection personnel at actual uncontrolled emergency situations such as, but not limited to, structure fires, aircraft fires, wildland fires, hazardous materials incidents or dangerous rescue situations.
- (c) A distance training provider may transport trainees to the site of an actual emergency for training purposes, only if the following requirements are strictly adhered to:
- (1) the trainees are kept in a group under the direct supervision of qualified instructors to maintain accountability and ensure their safety;
 - (2) the trainees are kept outside of the emergency operations area; and
 - (3) the trainees' activities are restricted to observation only and trainees are not allowed to participate in emergency operations.
- (d) Distance training providers are subject to inspection by the **commission** [~~Commission~~] at any time during regular business hours. Distance training providers shall provide the **commission** [~~Commission~~] with access to the training facility to monitor the course in progress.
- (e) The **commission** [~~Commission~~] shall be notified, in writing, within 14 days of any change from the original status under which the certification was issued.
- (f) The **commission** [~~Commission~~] may revoke, suspend, [~~and/or~~] probate, **refuse to renew, or otherwise limit** the certification of a **distance training provider** when the **commission** [~~Commission~~] determines that the [~~distance training~~] provider:
- (1) fails to provide the quality of training and education for which the provider was approved; or
 - (2) fails to comply with **commission** [~~Commission~~] rules and/or these minimum standards; or
 - (3) fails to submit required reports in a timely manner or submits false reports to the **commission** [~~Commission~~]; or
 - (4) per course, fails to meet at least a 70-percent student pass rate on the [~~state~~] certification examination.

SUBCHAPTER C

TRAINING PROGRAMS FOR ON-SITE AND DISTANCE TRAINING PROVIDERS

§427.301. General Provisions for Training Programs--On-Site and Distance Training Providers.

- (a) Training programs that are intended to satisfy the requirements for fire protection personnel certification [~~for each curriculum~~] must meet the objectives and competencies in that **discipline** [~~curriculum~~].
- (b) A system for evaluating the comprehension of the trainee, including periodic and comprehensive written tests, is required. If performance skills are part of the applicable curriculum, performance testing shall be done in accordance with §439.11 of this title (relating to Commission-Designated Performance Skill Evaluations).

§427.303. Training Approval Process for On-Site and Distance Training Providers.

- (a) When seeking training approvals, a training provider [~~whether on-site or distance~~] shall certify that it has provided the resources described in **§427.1** [~~§427.1(f)~~] of this title (relating to Minimum Standards for Certified Training Facilities for Fire Protection Personnel).
- (b) All training for certification must be approved by the commission. A training provider must submit [~~to the commission~~] training prior approval information at least 10 days prior to the proposed start date of the training.
- (c) Approved courses are subject to audit by commission staff at any time. Any deviation from the **information submitted in an original course approval** [~~approved start and end date of the class, periodic, and final test schedule, field examiners or the substitution of one instructor for another (this does not apply to an instructor already approved for the course)~~] must be reported to the commission **at least one day prior to the change taking place, unless the training provider is unable to do so because of unforeseen circumstances**, ~~within three business days of the deviation~~. **All deviations must be approved by the commission.**

§427.305. Procedures for Testing Conducted by On-Site and Distance Training Providers.

- (a) The requirements and provisions in this section apply to procedures for periodic and final testing conducted by training providers. For procedures regarding [~~state~~] examinations for certification [~~Commission examinations~~] that occur after a training program is completed, see Chapter 439 of this title (relating to Examinations for Certification).
- (b) Periodic and comprehensive final tests shall be given by the training provider in addition to the **commission** [~~Commission~~] examination required in Chapter 439 of this title.
- (c) Periodic tests shall be administered at the ratio of one test per 50 hours of recommended training, or portion thereof. An average score of 70% must be achieved on all required periodic tests.
- (d) In addition to periodic tests, a comprehensive final test must be administered. The final test must be conducted in a proctored setting. For purposes of this section, a proctor can be an approved TCFP Field Examiner, or a member or testing center of an educational institution. A passing score of 70% must be achieved.
- (e) If a course is taught in phases, a comprehensive exam for each phase shall be administered upon completion of each phase and a passing score of 70% must be achieved.

§427.307. On-Site and Distance Training Provider Staff Requirements.

- (a) The chief training officer of a training facility, as a minimum, must possess Fire Service Instructor III certification.

