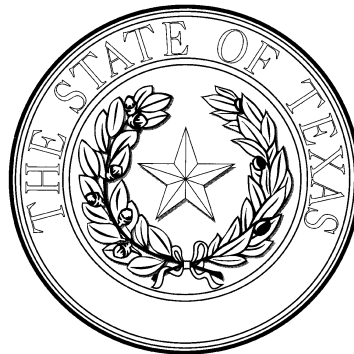


**Texas Insurance Code
Article 5.43-1
Fire Extinguishers
&
28 TAC §§ 34.500
the Fire Extinguisher Rules**



Texas Department of Insurance

State Fire Marshal's Office

P. O. Box 149221

Austin, Texas 78714-9221

512/305-7900

Additional copies of this booklet, along with forms and applications, are available at our web site.

<http://www.tdi.state.tx.us/fire/fmli.html>

Spring 2006

TEXAS INSURANCE CODE
CHAPTER FIVE. RATING AND POLICY FORMS
SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES
Article 5.43-1. Fire Extinguishers

Section 1.	Purpose	3
Section 2.	Administration	3
Section 2A.	Transfer of Powers and Duties	3
Section 3.	Definitions	3
Section 4.	Registration, Licensing, and Fees.....	3
Section 4A.	Required Insurance	4
Section 5.	Selling or Leasing of Portable Fire Extinguishers or Fixed Fire Extinguisher Systems	4
Section 6.	Exceptions	5
Section 7.	Applications and Hearings on Licenses, Permits and Certificates	5
Section 7A.	Renewal of Certificates and Licenses	6
Section 8.	Powers and Duties of State Board of Insurance	6
Section 8A.	Certain Rules Prohibited.....	7
Section 9.	Fire Extinguisher Advisory Council	7
Section 10.	Certain Acts Prohibited	7
Section 11.	Use of Funds	7
Section 12.	Penalties	7
Section 13.	Disciplinary Hearing.....	8

TEXAS ADMINISTRATIVE CODE
TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 34. State Fire Marshal
Subchapter E. Fire Extinguisher Rules

28 TAC §§ 34.501-34.523

Section 34.501.	Purpose	9
Section 34.502.	Title.....	9
Section 34.503.	Applicability of Subchapter	9
Section 34.504.	Exceptions	9
Section 34.505.	Notices	9
Section 34.506.	Definitions.....	9
Section 34.507.	Adopted Standards.....	10
Section 34.508.	Approved Testing Laboratories.....	10
Section 34.509.	Approved Certification Organization	11
Section 34.510.	Certificates of Registration.....	11
Section 34.511.	Fire Extinguisher Licenses.....	12
Section 34.512.	Apprentice Permit	13
Section 34.513.	Alteration of Certificates, Licenses, or Permits	13
Section 34.514.	Applications	13
Section 34.515.	Fees	14
Section 34.516.	Tests.....	15
Section 34.517.	Installation and Service.....	17
Section 34.518.	Fire Extinguisher Fixed System Plans for Other Than Pre-engineered Systems	17
Section 34.519.	Installation Labels for Fixed Extinguisher Systems.....	17
Section 34.520.	Service Tags.....	18
Section 34.521.	Red Tags	19
Section 34.522.	Severability	20
Section 34.523.	Savings Clause.....	20
Section 34.524.	Yellow Tags	20

TEXAS INSURANCE CODE
CHAPTER FIVE. RATING AND POLICY FORMS
SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES
Article 5.43-1. Fire Extinguishers

Sec. 1. Purpose

The purpose of this article is to regulate the leasing, renting, selling, installing, and servicing of portable fire extinguishers and the planning, certifying, installing, or servicing of fixed fire extinguisher systems, and to prohibit portable fire extinguishers, fixed fire extinguisher systems, and extinguisher equipment not labeled or listed by a testing laboratory approved by the State Board of Insurance, in the interest of safeguarding lives and property.

Sec. 2. Administration

The State Board of Insurance shall administer this article and it may issue rules and regulations which it considers necessary to its administration through the State Fire Marshal. The board, in adopting necessary rules and regulations, may use recognized standards such as, but not limited to, those of the National Fire Protection Association, those recognized by federal law or regulation, and those published by any nationally recognized standards-making organization, or the manufacturer's installation manuals.

Sec. 2A.

Repealed by Acts 1997, 75th Leg., ch. 1172, § 4.14, eff. Sept. 1, 1997.

Sec. 3. Definitions

As used in this article the following terms have the meanings specified in this section.

(a) "Firm" means any person, partnership, corporation, or association.

(b) "Hydrostatic testing" means pressure testing by hydrostatic methods.

(c) "Portable fire extinguisher" means any device that contains liquid, powder, or gases for suppressing or extinguishing fires.

(d) "Service and servicing" means servicing portable fire extinguishers or fixed fire extinguisher systems by inspecting, charging, filling, maintaining, recharging, refilling, repairing, or testing.

(e) "Fixed fire extinguisher systems" means those assemblies of piping, conduits, or containers that convey liquid, powder, or gases to dispersal openings or devices protecting one or more hazards by suppressing or extinguishing fires.

Text of (f) as added by Acts 1989, 71st Leg., ch. 762, § 2

(f) "Registered firm" means a person, partnership, corporation, or association that holds a current certificate of registration.

Text of (f) as added by Acts 1989, 71st Leg., ch. 823, § 1

(f) "Insurance agent" means:

(1) a person, firm, or corporation licensed under Article 21.14 or 1.14-2 of this code;

(2) a salaried, state, or special agent; or

(3) a person authorized to represent an insurance fund or pool created by a city, county, or other political subdivision of the state under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

Sec. 4. Registration, Licensing, and Fees

(a) Each firm engaged in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems must have a certificate of registration issued by the State Board of Insurance. The initial fee for the certificate of registration must be in an amount not to exceed \$450 and the renewal fee for each year thereafter must be in an amount not to exceed \$300. Each separate office location of a firm engaged in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed extinguisher systems, other than the location identified on the certificate of registration, must have a branch office registration certificate issued by the board. The initial fee for a branch office registration certificate must be in an amount not to exceed \$100, and the renewal fee for each year thereafter must be in an amount not to exceed \$100. The board shall identify each branch office location as a part of a registered firm before a branch office registration certificate may be issued.

