

**SUBCHAPTER E. FIRE EXTINGUISHER RULES**  
**28 TAC §34.514**

**SUBCHAPTER F. FIRE ALARM RULES**  
**28 TAC §34.613**

**SUBCHAPTER G. FIRE SPRINKLER RULES**  
**28 TAC §34.713**

**SUBCHAPTER H. STORAGE AND SALE OF FIREWORKS**  
**28 TAC §34.811**

**INTRODUCTION.** The Texas Department of Insurance proposes to amend 28 TAC §§34.514, 34.613, 34.713, and 34.811 by adding language that states that for a natural person to be eligible to register for specific licenses and permits, the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website.

**EXPLANATION.** The proposal adds language that updates the fingerprinting process procedure in order to restrict access to the Texas Department of Public Safety (DPS) fingerprint code on TDI's website. The DPS fingerprint code can currently be accessed by anyone who visits TDI's website. After this rule is adopted, the DPS fingerprint code will be available only to those who request a fingerprint service code through TDI's new online portal. TDI is updating the fingerprinting process procedure at the request of DPS.

The proposed amendments to the sections are described in the following paragraphs, organized by subchapter.

**SUBCHAPTER E. FIRE EXTINGUISHER RULES.**

**Section 34.514. Applications.** The proposal adds language that states that for a natural person to be eligible for a Type A, K, or PL license, the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The proposal also adds similar language for an apprentice permit: the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website. In addition, an amendment to subsection (b)(2) corrects a citation to §34.511, and the proposal updates statutory citations to insert titles of referenced provisions.

#### **SUBCHAPTER F. FIRE ALARM RULES.**

**Section 34.613. Applications.** The proposal adds language that states that for a natural person to be eligible for any fire alarm license, the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The proposal also deletes an unnecessary use of the word "the" and changes "25 percent" to "25%" for consistency with current agency style, and it updates a statutory citation to insert the title of the referenced provision. The proposal also replaces "the Fire Alarm Rules" with "this subchapter" for consistency with the current agency style for referencing rules.

#### **SUBCHAPTER G. FIRE SPRINKLER RULES.**

**Section 34.713. Applications.** The proposal adds language that states that for a natural person to be eligible for a responsible managing employee license, the natural person must start the application or registration process by submitting a formal request

for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The proposal also changes "70 percent" to "70%" for consistency with current agency style, and it updates statutory citations by revising one to follow current agency style and by inserting titles of referenced provisions for others.

#### **SUBCHAPTER H. STORAGE AND SALE OF FIREWORKS.**

**Section 34.811. Requirements, Pyrotechnic Operator License, Pyrotechnic Special Effects Operator License, and Flame Effects Operator License.** The proposal adds language that states that for a natural person to be eligible for a pyrotechnic operator license, pyrotechnic special effects operator license, or flame effects operator license, the natural person must start the application process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The proposal also changes "70 percent" to "70%" and "twelve-month" to "12-month" for consistency with current agency style.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Orlando Hernandez, state fire marshal of the State Fire Marshal's Office, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments other than those imposed by the statute. Mr. Hernandez made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amendments.

Mr. Hernandez does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

**PUBLIC BENEFIT AND COST NOTE.** For each year of the first five years the proposed amendments are in effect, Mr. Hernandez expects that administering them will have the public benefit of ensuring that the department's rules are accurate and include the updated fingerprinting process requirements.

Mr. Hernandez does not expect that the proposed amendments will impose new economic costs on persons required to comply with them. Any associated costs are due to statute or other current regulatory requirements.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** The department has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. The cost analysis in the Public Benefit and Cost Note section of this proposal, which explains that associated costs are attributable to statute or other current regulatory requirements and not the proposed rule, also applies to these small and micro businesses and rural communities. As a result, and in accordance with Government Code §2006.002(c), the department is not required to prepare a regulatory flexibility analysis.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** The department has determined that this rule proposal does not impose a possible cost on regulated persons.

**GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that for each year of the first five years that the proposed amendments are in effect, the amendments:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

**TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

**REQUEST FOR PUBLIC COMMENT.** The department will consider any written comments on the proposal that are received by no later than 5:00 p.m., central time, on February 6, 2023. Send your comments to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, PO Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, PO Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by no later than 5:00 p.m., central time, on February 6, 2023. If a public hearing is held, the department will consider written and oral comments presented at the hearing.