- (b) All training instructors (except guest instructors) must possess fire instructor certification. The instructor(s) must be certified in the applicable discipline or be approved by the commission to instruct in the applicable subject.
- (c) The lead instructor, as a minimum, shall possess a Fire Service Instructor II certification and must be certified by the commission in the applicable discipline, except as stated in subsections (h)(2) and (i)(2) of this section.
- (d) Guest instructors are not required to be certified as instructors.
- (e) In order to teach fire officer certification courses, an individual who does not meet the requirements of subsection (a) or (c) of this section, shall possess a minimum of a bachelor's degree in management or its equivalent.
- (f) In order to teach an instructor certification training course for Fire Service Instructor I, an individual must hold one of the following three qualifications:
- (1) ~~A [Hold a]~~ Fire Service Instructor II **certification** or higher; or
 - (2) A Bachelor's degree with the following:
 - (A) as a minimum, a minor in education; and
 - (B) three years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 200 class hours; or
 - (3) An **associate** ~~[Associate's-]~~ degree with the following:
 - (A) twelve semester hours of education instructional courses; and
 - (B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.
- (g) In order to teach an instructor certification training course for Fire Service Instructor II or III, an individual must hold one of the following three qualifications:
- (1) ~~A [Hold a]~~ Fire Service Instructor III **certification**; or
 - (2) A Bachelor's degree with the following:
 - (A) as a minimum, a minor in education; and
 - (B) three years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 200 class hours; or
 - (3) An **associate** ~~[Associate's]~~ degree with the following:
 - (A) twelve semester hours of education instructional courses; and
 - (B) five years of teaching experience in a fire department, department of a state agency, educational institution, or political subdivision of the state, during which time the individual taught a minimum of 400 class hours.
- (h) In order to teach a certification course for Basic Wildland Fire Protection:

(1) The unit instructor must hold Intermediate Wildland Fire Protection certification or be approved by the commission to instruct a Basic Wildland course and hold:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current National Wildfire Coordinating Group (NWCG) Field Manager's Course Guide (901-1) or current Texas Intrastate Fire Mutual Aid System (TIFMAS) guidelines for this level of course.

(2) The lead instructor must hold NWCG or TIFMAS Single Resource Boss qualification and hold:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current NWCG Field Manager's Course Guide (901-1) or current TIFMAS guidelines for this level of course.

(i) In order to teach a certification course for Intermediate Wildland Fire Protection:

(1) The unit instructor must hold an Intermediate Wildland Fire Protection certification or be approved by the commission to instruct an Intermediate Wildland course and hold:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current NWCG Field Manager's Course Guide (901-1) or current TIFMAS guidelines for this level of course.

(2) The lead instructor must hold NWCG or TIFMAS Single Resource Boss qualification and:

(A) commission Fire Service Instructor I certification or higher; or

(B) instructor credentials as required by the current NWCG Field Manager's Course Guide (901-1) or current TIFMAS guidelines for this level of course.

SUBCHAPTER D

CERTIFIED TRAINING FACILITIES

§427.401. General Provisions for Training Facilities Not Owned by the State of Texas or Operated by a Political Subdivision of the State of Texas.

- (a) The provisions in this subchapter apply only to certified training facilities that are not owned or operated by the State of Texas or a political subdivision of the State of Texas.
- (b) Training facilities seeking certification under this subchapter must comply with all the provisions of this chapter and must also meet and comply with all **commission** [~~Commission~~] rules.
- (c) Training facilities seeking certification under this subchapter must apply for training facility certification in each discipline **for which** they **intend to conduct certification training for fire protection personnel** [~~wish to teach~~].
- (d) In order to become a **commission approved** [~~Commission approved~~] training facility under this subchapter, [;] the provider must submit a completed **commission** [~~Commission~~] training facility application for certification with supporting documentation and fees. Supporting documentation will consist of:
 - (1) descriptions, photos and addresses of where the provider will have their course delivery and materials;
 - (2) documentation of how the provider will meet all the minimum requirements for each discipline for which it seeks certification;
 - (3) complete and correct financial statements, as specified in this subchapter, demonstrating the facility is financially stable and capable of fulfilling its commitments for training;
 - (4) statement of ownership which identifies the owners, stockholders, partners, representatives, management, trustees, board members;
 - (5) documentation showing registration with the Texas Secretary of State as a business.

§427.403. Financial Standards.

- (a) Definitions Relating to Financial Requirements.
 - (1) Balance Sheet--A statement of financial position or statement of condition, showing the status of assets, liabilities and owner equity for a defined period i.e., monthly, quarterly, etc.
 - (2) Current ratio--ability to pay current obligations from current assets.
 - (3) Generally Accepted Accounting Principles (GAAP)--Conventions, rules and procedures that define accepted accounting practices to include both broad guidelines as well as detailed procedures.
 - (4) Generally Accepted Auditing Standards (GAAS)--Conventions, rules and procedures that define accepted audit practices.
 - (5) Stockholders Equity (net worth)--amount by which assets exceed liabilities.
 - (6) Sworn statement--A notarized statement including the following language: "I swear or affirm that the information in these statements is true and correct to the best of my knowledge."