(b) A fee in an amount not to exceed \$20 shall be charged for a duplicate certificate of registration, license, or apprentice permit issued under this article or for any request requiring changes to a certificate of registration,

license, or permit. A new certificate of registration with a new number shall be issued to a registered firm on a change of ownership for a fee in an amount not to exceed \$450. A fee in an amount not to exceed \$100 shall be charged for a change of ownership of a branch office.

(c) Each employee, other than an apprentice, of registered firms engaged in the business of installing or servicing portable fire extinguishers or planning, installing, or servicing fixed fire extinguisher systems, must have a license issued by the State Board of Insurance before engaging in the following:

- (1) installing or servicing portable fire extinguishers;
- (2) installing, servicing, or certifying preengineered fixed fire extinguisher systems; or
- (3) planning, supervising, or certifying the installation of fixed fire extinguisher systems other than preengineered systems or the servicing of such systems.

(c-1) The initial fee for the license required by Subsection (c) of this section must be in an amount not to exceed \$70 and the license renewal fee for each year thereafter must be in an amount not to exceed \$50. Unless the examination is administered by a testing service, a nonrefundable fee for the initial examination must be in an amount not to exceed \$30. Unless the reexamination is administered by a testing service, a nonrefundable fee in an amount not to exceed \$20 shall be charged for each reexamination.

(d) Each person installing or servicing portable fire extinguishers or installing or servicing fixed fire extinguisher systems as an apprentice shall, before engaging in installing or servicing, apply to the State Board of Insurance for an apprentice permit. The fee for the apprentice permit must be in an amount not to exceed \$30. An apprentice may perform the services only under direct supervision of a person holding a valid license under this article who works for the same firm as the apprentice. An apprentice permit is valid for one year from the date of issuance.

(e) Each firm performing hydrostatic testing of fire extinguishers manufactured in accordance with the specifications and procedures of the United States Department of Transportation shall do so in accordance with the procedures specified by that department for compressed gas cylinders and shall be required to have a hydrostatic testing certificate of registration authorizing such testing issued by the state fire marshal. Persons qualified to do this work shall be given such authority on their licenses. The initial fee must be in an amount not to exceed \$250, and the renewal fee for each year thereafter must be in an amount not to exceed \$150. Hydrostatic testing of fire extinguishers not performed pursuant to the United States Department of Transportation specifications shall be performed as recommended by the National Fire Protection Association.

(f) The State Board of Insurance shall, within the limits fixed by this section, prescribe the fees to be charged under this section.

Sec. 4A. Required Insurance

(a) The board shall not issue a certificate of registration under this article unless the applicant files with the board evidence of a general liability insurance policy that includes products and completed operations coverage. The policy must be conditioned to pay on behalf of the insured those sums that the insured becomes legally obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of any business registered or licensed under this article.

(b) The limits of insurance coverage required by Subsection (a) of this section shall not be less than \$100,000 combined single limits for bodily injury and property damage for each occurrence and not less than \$300,000 aggregate for all occurrences per policy year, unless the board increases or decreases the limits under Section 8 of this article.

(c) The evidence of insurance required by this section must be in the form of a certificate of insurance executed by an insurer authorized to do business in this state and countersigned by an insurance agent licensed in this state. A certificate of insurance for surplus lines coverage procured in compliance with Article 1.14-2 of this code through a licensed Texas surplus lines agent resident in this state may be filed with the board as evidence of coverage required by this section. Insurance certificates executed and filed with the board under this section remain in force until the insurer has terminated future liability by the notice required by the board.

(d) Failure to maintain the liability insurance required under this section constitutes grounds for the denial, suspension, or revocation of a certificate of registration issued under this article after notice and opportunity for hearing.

Sec. 5. Selling or Leasing of Portable Fire Extinguishers or Fixed Fire Extinguisher Systems

(a) Except as provided by Subsection (e) of this section, no portable fire extinguisher, fixed fire extinguisher system, or extinguisher equipment may be leased, sold, rented, serviced, or installed in this state unless it carries a label of approval or listing of a testing laboratory approved by the department.

(b) Except as provided in Section 6 of this article, only the holder of a valid license or an apprentice permit issued pursuant to this article may install or service portable fire extinguishers or install and maintain fixed fire extinguisher systems.

(c) A person who has been issued a license pursuant to this article to install or service portable fire extinguishers or install and service fixed fire extinguisher systems must be an employee, agent, or servant of a firm that holds a certificate of registration issued pursuant to this article.

(d) A certificate of registration, license, or permit issued under this article is not transferable.

(e) The commissioner by rule shall permit a person to service a portable fire extinguisher regardless of whether it carries a label described by Subsection (a) of this section.

Sec. 6. Exceptions

The licensing provisions of this article do not apply to the following:

(a) the filling or charging of a portable fire extinguisher by the manufacturer prior to its initial sale;

(b) the servicing by a firm of its own portable fire extinguishers and/or fixed systems by its own personnel specially trained for such servicing or the installation of portable fire extinguishers in a building by the building owner, the owner's managing agent, or their employees;

(c) the installation or servicing of water sprinkler systems installed in compliance with the National Fire Protection Association's Standards for the Installation of Sprinkler Systems;

(d) firms engaged in the retailing or wholesaling of portable fire extinguishers that carry a label of approval or listing of a testing laboratory approved by the State Board of Insurance, but not engaged in the installation or servicing of them;

(e) fire departments servicing portable fire extinguishers as a public service where no charge is made, provided, however, that the members of the fire department are trained in the proper servicing of the fire extinguishers;

(f) a firm that is party to a contract which provides that the installation of portable fire extinguishers or a fixed fire extinguisher system will be performed under the direct supervision of and certified by a firm appropriately registered to install and certify portable extinguishers or fixed systems and that the registered firm assumes full responsibility for the installation; or

(g) a Texas registered professional engineer acting solely in his professional capacity.

Sec. 7. Applications and Hearings on Licenses, Permits and Certificates

(a) Applications and qualifications for licenses, permits, and certificates issued hereunder shall be made pursuant to regulations adopted by the State Board of Insurance.

(b) The commissioner, through the State Fire Marshal, may suspend, revoke, or refuse to issue or renew a license, apprentice permit, hydrostatic testing certificate, certificate of registration, or approval of a testing laboratory in accordance with Section 13 of this article.

(c) An applicant, registrant, licensee, or permit holder whose certificate of registration, license, or permit has been refused or revoked under this article, except for failure to pass a required written examination, may not file another application for a certificate of registration, license, or permit within one year from the effective date of the refusal or revocation. After one year from that date, the applicant may reapply and in a public hearing show good cause why the issuance of his certificate of registration, license, or permit is not against the public safety and welfare.