### **SUBCHAPTER E. FIRE EXTINGUISHER RULES** **28 TAC §34.514**

**STATUTORY AUTHORITY.** The department proposes the amendments to §34.514 under Insurance Code §§6001.051(b), 6001.052(b) and (c), and 36.001.

Insurance Code §6001.051(b) specifies that the Commissioner may issue rules the Commissioner considers necessary to administer Chapter 6001 through the state fire marshal.

Insurance Code §6001.052(b) specifies that the Commissioner will adopt and administer rules determined essentially necessary for the protection and preservation of life and property regarding (1) registration of firms engaged in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems or hydrostatic testing of fire extinguisher cylinders; (2) the examination and licensing of individuals to install or service portable fire extinguishers and plan, certify, install, or service fixed fire extinguisher systems; and (3) requirements for installing or servicing portable fire extinguishers and planning, certifying, installing, or servicing fixed fire extinguisher systems. Insurance Code §6001.052(c) specifies that the Commissioner by rule will prescribe requirements for applications and qualifications for licenses, permits, and certificates issued under Chapter 6001.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

**CROSS-REFERENCE TO STATUTE.** Section 34.514 implements Insurance Code §§6001.051(b) and 6001.052(b) and (c).

**TEXT.**

**§34.514. Applications.**

(a) Certificates of registration.

(1) Applications for certificates and branch office certificates must be submitted on forms provided by the state fire marshal and accompanied by all other information required by Insurance Code Chapter 6001, concerning Fire Extinguisher Service and Installation, and this subchapter. An application will not be deemed complete until all required forms and documents have been received in the State Fire Marshal's Office.

(2) Applications must be signed by the sole proprietor, or by each partner of a partnership, or by an officer of a corporation. For corporations, the application must be accompanied by the corporate charter of a Texas corporation, or, in the case of a foreign corporation, a copy of the Texas certificate of authority to do business. For applicants using an assumed name, the application must be accompanied by evidence of compliance with the Assumed Business or Professional Name Act, Texas Business and Commerce Code<sup>[7]</sup> Chapter 71. The application must also include written authorization by the applicant permitting the state fire marshal or the state fire marshal's representative to enter, examine, and inspect any premises, building, room, or establishment used by the

applicant while engaged in the business to determine compliance with the provisions of Insurance Code Chapter 6001 and this subchapter.

(3) For corporations, the application must also include the corporate taxpayer identification number, the charter number, and a copy of the corporation's current franchise tax certificate from the State Comptroller's Office showing it is in active status.

(4) Applications for Type C certificates must be accompanied by a copy of the U.S. DOT letter registering the applicant's facility and that issues a registration number to the facility.

(5) The applicant must comply with the following requirements concerning liability insurance.

(A) The state fire marshal will not issue a certificate of registration under this subchapter unless the applicant files a proof of liability insurance with the State Fire Marshal's Office. The insurance must include products and completed operations coverage.

(B) Each registered firm must maintain in force and on file in the State Fire Marshal's Office the certificate of insurance as required.

(C) Evidence of public liability insurance, as required by Insurance Code §6001.154, concerning Required Insurance Coverage for Registration Certificate, must be in the form of a certificate of insurance executed by an insurer authorized to do business in this state.

(D) If a certificate of registration is to be issued in the name of a corporation, the corporate name must be used on the applicable insurance forms. If the corporation is obtaining a certificate of registration in an assumed name, the insurance must be issued to the corporation doing business as (dba) the assumed name. Example: XYZ Corporation, dba XXX Extinguisher Service.



(E) Insurance issued for a partnership must be issued to the name of the partnership or to the names of all the individual partners.

(F) Insurance for a proprietorship must be issued to the individual owner. If an assumed name is used, the insurance must be issued to the individual doing business as "dba" followed by the assumed name. Example: William Jones, dba XXX Extinguisher Service.

(b) Fire extinguisher licenses.

(1) Original applications for a license from an employee of a firm engaged in the business must be submitted on forms provided by the state fire marshal and accompanied by a criminal history report from the Texas Department of Public Safety and all other information required by Insurance Code Chapter 6001 and this subchapter.