(7) Unearned income (tuition) affidavit--A statement of income received but not yet earned during the current or most recent fiscal year. This is usually shown as a liability on a balance sheet, assuming it will be credited to income within the normal accounting cycle.

(b) The balance sheet required in this subchapter shall reflect the following:

(1) positive equity or net worth balance;

(2) unearned tuition as a current liability;

(3) a current ratio of at least one-to-one; (current assets divided by current liabilities) and

(4) stockholder's equity or net worth exceeding the amount shown for goodwill, if applicable, under assets in the balance sheet.

(c) Compilations shall be accompanied by the owner's sworn statement **that all submitted documents are true and correct to the best of the owner's knowledge.**

(d) All financial statements shall identify the name, license number, and licensing state of the accountant associated with the statements and be in accordance with GAAP.

(e) A school that maintains a financial responsibility composite score that meets the general standards established in federal regulations by the U.S. Department of Education for postsecondary institutions participating in student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, shall be considered to have met the financial standards of this subchapter.

(f) A school that qualifies under an alternative standard but not the general standard of these federal regulations will not be considered to have met the financial standards of this subchapter unless the school meets the other requirements stated in this subchapter.

(g) Requirements for Original Approvals.

(1) The owner shall furnish the **commission** [~~Commission~~] with the following:

(A) a school owned by a sole proprietor must submit a reviewed personal balance sheet stating the disclosure of payments for the next five years to meet debt agreements as required by GAAP; or

(B) all other ownership structures must submit an audited balance sheet consistent with GAAP and GAAS and certified by an accountant.

(2) The facility shall submit a balance sheet, a list of the expected school-related expenses for the first three months of operation of the school; a sworn statement signed by the owner affirming the availability of sufficient cash to cover projected expenses at the date of the certification. Projected expenses may include the following:

(A) employee salaries, listed by position title, including withholding and unemployment taxes, and other related expenses;

(B) lease or rent payments for listed equipment;

(C) lease or rent payments for facilities;

(D) accounting, legal and other specifically identified professional fees;

(E) an estimate of expenses such as advertising, travel, textbooks, office and classroom supplies, printing, telephone, utilities, taxes;

- (F) a projection of the gross amount of tuition and fees to be collected during each of the first two years of operation; and
- (G) such other evidence as may be deemed appropriate by the **commission** [~~Commission~~] to establish financial stability.
- (h) Prior to a change in ownership of a facility, the purchaser shall furnish the **commission** [~~Commission~~] a current balance sheet meeting the requirements outlined in this subchapter for original approvals, excluding the sufficient cash requirement for initial expenses. The purchaser shall furnish any other evidence deemed appropriate by the **commission** [~~Commission~~] to establish financial stability.
- (i) The deletion or addition of any person that would be considered an owner is considered a change in facility ownership. The facility must notify the **commission** [~~Commission~~] of the change in ownership within 14 days of the transaction.
- (j) The **commission** [~~Commission~~] may require submission of a full application for approval of a change in ownership.
- (k) Management agreements must be disclosed to the **commission** [~~Commission~~]. Parties to a management agreement shall be of good reputation and character.
- (l) The deletion, addition or moving of a facility will be reported to the **commission** [~~Commission~~] 14 days prior to the transaction.
- (m) If the **commission** [~~Commission~~] determines that the deletion, addition or moving of a facility presents an unreasonable transportation hardship which would prevent a student from completing the training at the new location, the school shall provide a full refund of all monies paid and a release from all obligations to the student.
- (n) The **commission** [~~Commission~~] shall be notified in writing of any legal action to which the facility, any of its owners, representatives or management employees is a party.
- (o) The notification shall be within 14 days after the action is known to be filed or the facility, owner, representative or management employee is served.
- (p) The facility shall include, with the required notice, a file-marked copy of the petition, complaint, or other legal instrument, including copies of any judgments.
- (q) If the **commission** [~~Commission~~] determines that reasonable cause exists to question the validity of any financial information submitted, or the financial stability of the facility, the **commission** [~~Commission~~] may require at the facility's expense:
- (1) an audit of the facility that has been certified by an accountant; or
 - (2) The owner must furnish any other evidence deemed appropriate by the **commission** [~~Commission~~] to establish financial stability.
- (r) The entity certified under this subchapter shall maintain, in a permanent format that is acceptable and readily accessible to the **commission** [~~Commission~~], a record of any funds received from, or on behalf of, the student. The entity shall clearly identify the payer, the type of funding, and the reason for the charges. These records shall be posted and kept current.
- (s) An entity certified under this subchapter shall issue written receipts of any charges or payments to the student and maintain such records for review upon request by the **commission** [~~Commission~~]. Each separately charged item shall be clearly itemized on the student-signed receipt.
- (t) An entity certified under this subchapter shall develop and maintain a cancellation and refund policy.