(d) A person whose license to service portable fire extinguishers or to install or service fixed fire extinguisher systems has been revoked must retake and pass the required written examination before a new license may be issued.

(e) The state fire marshal shall examine each applicant for a license issued under this article and shall establish the scope and type of an examination required by this article. The state fire marshal may administer the examination or may enter into an agreement with a testing service.

(f) The state fire marshal may contract with the testing service regarding requirements for the examination, including examination development, scheduling, site arrangements, grading, reporting, analysis, or other administrative duties. The state fire marshal may require the testing service to:

(1) correspond directly with an applicant regarding the administration of the examination;

(2) collect a reasonable fee from an applicant for administering the examination; or

(3) administer the examination at a specific location or time.

(g) Not later than the 30th day after the day on which a licensing examination is administered under this article, the State Fire Marshal shall send notice to each examinee of the results of the examination. If an examination is conducted, graded, or reviewed by a testing service, the State Fire Marshal shall send notice to the examinees of the results of the examination within two weeks after the date on which the State Fire Marshal receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the State Fire Marshal shall send notice to the examinee of the reason for the delay before the 90th day. If requested in writing by a person who fails the licensing examination administered under this article, the State Fire Marshal shall send to the person an analysis of the person's performance on the

examination.

(g-1) The state fire marshal may require a testing service to notify a person of the results of the person's examination under Subsection (g).

(h) The State Board of Insurance may adopt procedures for certifying and may certify continuing education programs for persons licensed under this Act. Participation in the programs is voluntary.

(i) The State Board of Insurance may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

(j) The state fire marshal shall adopt rules as necessary to implement examination requirements under this article.

Sec. 7A. Renewal of Certificates and Licenses

(a) Each renewal of a license or certificate of registration issued under this article is valid for a period of two years. The license or registration fee for each year of the two-year period is payable on renewal.

(b) An unexpired license or registration may be renewed by paying the required renewal fee to the State Board of Insurance before the expiration of the license or registration. If a license or registration has been expired for not longer than 90 days, the license or registration may be renewed by paying to the State Board of Insurance the required renewal fee and a fee that is equal to one-half of the original fee for the license or registration. If a license or registration has been expired for longer than 90 days but less than two years, the license or registration may be renewed by paying to the State Board of Insurance all unpaid renewal fees and a fee that is equal to the original fee for the license or registration. If a license or registration has been expired for two years or longer, the license or registration may not be renewed. A new license or certificate of registration may be obtained by complying with the requirements and procedures for obtaining an original license or registration. At least 30 days before the date of the expiration of a license or registration, the State Fire Marshal shall send written notice of the impending license or registration expiration to the licensee or registrant at his or its last known address. This subsection may not be construed to prevent the State Board of Insurance from denying or refusing to renew a license under applicable law or rules of the board.

(c) The State Board of Insurance by rule may adopt a system under which certificates of registration, licenses, and permits expire on various dates during the year. For the year in which the certificate of registration, license, or permit expiration date is less than one year from its issuance or anniversary date, the fee shall be prorated on a monthly basis so that each registrant, licensee, or permittee shall pay only that portion of the fee that is allocable to the number of months during which the certificate of registration, license, or permit is valid. On each subsequent renewal of a license or registration, the total renewal fee is payable.

Sec. 8. Powers and Duties of State Board of Insurance

The State Board of Insurance shall:

(a) formulate and administer such rules as may be determined essentially necessary for the protection and preservation of life and property, in controlling:

(1) the registration of firms engaging in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems;

(2) the registration of firms engaged in the business of hydrostatic testing of fire extinguisher cylinders;

(3) the examination of persons applying for a license;

(4) the licensing of persons to install or service portable fire extinguishers and to plan, certify, install, or service fixed fire extinguisher systems; and

(5) the requirements for the installing or servicing of portable fire extinguishers and the planning, certifying, installing, or servicing of fixed fire extinguisher systems;

(b) evaluate the qualifications of firms or individuals for a certificate of registration to engage in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems;

(c) conduct examinations to ascertain the qualifications and fitness of applicants for a license to install or service portable fire extinguishers or to plan, certify, install, or service fixed fire extinguisher systems;

(d) issue certificates of registration for those firms that qualify under the rules to engage in the business of installing or servicing portable fire extinguishers or planning, certifying, installing, or servicing fixed fire extinguisher systems, and issue licenses, apprentice permits, and authorizations to perform hydrostatic testing to the firms or individuals who qualify;

(e) evaluate the qualifications of firms seeking approval as testing laboratories; and

(f) have authority, after notice and opportunity for hearing, to increase or decrease the limits of insurance coverage.

Sec. 8A. Certain Rules Prohibited

(a) The commissioner may not adopt rules restricting competitive bidding or advertising by the holder of a license, permit, certificate, or approval issued under this article except to prohibit false, misleading, or deceptive practices.

(b) In the commissioner's rules to prohibit false, misleading, or deceptive practices, the commissioner may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a license, permit, certificate, or approval holder's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the license, permit, certificate, or approval holder; or
- (4) restricts the license, permit, certificate, or approval holder's advertisement under a trade name.

Sec. 9. Fire Extinguisher Advisory Council

(a) The commissioner may delegate the exercise of all or part of the commissioner's functions, powers, and duties under this article, except for the issuance of licenses, certificates, and permits, to a Fire Extinguisher Advisory Council whose members shall be appointed by the commissioner. The council shall assist in the review and formulation of rules adopted under this article and shall periodically review rules implementing this article and recommend changes in the rules to the commissioner.

(b) The members of the council shall be experienced and knowledgeable in one or more of the following areas: fire services, fire extinguisher manufacturing, fire insurance inspection or underwriting, fire extinguisher servicing, or be a member of a fire protection association or industrial safety association.

Sec. 10. Certain Acts Prohibited

No person or firm may do any of the following:

- (1) engage in the business of installing or servicing portable fire extinguishers without a valid certificate of registration;
- (2) engage in the business of planning, certifying, installing, or servicing fixed fire extinguisher systems without a valid certificate of registration;
- (3) install or service or certify the servicing of portable fire extinguishers or plan, certify, service, or install fixed fire extinguisher systems without a valid license;
- (4) perform hydrostatic testing of fire extinguisher cylinders manufactured in accordance with the specifications and requirements of the United States Department of Transportation without a valid hydrostatic testing certificate of registration;
- (5) obtain or attempt to obtain a certificate of registration or license by fraudulent representation;
- (6) install or service portable fire extinguishers or plan, certify, service, or install fixed fire extinguisher systems contrary to the provisions of this article or the rules formulated and administered under the authority of this article;
- (7) install, service, or hydrostatic test a fire extinguisher that does not have the proper identifying labels, except as provided by Subsection (e) of Section 5 of this article;
- (8) sell, install, service, or recharge a carbon tetrachloride fire extinguisher; or
- (9) violate Subsection (a) of Section 5 of this article.