(2) For a natural person to be eligible for a Type A, K, or PL license, the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The requesting natural person must submit information necessary to complete the fingerprint service code request, including: the natural person's name, natural person's state of residence, natural person's email address, and license type the natural person is applying for.

(3) [(2)] Applications for Type A and Type K licenses must be accompanied by a written statement from the certificate holder (employer) certifying that the applicant meets the minimum requirements of §34.511(e)(4) [§34.511(f)(4)] of this title (relating to Fire Extinguisher Licenses) and is competent to install or service fixed systems.

(4) [(3)] Applications for Type PL licenses must be accompanied by one of the following documents to evidence technical qualifications for a license:

(A) proof of registration in Texas as a professional engineer; or

(B) a copy of the National Institute for Certification in Engineering Technologies (NICET) notification letter regarding the applicant's successful completion of examination requirements for certification at Level III for Special Hazard Systems Layout or Special Hazard Suppression Systems.

(5) ~~[(4)]~~ All applications must indicate if the individual is an employee or agent of the registered firm.

(A) If the individual is an employee of the registered firm, the State Fire Marshal's Office may request from the registered firm verification of employment of the individual.

(B) If the individual is an agent of the fire extinguisher firm, the State Fire Marshal's Office may request that the firm provide a letter or other document acceptable to the State Fire Marshal's Office, issued by the firm's insurance company, verifying the policy number and that the acts of the individual are covered by the same insurance policy required by this subchapter to obtain the firm's registration. If required, the verifying document must be submitted to the State Fire Marshal's Office before a license will be issued or when there is a change in the licensee's registered firm. Unless otherwise required by the State Fire Marshal's Office, renewal of a license does not require insurance verification unless there has been a change in the insurance carrier.

(c) Complete application required for renewal. Renewal applications for certificates of registration and licenses must be submitted on forms provided by the state fire marshal and accompanied by a criminal history report obtained through the Texas Department of Public Safety and by all other information required by Insurance Code Chapter 6001 and this subchapter. An application will not be deemed complete until all required forms and documents have been received in the State Fire Marshal's Office.

(d) Timely filed. A license or registration expires at 12:00 midnight on the date printed on the license or registration. A renewal application and fee for license or

registration must be postmarked on or before the date of expiration to be accepted as timely. If a renewal application is not complete but there has been no lapse in the required insurance, the applicant will have 30 days from the time the applicant is notified by the State Fire Marshal's Office of the deficiencies in the renewal application to submit any additional requirement. If an applicant fails to respond and correct all deficiencies in a renewal application within the 30-day period, a late fee may be charged.

(e) Requirements for applicants holding licenses from other states. An applicant holding a valid license in another state who desires to obtain a Texas license through reciprocity must submit the following documentation with the application in addition to all other information required by Insurance Code Chapter 6001 and this subchapter:

(1) a letter of certification from the licensing entity of another state certifying the applicant holds a valid license in that state; and

(2) additional information from the state detailing material content of any required examination used to qualify for license, including NFPA or other standards, if applicable.

(f) Apprentice permits. Each person employed as an apprentice by a firm engaged in the business must make application for a permit on a form provided by the state fire marshal, accompanied by a criminal history report from the Texas Department of Public Safety, and accompanied by the required application fee.

(1) For a natural person to be eligible for an apprentice permit, the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html), as specified in paragraph (2) of this subsection.

(2) The requesting natural person must submit information necessary to complete the fingerprint service code request, including: the natural person's name,

natural person's state of residence, natural person's email address, and license type the natural person is applying for.

(g) Complete applications. The application form for a license or registration must be accompanied by the required application fee and must, within 180 days of receipt by the State Fire Marshal's Office of the initial application, be complete and accompanied by all other information required by Insurance Code Chapter 6001 and this subchapter, or a new application must be submitted, including all applicable fees.

### **SUBCHAPTER F. FIRE ALARM RULES** **28 TAC §34.613**

**STATUTORY AUTHORITY.** The department proposes amendments to §34.613 under Insurance Code §§6002.051(b), 6002.052(b), and 36.001.