- (u) The student shall be entitled to a full refund of all monies paid to the facility if classes or courses are cancelled by the facility.
- (v) **For classes** [~~Classes~~] or courses cancelled by the student, refund policies will be based on a prorated basis or percentage of the class or program completed by the student.
- (w) An entity certified under this subchapter shall comply with Chapter **437** [~~437.3 concerning~~] **of this title (relating to Fees)** [~~certification and renewal fees~~].
- (x) Upon application for renewal, an entity certified under this subchapter will provide a balance sheet with a sworn statement.

§427.405. Policy Regarding Complaints.

(a) Complaints. The entity shall:

- (1) Submit a written grievance procedure designed to resolve disputes between current and former students and the school for **commission** [~~Commission~~] approval;
- (2) Provide a copy of the grievance procedure to each student and maintain proof of such delivery;
- (3) Maintain records regarding grievance filings and resolutions; and
- (4) Diligently work to resolve all complaints at the local school level.

(b) Investigations.

- (1) The **commission** [~~Commission~~] may investigate a complaint about an entity and may determine the extent of investigation needed by considering various factors, such as:
 - (A) the seriousness of the alleged violation;
 - (B) the source of the complaint;
 - (C) the school's history of compliance and complaints;
 - (D) the timeliness of the complaint; and
 - (E) any other reasonable matter deemed appropriate.
- (2) The **commission** [~~Commission~~] may require documentation or other evidence of the violation before initiating a complaint investigation.

§427.407. School Responsibilities Regarding Instructors.

- (a) The facility **chief training officer** [~~Chief Training Officer~~] (CTO) shall ensure that there are an appropriate number of instructors.
- (b) The facility CTO shall ensure that instructors are qualified to instruct in the subjects they are teaching or assisting.
- (c) The facility CTO shall ensure continuity of instruction and that instructors provide students with a quality education.
- (d) The facility CTO shall formally evaluate each instructor in writing at least annually and shall make the evaluations available for review by the **commission** [~~Commission~~].
- (e) The facility CTO shall ensure that students are allowed the opportunity to formally evaluate each instructor in writing and make the evaluations available for review by the **commission**.

~~[-Commission].~~

§427.409. Advertising.

(a) General Information for Advertising.

- (1) A school shall not make deceptive statements in attempting to enroll students.
- (2) The **commission** ~~[Commission]~~ may require a school to furnish proof ~~[to the Commission]~~ of any of its advertising claims.

(b) Advertisement Method.

- (1) A school may advertise for prospective students under "instruction," "education," "training," or a similarly titled classification.
- (2) No school advertisements shall use the word "wanted," "help wanted," or "trainee," either in the headline or the body of the advertisement, nor shall any advertisement indicate, in any manner, that the school has or knows of employment of any nature available to prospective students; only "placement assistance," if offered, may be advertised.
- (3) A school shall not use terms to describe the significance of the approval that specify or connote greater approval. Terms that schools may not use to connote greater approval by the **commission** ~~[Commission]~~ include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended." A school shall not use the words "guarantee," "guaranteed," or "free" unless approved in writing by the **commission** ~~[Commission]~~.
- (4) Any advertisement that includes a reference to awarding of credit hours shall include the statement, "limited transferability." Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised, but any limitations shall be included in the advertisement.

(c) Advertisement Content.

- (1) Advertisement content shall include, and clearly indicate, the full and correct name of the school and its address, including city, as they appear on the certificate of approval.
- (2) Advertisements shall not include:
 - (A) statements that the school or its programs are accredited unless the accreditation is that of an agency recognized by the United States Department of Education;
 - (B) statements that the school or its courses of instruction have been approved unless the approval can be substantiated by an appropriate certificate of approval issued by an agency of the state or federal government;
 - (C) statements that represent the school as an employment agency under the same name, or a confusingly similar name, or at the same location of the school; or
 - (D) statements as being **commission approved** ~~[Commission approved]~~ or IFSAC approved in order to solicit students prior to receiving actual **commission** ~~[Commission]~~ approval. Any such activity by the school, prior to the **commission's** ~~[Commission's]~~ approval of the training course, shall constitute misrepresentation by the training facility and shall entitle each student in the course to a full refund of all monies paid and a release from all obligations to the student~~["]~~.
- (3) A school holding a franchise to offer specialized programs or subjects not available to other schools shall not advertise such programs in such a manner as to diminish the value and scope of programs offered by other schools not holding such a franchise. Advertising of special subjects or programs offered under a franchise shall be limited to the subject or programs offered.

(4) a school shall not use endorsements, commendations, or recommendations by students in favor of a school except with the consent of the student and without any offer of financial or other material compensation. Endorsements shall bear the legal or professional name of the student.