Sec. 11. Use of Funds

All funds collected through the licensing and other provisions of this article, excepting penalties and monetary forfeitures, shall be paid to the State Board of Insurance and be deposited in the State Treasury to the credit of the State Board of Insurance operating fund for use in carrying out the administration of this article.

Sec. 12. Penalties

(a) The State Fire Marshal may refuse the issuance or renewal of, suspend, or revoke a certificate of registration, license, or permit if, after notice and hearing, he finds that the applicant, registrant, licensee, or permit holder has engaged in acts:

- (1) that violate this article;
- (2) that violate rules or standards adopted pursuant to this article; or
- (3) constituting misrepresentation made in connection with the sale of products or services rendered.

(b) A person commits an offense if the person knowingly or intentionally violates Section 10 of this article.

(c) An offense under Subsection (b) of this section is a Class B misdemeanor. Venue for the offense is in Travis County or the county in which the offense is committed.

Sec. 13. Disciplinary Hearing

If the State Fire Marshal proposes to suspend, revoke, or refuse to renew a license, permit, certificate, or approval issued under this article, the holder of the license, permit, certificate, or approval is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. Rules of practice adopted by the commissioner applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Acts 1971, 62nd Leg., p. 1993, ch. 616, eff. June 4, 1971. Amended by Acts 1975, 64th Leg., p. 899, ch. 335, § 1, eff. June 19, 1975; Acts 1979, 66th Leg., p. 903, ch. 412, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 416, ch. 175, § 1, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 1091, ch. 245, §§ 1 to 3, eff. May 27, 1983; Acts 1983, 68th Leg., p. 3934, ch. 622, §§ 24, 47, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 267, §§ 1 to 10, eff. June 5, 1987; Acts 1989, 71st Leg., ch. 762, §§ 1, 2, 4 to 8, 21, eff. June 15, 1989; Acts 1989, 71st Leg., ch. 762, § 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 823, §§ 1 to 3, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 628, §§ 11, 12, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1172, §§ 4.01 to 4.04, 4.14, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 235, §§ 1, 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch 1014, §§ 1, 2, eff. June 20, 2003.

Sections amended June 20, 2003 are marked with a vertical line in the margin.

TEXAS ADMINISTRATIVE CODE
TITLE 28. TEXAS DEPARTMENT OF INSURANCE
Part I. Texas Department of Insurance
Chapter 34. State Fire Marshal
Subchapter E. Fire Extinguisher Rules

28 TAC §§ 34.501-34.523

§ 34.501. Purpose

The purpose of this subchapter is to regulate the business of leasing, renting, selling, installing, and servicing of portable fire extinguishers and the planning, certifying, installing, or servicing of fixed fire extinguisher systems and to prohibit portable fire extinguishers, fixed fire extinguisher systems, and extinguisher equipment not labeled or listed by a testing laboratory approved by the commissioner in the interests of protecting and preserving lives and property pursuant to the Insurance Code, Article 5.43-1.

§ 34.502. Title

The sections of this subchapter shall be known and may be cited as the extinguisher rules and shall be administered by and through the state fire marshal.

§ 34.503. Applicability of Subchapter

This subchapter shall apply to all firms and persons engaged in the business of leasing, renting, selling, installing, and servicing of portable fire extinguishers and the planning, certifying, installing, or servicing of fixed fire extinguisher systems and not to the general public.

§ 34.504. Exceptions

The exceptions of the Insurance Code, Article 5.43-1, §6, are applicable to the sections of this subchapter.

§ 34.505. Notices

Notice by the state fire marshal and required by any provisions of the statutes or of this subchapter must be given by personal service or mailed, postage prepaid, to the person's residence or business address as it appears on the records in the Office of the State Fire Marshal.

§ 34.506. Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Apprentice--A person to whom a permit has been issued by the state fire marshal to perform various acts of service or installation while under the direct supervision of a person working for the same firm and holding a valid fire extinguisher service license to perform such acts.
- (2) Business--The planning, certifying, installing, leasing, renting, selling, or servicing of portable fire extinguishers or fixed fire extinguisher systems.
- (3) Certificate--The certificate of registration issued by the state fire marshal.
- (4) Certify--To attest to the proper planning, installing, or servicing of portables and systems by attaching a completed service tag or other form required by a governmental authority.
- (5) Commissioner--The commissioner of insurance.
- (6) Department--The Texas Department of Insurance.
- (7) DOT Specification Fire Extinguisher Cylinder--All fire extinguisher cylinders manufactured, tested and stamped with the specification number as required by the United States Department of Transportation.
- (8) DOT Nonspecification Fire Extinguisher Cylinder--All fire extinguisher cylinders manufactured and tested but not stamped with a specification number as required by the United States Department of Transportation. These cylinders may be marked by a label with the words "Meets DOT Requirements."
- (9) Installation--The initial placement of a portable or fixed fire extinguisher system or an extension or alteration after initial placement.
- (10) License--The license issued by the state fire marshal to an employee of a registered firm.
- (11) NFPA--The National Fire Protection Association, Inc., a nationally recognized standards-making organization.
- (12) NICET--National Institute for the Certification in Engineering Technologies.

(13) Outsource testing service--The testing service selected by the state fire marshal to administer certain designated qualifying tests for licenses under this subchapter.

(14) Person--A natural person.

(15) Plan--To lay out, detail, draw, calculate, devise, or arrange an assembly of detection or suppression devices and appurtenances in accordance with either fire protection standards adopted in this subchapter or specifications specially designed by a Texas registered professional engineer acting solely in his professional capacity.

(16) Registered firm--A person, partnership, corporation, or association holding a current certificate of registration.

(17) Shop--A facility, whether at a specific location or in a mobile unit, of a registered firm where servicing, repairing, or hydrostatic testing is performed and where parts and equipment, which are required by this subchapter or in the adopted standards, are maintained.

(18) Test--The act of subjecting a portable or fixed system to any procedure necessary to determine whether it is properly installed or operates correctly.