Insurance Code §6002.051(b) specifies that the Commissioner may issue rules the Commissioner considers necessary to administer Chapter 6002 through the state fire marshal.

Insurance Code §6002.052(b) specifies that, under rules adopted under Texas Insurance Code §6002.051, the department may create specialized licenses or registration certificates for an organization or individual engaged in the business of planning, certifying, leasing, selling, servicing, installing, monitoring, or maintaining fire alarm or fire detection devices or systems. The rules must establish appropriate training and qualification standards for each kind of license and certificate.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

**CROSS-REFERENCE TO STATUTE.** Section 34.613 implements Insurance Code §§6002.051 and 6002.052.

**TEXT.**

**§34.613. Applications.**

(a) Approvals and certificates of registration.

(1) Applications for approvals, certificates, and branch office certificates must be submitted on the forms adopted by reference in §34.630 of this title (relating to Application and Renewal Forms) and be accompanied by all fees, documents, and information required by Insurance Code Chapter 6002, concerning Fire Detection and Alarm Device Installation, and this subchapter. An application will not be deemed complete until all required forms, fees, and documents have been received in the State Fire Marshal's Office.

(2) Applications must be signed by the sole proprietor, or by each partner of a partnership, or by an officer of a corporation. For applicants using an assumed name, the application must also be accompanied by evidence of compliance with the Assumed Business or Professional Name Act, Texas Business and Commerce Code Chapter 71. The application must also include written authorization by the applicant permitting the state fire marshal or the state fire marshal's representative to enter, examine, and inspect any premises, building, room, or establishment used by the applicant while engaged in the business to determine compliance with the provisions of Insurance Code Chapter 6002 and this subchapter.

(3) For corporations, the application must also include the name of each shareholder owning more than 25% [~~25 percent~~] of the shares issued by the corporation; the corporate taxpayer identification number; the charter number; a copy of the corporate charter of a Texas corporation or, in the case of a foreign corporation, a copy of the Texas certificate of authority to do business; and a copy of the corporation's current franchise tax certificate from the State Comptroller's Office showing it is in active status.

(4) A registered firm must employ at least one full-time licensed individual at each location of a main or branch office.

(5) Insurance is required as follows:

(A) The state fire marshal will not issue a certificate of registration under this subchapter unless the applicant files with the State Fire Marshal's Office evidence of an acceptable general liability insurance policy.

(B) Each registered firm must maintain in force and on file in the State Fire Marshal's Office a certificate of insurance identifying the insured and the exact nature of the business insured. In identifying the named insured, the certificate of insurance must include either an assumed name or the name of the corporation; partners, if any; or sole proprietor, if applicable.

(6) A firm billing a customer for monitoring is engaged in the business of monitoring and must comply with the insurance requirements of this subchapter for a monitoring firm.

(7) Applicants for a certificate of registration who engage in monitoring must provide the specific business locations where monitoring will take place and the name and license number of the fire alarm licensees at each business location. A fire alarm licensee may not serve in this capacity for a registered firm other than the firm applying for a certificate of registration. In addition, the applicants must provide evidence of listing or certification as a central station by a testing laboratory approved by the Commissioner and a statement that the monitoring service complies with NFPA 72, as adopted in §34.607 of this title (relating to Adopted Standards).

(8) Applicants for a certificate of registration--single station must provide a statement, signed by the sole proprietor, a partner of a partnership, or by an officer of the corporation, indicating that the firm exclusively engages in the business of planning,

certifying, leasing, selling, servicing, installing, monitoring, or maintaining single station devices.

(b) Fire alarm licenses.

(1) To be complete, applications for a license from an employee or agent of a registered firm must be submitted on forms provided by the state fire marshal and be accompanied by all fees, documents, a criminal history report from the Texas Department of Public Safety, and information required by Insurance Code Chapter 6002 and this subchapter. Applications must be signed by the applicant and by a person authorized to sign on behalf of the registered firm. All applicants for any type of license must successfully complete a qualifying test as required in Insurance Code Chapter 6002 and this subchapter [~~the Fire Alarm Rules~~] as designated by the State Fire Marshal's Office. The qualifying test, given as part of the training for residential fire alarm technician license, must include questions regarding Insurance Code Chapter 6002 and this subchapter. [~~the Fire Alarm Rules.~~] For a natural person to be eligible for any fire alarm license, the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The requesting natural person must submit information necessary to complete the fingerprint service code request, including the natural person's name, natural person's state of residence, natural person's email address, and license type the natural person is applying for.