(5) a school shall not use a photograph, cut, engraving, illustration or graphic in advertising in such a manner as to:

(A) convey a false impression of size, importance, or location of the school, equipment, or facilities associated with the school, or

(B) circumvent any of the requirements of this subchapter regarding written or oral statements.

(6) Every advertisement must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.

(d) Financial Incentives. Advertisements shall not:

(1) state that students shall be guaranteed employment while enrolled in the school;

(2) state that employment shall be guaranteed for students after graduation; or

(3) misrepresent opportunities for employment upon completion of any program; or

(4) contain dollar amounts as representative or indicative of the earning potential of graduates unless those dollar amounts have been published by the United States Department of Labor. This provision shall not be construed as prohibiting the school from providing earning potential to the student individually on the student's receipt of enrollment policies or other such **commission approved** ~~[Commission approved]~~ document.

(e) Advertisements for student tuition loans shall:

(1) contain the language "financial aid available, if qualified";

(2) appear in type no larger than the font used for the name of the school and in similar color and style; and

(3) does not preclude disclosure of the school's eligibility under the various state and federal loan programs.

(f) Advertisement Monitoring.

(1) The **commission** ~~[Commission]~~ may order corrective action to counteract the effect of advertising in violation of the Act or rules, including:

(A) retraction by the school of such advertising claims published in the same manner as the claims themselves; and

(B) cancellation of telephone numbers without an automatic forwarding message.

(2) As corrective action for violations of the Act or rules, the **commission** ~~[Commission]~~ may require schools to submit all advertisements to the **commission** ~~[Commission]~~ for pre-approval at least 30 days before proposed submission of the advertisements to the advertising medium.

(3) Nothing in these guidelines shall prohibit release of information to students as required by a state or federal agency.

§427.411. Cancellations or Suspensions.

- (a) If an approved course of instruction is discontinued for any reason, the **commission** [~~Commission~~] shall be notified within 72 **business** hours (9 days) of discontinuance and furnished with the names and addresses of any students who were prevented from completion of the course of instruction due to discontinuance. Should the school fail to make arrangements satisfactory to the students and the **commission** [~~Commission~~] for the completion of the course of instruction, the full amount of all tuition and fees paid by the students are then due and refundable. Any course of instruction discontinued will be removed from the list of approved courses of instruction.
- (b) The **commission** [~~Commission~~] may suspend enrollments in a particular course of instruction at any time the **commission** [~~Commission~~] finds cause. For purposes of this subsection, cause includes, but is not limited to:
- (1) inadequate instruction;
 - (2) unapproved or inadequate curriculum;
 - (3) inadequate equipment; or
 - (4) inadequate facilities.
- (c) If a school begins teaching a course of instruction or revised course of instruction that has not been approved by the **commission** [~~Commission~~], the **commission** [~~Commission~~] may require the school to refund to the enrolled students all or a portion of the tuition fees.

§427.413. Liabilities.

- (a) Curriculum and Testing.
- (1) The school shall be able to provide license agreements with the publisher of any curriculum used. The school may not reproduce the curriculum, or any part thereof, without describing the purpose or having the written consent by said publisher.
 - (2) The school shall be able to provide a valid purchase receipt or license agreement of any published test banks, or any part thereof, used in the evaluation process of any course taught.
- (b) Equipment and Facilities.
- (1) The school shall be able to provide written agreements for the use of any equipment not owned by the school, but used during the instruction of any student. The agreement shall dictate the terms, liability, fees, and availability of maintenance records of such equipment.
 - (2) The school shall be able to provide written agreements of the use of any facilities or area, not otherwise public, but used during the instruction of any student. The agreement shall dictate the terms, liability, and fees of such facilities or area.
- (c) Insurance Coverage. The school shall be able to provide a general liability policy issued by a company licensed to do business in the State of Texas.

**6. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 433
Driver Operator.**

CHAPTER 433

DRIVER/OEPRATOR

SUBCHAPTER B

MINIMUM STANDARDS FOR DRIVER/OPERATOR-AERIAL APPARATUS

§433.201. Driver/Operator-Aerial Apparatus Certification.

- (a) A Driver/Operator-Aerial Apparatus is defined as an individual who operates an aerial apparatus safely and in accordance with all state and local laws; safely and correctly maneuvers, positions, stabilizes, and operates an aerial apparatus and device; and effectively deploys and operates an elevated master stream from a water source. Other responsibilities include routine apparatus testing, maintenance, inspections, and servicing functions.
- (b) Individuals holding Driver/Operator-Pumper certification are eligible to take the commission examination for Driver Operator-Aerial Apparatus upon documentation to the commission that the individual has completed Driver Operator-Aerial Apparatus training that meets the minimum requirements of the NFPA 1002 or provide documentation of proficiency in the operation of an aerial apparatus from a department with an in service aerial apparatus. This section will expire on May 18, 2018.