(19) Direct supervision--The oversight by a licensee of the services performed by another licensee or permittee. The licensee, performing the direct supervision at the shop, must be present, at all times, on the premises where the supervised licensee or permittee is performing the service. When not at the shop the individual being supervised must be within sight of the licensee performing the direct supervision when installing or servicing portable fire extinguishers or pre-engineered fixed fire extinguisher systems. The licensee performing the direct supervision of an engineered fixed fire extinguisher system is not required to be on-site at all times when the work is performed.

§ 34.507. Adopted Standards

The commissioner adopts by reference in their entirety, except as noted, the following copyrighted standards and recommendations in this subchapter. If a standard refers to a provision in a specific edition of another standard, the provision is applicable only if it does not conflict with the adopted standard shown in this section. The standards are published by and available from the National Fire Protection Association, Inc., (NFPA), Batterymarch Park, Quincy, Massachusetts 02269. A copy of the standards shall be kept available for public inspection in the state fire marshal's office.

(1) NFPA 10-2002, Standard for Portable Fire Extinguishers, except that the date, June 30, 1998, in paragraph 4.3.2.1 shall be deleted and the following date substituted: "January 1, 2006."

(2) NFPA 11-2002, Standard for Low Expansion Foam and Combined Agent Systems.

(3) NFPA 11A-1999, Standard for Medium and High Expansion Foam Systems.

(4) NFPA 12-2000, Standard on Carbon Dioxide Extinguishing Systems.

(5) NFPA 12A-2004, Standard on Halon 1301 Fire Extinguishing Systems.

(6) NFPA 15-2001, Standard for Water Spray Fixed Systems for Fire Protection.

(7) NFPA 16-2003, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems.

(8) NFPA 17-2002, Standard for Dry Chemical Extinguishing Systems, except that paragraph 9.3.2 in conjunction with 1.3.2 shall only apply to new or modified installations after July 1, 1996, in accordance with §34.517(f) of this subchapter (relating to Installation and Service).

(9) NFPA 17A-2002, Standard for Wet Chemical Extinguishing Systems, except that paragraph 5.1.1 in conjunction with 1.4.1 shall only apply to new or modified installations after July 1, 1996, in accordance with §34.517(f) of this subchapter.

(10) NFPA 18-1995, Standard on Wetting Agents.

(11) NFPA 25-2002, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems.

(12) NFPA 96-2001, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, except that paragraph 7-2.2 shall only apply to new or modified installations after July 1, 1996, in accordance with §34.517(f) of this subchapter.

(13) NFPA 2001-2004, Standard on Clean Agent Fire Extinguishing Systems.

§ 34.508. Approved Testing Laboratories

The commissioner approves an organization as an approved testing laboratory which lists equipment and appurtenances for use in compliance with standards adopted in §34.507 of this title (relating to Adopted Standards) if the organization meets the requirements of an approved testing laboratory in accordance with Subchapter D of this title (relating to Testing Laboratory Rules).

§ 34.509. Approved Certification Organization

The commissioner approves the National Institute for Certification in Engineering Technologies (NICET) as a testing standards organization for testing license applicants.

§ 34.510. Certificates of Registration

(a) Required. Each firm and each branch office engaged in the business must obtain a certificate of registration from the state fire marshal.

(b) Properly equipped licensed person. Before engaging in the business, each registered firm must have at least one licensed person who shall be properly equipped to perform the act or acts authorized by its certificate.

(c) Types of certificates. The business activity authorized by the certificate is limited to the business activity(ies) authorized under the license of its employees. A separate Type C registration is required to engage in the business of hydrostatic testing of DOT specification fire extinguisher cylinders.

(d) Business location. A specific business location must be maintained by each registered firm, the location of which must be indicated on the certificate.

(e) Shop. A registered firm must establish and maintain a shop whether at a specific location or in a mobile unit designed so that servicing, repairing, or hydrostatic testing can be performed. The shop must be adequately equipped to service or test all fire extinguishers or systems the registered firm installs and services. At a minimum a firm shall maintain the following:

- (1) a copy of the most recently adopted edition of NFPA 10;
- (2) a copy of the most recently adopted Texas Insurance Code Article 5.43-1 and this chapter;
- (3) a list of manufacturers and/or types of portable extinguishers serviced with their respective manuals and/or part lists;
- (4) portable weight scale to accurately measure extinguisher gross weights;
- (5) seals or tamper indicators;
- (6) temporary fire extinguishers replacements;
- (7) if performing annual maintenance on carbon dioxide extinguishers, at a minimum, the following

additional items are required:

- (A) conductivity tester, and
- (B) conductivity test label.

(8) if performing internal maintenance for portable extinguishers, a written notice shall be kept on file indicating the registered firm performing the maintenance or, at a minimum, the following additional items are required:

- (A) appropriate tools to remove and reinstall a valve head;
- (B) charging adapters;
- (C) Teflon tape, silicone grease, solvent or other lubricant used;
- (D) supply of spare parts for respective manufacturers and type of fire extinguishers serviced;
- (E) appropriate recharge agents;
- (F) agent fill funnels;
- (G) light designed to be used for internal inspections;
- (H) dry chemical closed recovery system or sufficient new dry chemical;
- (I) leak test equipment;
- (J) dry nitrogen cylinders, regulator and calibrated gauges for pressurizing cylinders;
- (K) verification collar rings; and
- (L) six year maintenance labels.

(9) if performing hydrostatic testing for portable extinguishers, a written notice shall be kept on file indicating the registered firm performing the test or, at a minimum, the following additional items are required:

- (A) working hydrostatic test pump, with flexible connection, check valves and fittings;
- (B) protective cage or barrier;
- (C) calibrated gauges;
- (D) drying equipment;
- (E) hydrostatic test log; and
- (F) hydrostatic test labels.

(10) if performing maintenance for DOT specification portable fire extinguishers, a written notice shall be kept on file indicating the registered firm which would perform the hydrostatic test when required or, at a minimum, the following additional items are required:

- (A) a current Type C registration issued through the State Fire Marshal's Office; and
- (B) verification of registration through the US DOT.

(11) if installing or servicing a fixed fire extinguisher system, at a minimum, the following additional items are required:

(A) copy of the latest adopted edition of applicable NFPA standards with respect to the type of system installed or serviced;

(B) applicable manufacturer's service manuals for the type of system; and

(C) any special tools or parts as required by the manufacturer's manual.