(2) Applicants for fire alarm technician licenses must:

(A) furnish notification from the National Institute for Certification in Engineering Technologies (NICET) or the Electronic Security Association (ESA), confirming the applicant's successful completion of the test requirements in work elements pertaining to fire alarm systems, as determined by the state fire marshal; or

(B) successfully complete a technical qualifying test as designated by the State Fire Marshal's Office.

(3) Applicants for a fire alarm monitoring technician license must successfully complete a technical qualifying test as designated by the State Fire Marshal's Office, or provide evidence of current registration in Texas as a registered engineer.

(4) Applicants for a residential fire alarm superintendent (single station) license must successfully complete a technical qualifying test as designated by the State Fire Marshal's Office.

(5) Applicants for a residential fire alarm superintendent license must:

(A) furnish notification from NICET or ESA confirming the applicant's successful completion of the test requirements in work elements pertaining to fire alarm systems, as determined by the state fire marshal; or

(B) successfully complete a technical qualifying test as designated by the State Fire Marshal's Office.

(6) Applications for a fire alarm planning superintendent license must be accompanied by one of the following documents as evidence of technical qualifications for a license:

(A) proof of registration in Texas as a professional engineer; or

(B) a copy of NICET's or ESA's notification letter confirming the applicant's successful completion of the test requirements for NICET or ESA certification at Level III for fire alarm systems.

(7) An applicant for a residential fire alarm technician license must provide evidence of the applicant's successful completion of the required residential fire alarm technician training course from a training school approved by the State Fire Marshal's Office.

(c) Instructor and training school approvals.



(1) Instructor approvals. An applicant for approval as an instructor must:

(A) hold a current fire alarm planning superintendent license, residential fire alarm superintendent license, or fire alarm technician license issued by the State Fire Marshal's Office;

(B) submit a completed Instructor Approval Application, Form No. SF247, signed by the applicant, that is accompanied by all fees; and

(C) furnish written documentation of a minimum of three years of experience in fire alarm installation, service, or monitoring of fire alarm systems unless the applicant has held a fire alarm planning superintendent license, residential fire alarm superintendent license, or fire alarm technician license for three or more years.

(2) Training school approvals.

(A) An applicant for approval of a training school must submit a completed Training School Approval Application, Form No. SF 246, to the State Fire Marshal's Office. To be complete, the application must be:

(i) signed by the applicant, the sole proprietor, by each partner of a partnership, or by an officer of a corporation or organization as applicable;

(ii) accompanied by a detailed outline of the proposed subjects to be taught at the training school and the number and location of all training courses to be held within one year following approval of the application; and

(iii) accompanied by all required fees.

(B) After review of the application for approval for a training school, the state fire marshal will approve or deny the application within 60 days following receipt of the materials. A letter of denial will state the specific reasons for the denial. An applicant that is denied approval may reapply at any time by submitting a completed application that includes the changes necessary to address the specific reasons for denial.

(d) Renewal applications.

(1) In order to be complete, renewal applications for certificates, licenses, instructor approvals, and training school approvals must be submitted on the forms adopted by reference in §34.630 of this title and be accompanied by all fees, documents, a criminal history report from the Texas Department of Public Safety, and information required by ~~the~~ Insurance Code Chapter 6002 and this subchapter. A complete renewal application deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a postmark date that is before the expiration of the certificate or license being renewed.

(2) A licensee with an unexpired license who is not employed by a registered firm at the time of the licensee's renewal may renew that license, but the licensee may not engage in any activity for which the license was granted until the licensee is employed and qualified by a registered firm.

(e) Complete applications. The application form for a license, registration, instructor approval, and training school approval must be accompanied by the required fee and must, within 180 days of receipt by the State Fire Marshal's Office of the initial application, be complete and accompanied by all other information required by Insurance Code Chapter 6002 and this subchapter, or a new application must be submitted including all applicable fees.