§433.203. Minimum Standards for Driver/Operator-Aerial Apparatus Certification.

- (a) In order to obtain Driver/Operator-Aerial Apparatus certification, the individual must:
 - (1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and
 - (2) possess valid documentation as a Driver/Operator-Aerial Apparatus from either:
 - (A) the International Fire Service Accreditation Congress; or
 - (B) The National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2014 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in 439.1 of this title (relating to Requirements-General); or
 - (3) complete a commission approved Driver/Operator-Aerial Apparatus training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved driver/operator-aerial apparatus training program must consist of one of the following:
 - (A) completion of an in-state driver/Operator-Aerial Apparatus program meeting the requirements of the applicable NFPA standard and conducted by a commission certified training provider, that was submitted and approved through the commission's training prior approval system; or
 - (B) completion of an out-of-state training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard; or
 - (C) completion of a military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.
- (b) Out-of-State or military training programs submitted to the commission for the purpose of determining equivalency will be considered equivalent if the training addresses all job performance requirements of the applicable NFPA standard.

§433.205. Examination Requirements.

- (a) Examination requirements in Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive Driver/Operator-Aerial Apparatus certification.
- (b) Individuals will be permitted to take the commission examination for Driver/Operator-Aerial Apparatus by documenting, as a minimum, completion of the NFPA 1001 Fire Fighter I training, and completing a commission approved Driver/Operator-Aerial Apparatus training program.

§433.207. International Fire Service Accreditation Congress (IFSAC) Seal.

(a) Individuals holding a current commission Driver/Operator-Aerial certification received prior to May 31, 2018 and documenting an NFPA 1001 Fire Fighter I IFSAC seal may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Driver/Operator-Aerial by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on May 31, 2019.

(b) Individuals completing a commission approved Driver/Operator-Aerial program; documenting an NFPA 1001 Fire Fighter I IFSAC seal and passing the applicable state examination, may be granted an IFSAC seal for Driver/Operator-Aerial by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.

7. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 453, Hazardous Materials.

CHAPTER 453

HAZARDOUS MATERIALS

SUBCHAPTER B

MINIMUM STANDARDS FOR HAZARDOUS MATERIALS INCIDENT COMMANDER

§453.201. Hazardous Materials Incident Commander Certification.

The Hazardous Materials Incident Commander is defined as that person responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources.

§453.203. Minimum Standards for Hazardous Materials Incident Commander.

In order to be certified as Hazardous Materials Incident Commander an individual must:

- (1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and
- (2) possess valid documentation as a Hazardous Materials Incident Commander from either:
 - (A) the International Fire Service Accreditation Congress; or
 - (B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1(a)(2) of this title (relating to Requirements—General); or
- (3) complete a commission approved Hazardous Materials Incident Commander training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Hazardous Materials Incident Commander program must consist of one of the following:
 - (A) completion of an in-state Hazardous Materials Incident Commander training program that meets the requirements of the applicable NFPA standard, is conducted by a commission certified training provider and approved through the commission's training prior approval system; or
 - (B) completion of an out-of-state and/or military training program that has been submitted to the commission for evaluation and found to meet or exceed the NFPA standard for Hazardous Materials Incident Commander.

§453.205. Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive a Hazardous Materials Incident Commander certification.
- (b) Individuals will be permitted to take the commission examination for Hazardous Materials Incident Commander by documenting completion of NFPA 472 Awareness and Operations level training and completing a commission approved Hazardous Materials Incident Commander training program.

§453.207. International Fire Service Accreditation Congress (IFSAC) Seal.

- (a) Individuals holding a current commission Hazardous Materials Incident Commander certification received prior to May 31, 2018 may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Hazardous Materials Incident Commander by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must**

also document the required prerequisite IFSAC seals listed in subsection (b) of this section. This subsection (a) will expire on May 31, 2019.

(b) Individuals completing a commission approved Hazardous Materials Incident Commander program and documenting the following IFSAC seals:

(1) Hazardous Materials Awareness Level Personnel; and

(2) Hazardous Materials Operations Level Responders, including the Mission-Specific Competencies for Personal Protective Equipment and Product Control under the current edition; or

(3) NFPA 472 Hazardous Materials Operations prior to the 2008 edition; and

(4) upon passing the applicable state examination, may be granted an IFSAC seal for Hazardous Materials Incident Commander by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.

8. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 457, Minimum Standards for Incident Safety Officer Certification.

CHAPTER 457

MINIMUM STANDARDS FOR INCIDENT SAFETY OFFICER CERTIFICATION

§457.1. Incident Safety Officer Certification.