(f) Display of registration information. All vehicles used in installation, service, maintenance, testing, or certification activities must prominently display the company name, telephone number, and certificate-of-registration number. The numbers and letters must be permanently affixed or magnetically attached to a side panel and/or a front-door panel in a color contrasting with the background color of the vehicle. The certificate-of-registration number must be designated as: Tex: ECR (number).

(g) Posting. Each certificate shall be posted conspicuously for public view at the business location.

(h) Change of ownership.

(1) The total change of a firm's ownership invalidates the current certificate. To assure continuance of the business, a new application for a new certificate should be submitted to the state fire marshal 14 days prior to such change.

(2) A partial change in a firm's ownership will require a revised certificate if it affects the firm's name, location, or mailing address.

(i) Change of corporate officers. Any change of corporate officers must be reported in writing to the state fire marshal within 14 days. This change does not require a revised certificate.

(j) Duplicate certificates. A duplicate certificate must be obtained from the state fire marshal to replace a lost or destroyed certificate. The certificate holder must submit written notification of the loss or destruction without delay, accompanied by the required fee.

(k) Revised certificates. The change of a firm's name, location, or mailing address requires a revised certificate. Within 14 days after the change requiring the revision, the registered firm must submit written notification of the necessary change accompanied by the required fee to the State Fire Marshal's Office.

(l) Nontransferable. A certificate is neither temporarily nor permanently transferable from one firm to another.

§ 34.511. Fire Extinguisher Licenses

(a) Types of licenses. Each license must be identified by type, which indicates the business activity authorized under the license.

(1) Type PL--For the planning, supervising, certifying, installing, or servicing of all fixed systems other than pre-engineered systems. A system planning licensee may also perform, supervise, or certify the installation or servicing of all pre-engineered fixed systems and portable fire extinguishers.

(2) Type A--For certifying or servicing the installation of all fixed fire extinguisher systems other than pre-engineered systems or for installing, certifying, or servicing of all pre-engineered fixed fire extinguisher systems and the certifying and servicing of portable extinguishers.

(3) Type B--For the servicing, certifying, and low-pressure hydrostatic testing of portables.

(4) Type K--For installing, certifying, or servicing of pre-engineered fixed fire extinguisher systems for the protection of cooking areas and the certifying and servicing of portable extinguishers.

(5) Type R--For installing, certifying, or servicing of pre-engineered fixed residential range top fire extinguisher systems.

(b) Posting. Wall licenses shall be posted conspicuously for public view at the firm's business location.

(c) Pocket license. A licensee must carry a pocket license for identification while engaged in the activities of the business.

(d) Duplicate license. A duplicate license must be obtained from the state fire marshal to replace a lost or destroyed license. The license holder or registered firm must submit written notification of the loss or destruction, accompanied by the required fee.

(e) Revised license. The change of a licensee's registered firm or mailing address requires a revised license. Within 14 days after the change requiring the revision, the license holder or registered firm must submit written notification of the necessary change accompanied by the required fee.

(f) Restrictions.

(1) A licensee must not engage in any act of the business unless employed by a registered firm.

(2) A license is neither temporarily nor permanently transferable from one person to another.

(3) A registered firm must notify the state fire marshal within 14 days after termination of employment of a licensee.

(4) A Type A or Type K license shall not be issued to an individual unless the individual has held an apprentice permit or a Type B license for at least six months or has held a license to service fixed extinguisher systems for at least six months from another state.

(5) It shall not be necessary for the applicant of a Type R license to hold an apprentice permit prior to the issuance of a Type R license.

§ 34.512. Apprentice Permit

(a) Pocket permit. A permit holder must carry a pocket permit for identification while engaging in the business.

(b) Duplicate permit. A duplicate permit must be obtained from the state fire marshal to replace a lost or destroyed permit. The permit holder and his employer must submit written notification of the loss or destruction without delay, accompanied by the required fee.

(c) Revised permits. The change of a permittee's employer, home address, or mailing address requires a revised permit. Within 14 days after the change requiring the revision, the permit holder or registered firm must submit written notification to the State Fire Marshal's Office of the necessary change accompanied by the required fee.

(d) Nontransferable. A permit is neither temporarily nor permanently transferable from one person to another.

(e) Apprentice. An individual holding a current apprentice permit may, under the direct supervision of the licensee, assist in all respective services of the licensee; however, the licensee must sign all documents requiring the licensee's signature.

§ 34.513. Alteration of Certificates, Licenses, or Permits

Alteration of such documents renders them invalid and is the basis for administrative action pursuant to the Insurance Code, Article 5.43-1, §7.

§ 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 the Insurance Code, Article 5.43-1, 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 also be accompanied by evidence of compliance with the Assumed Business or Professional Name Act, Texas Business and Commerce Code, §36.01. The application shall also include written authorization by the applicant permitting the state fire marshal or his 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 the Insurance Code, Article 5.43-1, 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 of Good Standing" issued by the state comptroller's office.

(4) Applications for Type C certificates must be accompanied by a copy of the DOT letter registering the applicant's facility which awards a registration number to the facility.

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

(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 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 marshal's office the certificate of insurance as required.

(C) Evidence of public liability insurance, as required by the Insurance Code, Article 5.43-1, §4A, 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) 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 all other information required by the Insurance Code, Article 5.43-1, and this subchapter.

(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(f)(4) of this subchapter (relating to Fire Extinguisher Licenses) and is competent to install or service fixed systems.

(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 NICET's 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.

(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 the firm to 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 all other information required by the Insurance Code, Article 5.43-1, 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 shall expire 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 shall 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 the Insurance Code, Article 5.43-1, 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 and accompanied by the required fee.

(g) 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 the Insurance Code Article 5.43-1 and this subchapter, or a new application must be submitted including all applicable fees.

§ 34.515. Fees

(a) Every fee payable to the department and required in accordance with the provisions of the Insurance Code, Article 5.43-1, and this subchapter must be paid by cash, money order, or check. Money orders and checks must be made payable to the Texas Department of Insurance. Except for overpayments resulting from mistakes of law or fact, all fees are non-refundable.

(b) Fees payable to the department must be paid at the Office of the State Fire Marshal in Austin, or mailed to an address specified by the state fire marshal.

(c) Fees are as follows.

(1) Certificates of registration:

- (A) initial fee--\$450;
- (B) renewal fee (for two years)--\$600;
- (C) renewal late fee (expired 1 day to 90 days)--\$225;
- (D) renewal late fee (expired 91 days to two years)--\$450;
- (E) branch office initial fee--\$100;
- (F) branch office renewal fee (for two years)--\$200;
- (G) branch office late fee (expired 1 day to 90 days)--\$50;
- (H) branch office late fee (expired 91 days to two years)--\$100.