### **SUBCHAPTER G. FIRE SPRINKLER RULES**

#### **28 TAC §34.713**

**STATUTORY AUTHORITY.** TDI proposes amendments to §34.713 under Insurance Code §§6003.051(b), 6003.052(b), and 36.001.

Insurance Code §6003.051(b) specifies that the Commissioner may issue rules the Commissioner considers necessary to administer Chapter 6003 through the state fire marshal.

Insurance Code §6003.052(b) specifies that, under rules adopted under Texas Insurance Code §6003.051(b), the department may create a specialized licensing or registration program for fire protection sprinkler system contractors.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

**CROSS-REFERENCE TO STATUTE.** Section 34.713 implements Insurance Code §§6003.051 and 6003.052.

**TEXT.**

**§34.713. Applications.**

(a) Certificates of registration.

(1) Applications for certificates must be submitted on forms provided by the state fire marshal and must be accompanied by all other information required by Insurance Code Chapter 6003, concerning Fire Protection Sprinkler System Service and Installation, and this subchapter. An application will not be deemed complete until all required forms and documents have been received in the State Fire Marshal's Office.

(2) Applications must be signed by the sole proprietor, by each partner of a partnership, or by an officer of a corporation. For corporations, the application must be accompanied by the corporate charter of a Texas corporation or, in the case of a foreign corporation, a copy of the Texas certificate of authority to do business. For applicants using an assumed name, the application must also be accompanied by evidence of compliance with Business and Commerce Code Chapter 71, concerning Assumed Business or Professional Name [Act]. The application must also include written authorization by the applicant that permits the state fire marshal or the state fire marshal's representative to

enter, examine, and inspect any premises, building, room, or establishment used by the applicant while engaged in the business so the state fire marshal can determine whether the applicant is in compliance with the provisions of Insurance Code Chapter 6003 and this subchapter.

(3) For corporations, the application must also include the corporate taxpayer identification number, the charter number, and a copy of the corporation's current franchise tax certificate from the State Comptroller's Office that shows the corporation is in active status.

(4) An applicant must not designate as its full-time responsible managing employee (RME) a person who is the designated full-time RME of another registered firm.

(5) A registered firm must not conduct any business as a fire protection sprinkler contractor until a full-time RME, as applicable to the business conducted, is employed. An individual with an RME-General Inspector's license does not constitute compliance with the requirements of this subsection.

(6) A certificate of registration may not be renewed unless the firm has at least one licensed RME as a full-time employee before the expiration of the certificate of registration to be renewed. If an applicant for renewal does not have an RME as a full-time employee as a result of death or disassociation of an RME within 30 days preceding the expiration of the certificate of registration, the renewal applicant must inform the license section of the State Fire Marshal's Office of the employment of a full-time RME before the certificate of registration will be renewed.

(7) Insurance required.

(A) The state fire marshal must not issue a certificate of registration under this subchapter unless the applicant files with the state fire marshal's office a proof of liability insurance. The insurance must include products and completed operations coverage.

(B) Each registered firm must maintain in force and on file in the State Fire Marshall's Office the certificate of insurance identifying the insured and the exact nature of the business insured. In identifying the named insured, the certificate of insurance must include either an assumed name or the name of the corporation; partners, if any; or sole proprietor, as applicable. Failure to do so will be cause for administrative action.

(C) Evidence of public liability insurance, as required by Insurance Code §6003.152, concerning Required Insurance Coverage for Registration Certificate, must be in the form of a certificate of insurance executed by an insurer authorized to do business in this state, or a certificate of insurance for surplus lines coverage, secured in compliance with Insurance Code Chapter 981, concerning Surplus Lines Insurance, as contemplated by Insurance Code §6003.152(c).

(b) Responsible managing employee licenses.

(1) Original and renewal applications for a license from an employee of a firm engaged in the business must be submitted on forms provided by the state fire marshal, along with a criminal history report from the Texas Department of Public Safety and accompanied by all other information required by Insurance Code Chapter 6003 and this subchapter. For a natural person to be eligible for a responsible managing employee license, the natural person must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The requesting natural person must submit information necessary to complete the fingerprint service code request, including the natural person's name, natural person's state of residence, natural person's email address, and license type the natural person is applying for.