- (a) An Incident Safety Officer is defined as a member of the command staff responsible for monitoring and assessing safety hazards or unsafe situations and for developing measures for ensuring personnel safety at an incident.
- (b) All individuals holding an Incident Safety Officer certification shall be required to comply with the continuing education requirements in Chapter 441 of this title (relating to Continuing Education).
- (c) All Safety Officer certifications issued by the commission and referenced in this chapter are voluntary.

§457.3. Minimum Standards for Incident Safety Officer Certification.

In order to be certified as an Incident Safety Officer an individual must:

- (1) hold commission certification as Fire Officer I and;
- (2) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as an Incident Safety Officer; or
- (3) complete a commission approved Incident Safety Officer program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Incident Safety Officer program must consist of one of the following:
 - (A) completion of an in-state Incident Safety Officer program meeting the requirements of the applicable NFPA standard and conducted by a commission certified training provider, that was submitted and approved through the commission's training prior approval system; or
 - (B) completion of an out-of-state, educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.

§457.5. Examination Requirements.

- (a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive an Incident Safety Officer certification, unless otherwise specified in this chapter.
- (b) Individuals will be permitted to take the commission examination for Incident Safety Officer certification by documenting Fire Officer I certification through the commission or the equivalent IFSAC seal, and completing a commission approved Incident Safety Officer training program.

§457.7. International Fire Service Accreditation Congress (IFSAC) Seal.

- (a) Individuals holding a current commission Incident Safety Officer certification received prior to May 31, 2018 and documenting Fire Fighter II, Instructor I and Fire Officer I seals may be granted an International Fire Service Accreditation Congress (IFSAC) seal as an Incident Safety Officer by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on May 31, 2019.**
- (b) Individuals completing a commission approved Incident Safety Officer program; documenting Fire Fighter II, Instructor I and Fire Officer I seals and passing the applicable state examination, may be granted an IFSAC seal for Incident Safety Officer by making application to the commission for the IFSAC seal and paying applicable fees. Individuals must submit the**

application and fee for the seal prior to the expiration of the examination in order to qualify for the IFSAC seal.

9. Discussion and possible action regarding proposed amendments to 37 TAC, Chapter 437, Fees.

CHAPTER 437

FEES

§437.1. Purpose and Scope.

- (a) The purpose of this chapter is to set forth requirements governing the fees charged by the commission as prescribed by Texas Government Code, Chapter 419, §419.025 and §419.026, and commission rule.
- (b) This chapter shall govern all proceedings before and dealing with the commission concerning fees. Hearings and appellate proceedings regarding these fees shall be governed by this chapter where applicable and by the rules of the practice and procedure of the commission and the Administrative Procedure Act and Texas Register Act, Chapter 2001, of the Texas Government Code.
- (c) If a fee submitted in the form of a check is returned for insufficient funds the certification, seal or test for which the fee was collected will be invalidated.
- (d) Additional fees, such as those charged for exam administration or criminal background checks, may be charged to applicants and regulated entities by service providers other than the commission. The commission does not charge and will not collect these additional fees. Payment of the additional fees shall be made via a separately established agreement between the individual or regulated entity and the applicable service providers.

§437.3. Certification Application Processing Fees.

- (a) A non-refundable application processing fee of \$85 is required for each certificate issued by the commission. If a certificate is issued within the time provided in §401.125 of this title (relating to Processing Periods), the fee will be applied to the certification. If the certificate is denied, the applicant must pay a new certification application processing fee to file a new application.
- (b) The regulated employing entity shall be responsible for all certification application processing fees required as a condition of appointment.
- (c) Nothing in this section shall prohibit an individual from paying a certification application processing fee for any certificate which he or she is qualified to hold, providing the certificate is not required as a condition of appointment (see subsection (b) of this section concerning certification fees).
- (d) A facility that provides training for any discipline for which the commission has established a curriculum must be certified by the commission. The training facility will be charged a separate certification application processing fee for each discipline or level of discipline for which application is made.
- (e) The certification application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.
- (f) The certification application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the requirements for commission certification, and is applying for the first time for a certification required by commission rules for appointment to duties.

§437.5. Renewal Fees.

- (a) A non-refundable annual renewal fee of \$75 shall be assessed for each certified individual and certified training facility. If an individual or certified training facility holds more than one certificate,

the commission may collect only one renewal fee of \$75, which will renew all certificates held by the individual or certified training facility.