(2) Certificate of registration (Type C):

- (A) initial fee--\$250;
- (B) renewal fee (for two years)--\$300;
- (C) renewal late fee (expired 1 day to 90 days)--\$125;
- (D) renewal late fee (expired 91 days to two years)--\$250.

(3) Fire extinguisher license (Type A, B, R and K):

- (A) initial fee--\$70;
- (B) renewal fee (for two years)--\$100;
- (C) renewal late fee (expired 1 day to 90 days)--\$35;
- (D) renewal late fee (expired 91 days to two years)--\$70.

(4) Fire extinguisher license (Type PL):

- (A) initial fee--\$70;
- (B) renewal fee (for two years)--\$100;
- (C) renewal late fee (expired 1 day to 90 days)--\$35;
- (D) renewal late fee (expired 91 days to two years)--\$70.

(5) Apprentice permit fee--\$30.

(6) Duplicate or revised certificates, licenses, permits, or other requested changes to certificates, licenses, or permits--\$20.

(7) Initial test fee (if administered by the SFMO)--\$20.

(8) Retest fee (if administered by the SFMO)--\$20.

(d) Fees for tests administered by an outsource testing service are payable to the testing service in the amount and manner required by the testing service.

(e) Late fees are required of all certificate or license holders who fail to submit complete renewal applications before the expiration of the certificate or license.

§ 34.516. Tests

(a) Applicants for licenses are required to take a test and obtain at least a grade of 70% on the test. Tests may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability. The test content, frequency, location and outsource testing service shall be designated by the state fire marshal.

(1) The Type B license test will include questions on the following:

- (A) this subchapter and the Insurance Code Article 5.43-1; and
- (B) installing and servicing of portables.

(2) The Type A license test will include questions on the following:

- (A) this subchapter and the Insurance Code Article 5.43-1;
- (B) installing and servicing of portables;
- (C) fixed systems; and
- (D) installing and servicing pre-engineered fixed fire extinguisher systems for the protection of

cooking areas.

(3) The Type K license test will include questions on the following:

- (A) this subchapter and the Insurance Code Article 5.43-1;
- (B) installing and servicing of portables; and
- (C) installing and servicing pre-engineered fixed fire extinguisher systems for the protection of

cooking areas.

(4) The Type PL license test will include questions on the following:

- (A) this subchapter and the Insurance Code Article 5.43-1; and
- (B) a technically qualifying test to be conducted through NICET.

(5) The Type R license test will include questions on this subchapter and Insurance Code Article 5.43-1.

(b) The standards used in the tests will be adopted by the State Fire Marshal's Office.

(c) Examinees who fail any topic on the test must file a retest application accompanied by the required fee.

(d) A person whose license has been expired for two years or longer who makes application for a new license must take and pass another test. No test is required for a licensee whose license is renewed within two years of expiration.

(e) An examinee who is scheduled for a test to be conducted on a religious holy day by the State Fire Marshal's Office and who wishes to observe the religious holy day may request the rescheduling of the test to an alternate date.

(f) An applicant may only schedule each type of test three times within a twelve-month period.

§ 34.517. Installation and Service

(a) The following requirements are applicable to all portable extinguishers.

(1) Portable extinguishers must be installed, serviced, and maintained in compliance with the manufacturer's instructions and with the applicable standards adopted in this subchapter.

(2) A service tag certifying the work performed must be securely attached by the licensee to the portable extinguisher upon completion of the work.

(3) When requested in writing by the owner, a portable fire extinguisher of the type described in subparagraphs (A), (B), and (C) of this paragraph may be serviced in accordance with the requirement of this subchapter, regardless of whether it carries the label of approval or listing of a testing laboratory approved in accordance with this subchapter.

(A) All portable fire extinguishers that are serviced in accordance with the requirements of the United States Coast Guard and installed for use in foreign shipping vessels;

(B) All portable carbon dioxide fire extinguishers that are serviced in accordance with the requirements of the United States Department of Transportation; or

(C) Cartridge actuated portable fire extinguishers used exclusively by employees of the firm owning the extinguishers.

(4) A licensee who services portable fire extinguishers in accordance with paragraph (3) of this subsection, shall comply with the following:

(A) The back of the service tag shall be plainly marked with the words "No Listing Mark".

(B) All missing markings, code symbols, instructions and information, required by the applicable performance standard and fire test standard specified in §34.507(1) of this subchapter (relating to Adopted Standards), except for the approving or listing mark of the testing laboratory, shall be affixed to each extinguisher in the form of a label designated in the standard.

(b) The following requirements are applicable to all fixed fire extinguisher systems.

(1) Fixed systems must be planned, installed, and serviced in compliance with the manufacturer's installation manuals and specifications or the applicable standards adopted in this subchapter.

(2) Upon completion of the installation of a pre-engineered fixed fire extinguisher system, a licensee authorized to certify pre-engineered fixed fire extinguishing systems under the provisions of this subchapter, must place an installation label on the system to certify that the system was installed in compliance with the manufacturer's installation manuals and specifications or standards adopted by the commissioner in this subchapter. The licensee whose signature appears on the installation label must be present for the final test of the system prior to certification.

(3) Upon completion of the installation of a fixed fire extinguisher system other than a pre-engineered system, a Type A or Type PL licensee must place an installation label on the system to certify that the system was installed in compliance with the manufacturer's installation manuals and specifications, plans developed by a Type PL licensee or professional engineer, or standards adopted by the commissioner in this subchapter. The licensee whose signature appears on the installation label must be present for the final test of the system prior to certification.

(4) A service tag certifying the work performed must be securely attached by the licensee to the system upon completion of servicing.

(c) Pre-engineered fixed fire extinguisher systems must be installed and serviced by a licensee authorized to install or service pre-engineered fixed fire extinguishing systems under the provisions of this subchapter.

(d) A pre-engineered fixed fire extinguisher system, except those covered by subsection (f) of this section, which has been previously installed in one location may be reinstalled in another location if:

(1) the system is of the size and type necessary to protect all hazards;

(2) all parts and equipment, when installed, will function as designed by the manufacturer; and

(3) the system shall comply with all applicable adopted standards.

(e) Fixed fire extinguisher systems other than pre-engineered systems must be planned, installed, or serviced by a Type PL licensee or professional engineer. Installation and servicing of such a system may also be

performed by or supervised by a Type A licensee. An employee of the registered firm may install such systems, under the direct supervision of a Type A or PL licensee, without obtaining a license or permit.