(2) The following documents must accompany the application as evidence of technical qualifications for a license:

(A) RME-General:

(i) proof of current registration in Texas as a professional engineer; or

(ii) a copy of the NICET notification letter confirming the applicant's successful completion of the test requirements for certification at Level III for water-based fire protection systems layout.

(B) RME-Dwelling:

(i) proof of current registration in Texas as a professional engineer; or

(ii) a copy of the NICET notification letter confirming the applicant's successful completion of the test requirements for certification at Level II for fire protection automatic sprinkler system layout and evidence of current employment by a registered fire sprinkler contractor.

(C) RME-Underground Fire Main:

(i) proof of current registration in Texas as a professional engineer; or

(ii) a copy of the notification letter confirming at least a 70% [~~70 percent~~] grade on the test covering underground fire mains for fire protection sprinkler systems, administered by the State Fire Marshal's Office or an outsource testing service.

(D) RME-General Inspector:

(i) a copy of the NICET notification letter confirming the applicant's successful completion of the examination requirements for certification at Level II for Inspection and Testing of Water-Based Systems; and

(ii) evidence of current employment by a registered fire protection sprinkler system contractor.

(c) Complete applications. The application form for a license or registration must be accompanied by the required fee and must, within 180 days of receipt by the department of the initial application, be complete and accompanied by all other information required by Insurance Code Chapter 6003 and this subchapter, or a new application must be submitted including all applicable fees.

### **SUBCHAPTER H. STORAGE AND SALE OF FIREWORKS** **28 TAC §34.811**

**STATUTORY AUTHORITY.** The department proposes amendments to §34.811 under Occupations Code §2154.051 and §2154.052 and Insurance Code §36.001.

Occupations Code §2154.051 authorizes the Commissioner to determine reasonable criteria and qualifications for licenses.

Occupations Code §2154.052 provides that the Commissioner may issue rules to administer Chapter 2154; that the Commissioner will adopt and the State Fire Marshal will administer rules the Commissioner considers necessary for the protection, safety, and preservation of life and property; and that the Commissioner will adopt rules for applications for licenses.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**CROSS-REFERENCE TO STATUTE.** Section 34.811 implements Occupations Code §2154.051 and §2154.052.

**TEXT.**

**§34.811. Requirements, Pyrotechnic Operator License, Pyrotechnic Special Effects Operator License, and Flame Effects Operator License.**

(a) Applicants for a pyrotechnic operator license, pyrotechnic special effects operator license, or flame effects operator license must take a written test and obtain at least a passing grade of 70% [~~70 percent~~]. Written tests may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability. The content, frequency, and location of the tests must be designated by the state fire marshal.

(b) Examinees who fail may file a retest application, accompanied by the required fee.

(c) An applicant may only schedule each type of test three times within a 12-month [~~twelve-month~~] period.

(d) An applicant for a license must complete and submit all application requirements within one year of the successful completion of any test required for a license; otherwise, the test is voided and the individual will have to pass the test again.

(e) The state fire marshal may waive a test requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

(f) A licensee whose license has been expired for two years or longer and makes application for a new license must pass another test.

(g) A pyrotechnic operator license will not be issued to any person who fails to meet the requirements of subsection (a) of this section and the following:

(1) assisted in conducting at least five permitted or licensed public displays in Texas under the direct supervision of and verified in writing by a pyrotechnic operator licensed in Texas;

(2) be at least 21 years of age.



(h) The application must be accompanied by a criminal history report from the Texas Department of Public Safety. For a natural person to be eligible for a pyrotechnic operator license, pyrotechnic special effects operator license, or flame effects operator license, the natural person must start the application process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/fire/fingerprinting-process.html](http://www.tdi.texas.gov/fire/fingerprinting-process.html). The requesting natural person must submit information necessary to complete the fingerprint service code request, including the natural person's name, natural person's state of residence, natural person's email address, and license type the natural person is applying for.

(i) A licensee must be able to show proof of licensure while engaged in the activities of the business.

**CERTIFICATION.** This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 21, 2022.

DocuSigned by:  
  
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Allison Eberhart, Deputy General Counsel  
Texas Department of Insurance