- (b) A regulated employing entity shall pay the renewal fee for each individual who is required to possess certification as a condition of employment.
- (c) If a person re-enters the fire service whose certificate(s) has been expired for less than one year, the regulated entity must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fees, the certificates previously held by the individual, for which he or she continues to qualify, will be renewed.
- (d) If a person wishes to renew a certificate(s) which has been expired less than one year and the individual is not employed by a regulated employing entity as defined in subsection (b) of this section, the individual must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fee(s), the certificate(s) previously held by the individual, for whom he or she continues to qualify, will be renewed.
- (e) Nothing in this section shall prohibit an individual from paying a renewal fee for any certificate which he or she is qualified to hold providing the certificate is not required as a condition of employment.
- (f) Certification renewal information will be sent to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal information will be sent to certified training facilities at least 60 days prior to February 1 of each calendar year.
- (g) If renewal payment is submitted by mail, all certification renewal fees must be submitted with the renewal invoice to the commission.
- (h) All certification renewal fees must be paid on or before the last day of the certification period (see subsection (i) of this section) to avoid additional fee(s).
- (i) The certification period shall be a period not to exceed one year. The certification period for employees of regulated employing entities, and individuals holding certification is November 1 to October 31. The certification period of certified training facilities is February 1 to January 31.
- (j) All certification renewal fees received from one to 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$37.50 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.
- (k) All certification renewal fees received more than 30 days after the last day of the certification period will cause the individual or entity responsible for payment to be assessed a non-refundable late fee of \$75 in addition to the renewal fee for each individual or training provider for which a renewal fee was due.
- (l) In addition to any non-refundable late fee(s) assessed for certification renewal, the commission may hold an informal conference to determine if any further action(s) is to be taken.
- (m) An individual or entity may petition the commission for a waiver of the late fees required by this section if the person's certificate expired because of the individual or regulated employing entity's good faith clerical error, or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action.
- (1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.

- (2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order restoring the applicant to employment.
- (n) An individual, who is a military service member, or returning from activation to military service, must notify the commission in writing if the individual wishes to renew an expired certification. Provided other qualifications for renewal are met, the individual will have any normally associated late fees waived and will be required to pay a renewal fee of \$75.

§437.7. Standards Manual and Certification Curriculum Manual Fees.

- (a) Current versions of the Standards Manual for Fire Protection Personnel and Certification Curriculum Manual are available on the commission's website.
- (b) The commission does not provide printed copies of the manuals. A printed copy of the commission's standards may be obtained from Thomson West, 610 Opperman Drive, Eagan, MN 55123, by requesting "Title 37, Public Safety and Corrections" of the Texas Administrative Code. The web address for Thomson West is www.west.thomson.com.

§437.11. Copying Fees.

- (a) All photographic reproduction of records or documents in the files of the commission and prepared on standard office machines will be furnished for a fee.
- (b) A fee will be charged for address and telephone number lists of fire service agencies.
- (c) A fee will be charged for mailing peel-off labels of fire service agencies.

§437.13. Processing Fees for Test Application.

- (a) A non-refundable application processing fee of ~~\$55~~ ~~[\$95]~~ shall be charged for each examination.
- (b) A non-refundable application processing fee of \$35 shall be charged for each sectional examination.
- (c) Fees will be paid in advance with the application or the certified training provider may be invoiced or billed if previous arrangements have been approved by the commission in writing via mail, e-mail or fax.
 - (1) Any payment postmarked from 61 to 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee of one half the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.
 - (2) Any payment postmarked more than 90 days after the invoice date will cause the provider of training to be assessed a non-refundable late fee in an amount equal to the amount shown on the invoice. This late fee is in addition to the amount shown on the invoice for test application processing fees.
- (d) The test application processing fee is waived for a military service member or military veteran whose military service, training, or education substantially meets the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.
- (e) The test application processing fee is waived for a military service member, military veteran, or military spouse who holds a current license or certification issued by another jurisdiction that has requirements substantially equivalent to the training requirements for a commission examination. This subsection applies to initial examinations for certifications required by commission rules for appointment to duties. Retests following a failed initial examination or an examination to regain a certification that was lost are not included.

§437.15. International Fire Service Accreditation Congress (IFSAC) Seal Fees.

A non-refundable \$15 fee shall be charged for each IFSAC seal issued by the commission.

§437.17. Records Review Fees.

(a) A non-refundable fee of \$75 shall be charged for each training records review conducted by the commission for the purpose of determining equivalency to the appropriate commission training program or to establish eligibility to test. Applicants submitting training records for review shall receive a written analysis from the commission.

(b) The fee provided for in this section shall not apply to an individual who holds an advanced or Fire Fighter II certificate from the State Firemen's and Fire Marshals' Association of Texas.

§437.19. Early Review Fees.

A non-refundable fee of \$75 will be charged for each early review conducted by the commission for the purpose of determining the eligibility of a person to be certified by the commission based upon a review of their criminal history.

10. Discussion and possible action on setting future meeting dates, locations and agenda items.

11. Adjourn meeting.