(f) All pre-engineered fixed fire extinguishing systems, installed or modified after July 1, 1996, in accordance with NFPA 17 or NFPA 17A or NFPA 96 of the adopted standards, for the protection of commercial cooking areas, must meet the minimum requirements of Underwriters Laboratories, Inc., Standard 300, "Fire Testing of Fire Extinguishing Systems for Protection of Restaurant Cooking Area" (UL 300). After January 1, 2008 all existing pre-engineered fixed fire extinguishing systems, installed in accordance with NFPA 17 or NFPA 17A or NFPA 96 of the adopted standards, for the protection of commercial cooking areas, must meet the minimum requirements of Underwriters Laboratories, Inc., Standard 300, "Fire Testing of Fire Extinguishing Systems for Protection of Restaurant Cooking Area" (UL 300) or a red tag shall be attached following the procedures in §34.521 of this subchapter (relating to Red Tags).

(g) If the installation or servicing of a fixed fire extinguishing system includes the installation or servicing of any part of a fire alarm or detection system and/or a fire sprinkler system other than the installation and servicing of mechanical or pneumatic detection and/or actuation devices in connection with the fire extinguishing system, the licensing requirements of the appropriate Insurance Code Article 5.43-2 or 5.43-3 must be satisfied.

(h) The fixed temperature-sensing elements of the fusible metal alloy type, replaced while servicing a kitchen hood fire extinguishing system, must bear the manufacturer's date stamp which must be within one year of the date of the replacement.

(i) The disposable actuation cartridge, replaced while servicing a kitchen hood fire extinguisher system, must bear the date of replacement.

(j) After operating the pull pin or locking device during maintenance of a portable fire extinguisher, the flag of the new seal or tamper indicator shall bear the year it was attached.

(k) All pre-engineered dry chemical fixed fire extinguishing systems, installed in new, remodeled or relocated protected areas after January 1, 2006, must meet the minimum requirements of the second edition (1996) or more recent edition of Underwriters Laboratories, Inc., Standard 1254, "Pre-engineered Dry Chemical Extinguishing System Units".

§ 34.518. Fire Extinguisher Fixed System Plans for Other Than Pre-engineered Systems

(a) A set of shop drawings and hydraulic calculations showing details of system piping, calculations, and alarm configurations must be provided to the building owner or his representative when installation of a fixed extinguisher system protecting special hazards is complete. The firm must also maintain a set of shop drawings for the life of the system.

(b) Subsequent alterations or additions must be legibly noted on updated plans and provided to the owner. Additions to systems protecting previously unprotected hazards also require updated plans. Updated plans must be maintained by the firm for the life of the system.

(c) All shop drawings must bear the signature of a Type PL licensee, his license number, the date of installation, and the certificate-of-registration number of the registered firm.

(d) A rubber stamp may be used to supply the required information; however, a stamped signature is prohibited. If a rubber stamp is used, it shall produce an imprint 2 1/2 inches wide by one inch high, all in boldface type and capital letters and in the following sample format.

<p>XYZ EXTINGUISHER CO. 555 SPRING LANE HOMEVILLE, TEXAS 77777 ECR-0000 H. B. BROWN LICENSE NO. EPL-0000</p> <hr/> <p>(Signature) (Date)</p>

§ 34.519. Installation Labels for Fixed Extinguisher Systems

(a) After an installation has been completed, an installation label must be affixed to the control head or panel of the fixed fire extinguisher system and an installation certificate form shall be sent to the state fire marshal's office. The signature of the licensee on the label certifies that the system has been installed according to law. Labels shall be five inches in height and four inches in width and shall be of the gum label type. They shall not be red in color. Installation labels shall contain only the following information in the format of the label shown in subsection (b) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL--SYSTEM INSTALLATION RECORD" (all in capital letters, at least 10-point boldface type);

(2) the firm's name, address, and telephone number;

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the licensee authorized to certify a fixed fire extinguishing system (a stamped signature is prohibited);

(5) the date of installation; and

(6) identification of the manufacturer's manual(s) used for installation.

(b) Installation label:

DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL SYSTEM INSTALLATION RECORD	
Firm Name	_____
Firm Address	_____
City	_____
Telephone	_____
Cert. of Registration No.	_____
Name of Licensee	_____
License Number	_____
(Signature of Licensee)	
Installation Date	_____
Manufacturer's Installation Manual	_____

(c) Certificate of Installation (Form Number FML 010).

§ 34.520. Service Tags

(a) After any service, a service tag must be completed in detail, indicating all work that has been done, and then attached to the portable or fixed system in such a position as to permit convenient inspection and not hamper its actuation or operation. The signature of the licensee on the service tag certifies that the service performed complies with requirements of law.

(b) A new service tag, yellow tag or red tag, as applicable, must be attached each time service is performed.

(c) Service tags must bear the following information in the format of the tag shown in subsection (g) of this section:

(1) "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL" (all capital letters, at least 10-point boldface type);

(2) firm's name, address, and telephone number;

(3) firm's certificate-of-registration number;

(4) licensee's name and license number;

(5) licensee's signature (a stamped signature is prohibited);

(6) month and year (to be punched);

- (7) type of work (to be punched);
- (8) service performed;
- (9) name and address of owner or occupant; and
- (10) extinguisher type, size, and location.

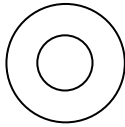
(d) Tags must be 5 1/4 inches in height and 2 5/8 inches in width. Service tags must not be red in color.

(e) Tags may be printed and established for any five-year period.

(f) A service tag may be removed only by an authorized employee of a registered firm, an employee of the

state fire marshal's office, or an authorized representative of a governmental agency with regulatory authority.

(g) Service tag:



**DO NOT REMOVE BY ORDER OF
TEXAS STATE FIRE MARSHAL**

*Name & Address and Telephone
Number of Fire Protection Firm*

Certificate of Registration Number

Name of Licensee

License Number

Signature

DEC	2000
NOV	
OCT	1999
SEP	
AUG	1998
JUL	
JUN	1997
MAY	
APR	1996
MAR	
FEB	
JAN	

TYPE OF WORK

MAINTENANCE

NEW EXTINGUISHER

SERVICE (List on back)

DATE OF LAST SERVICE



**EXTINGUISHER TYPE, SIZE and
LOCATION:**

OWNER'S NAME and ADDRESS

LIST SERVICE PERFORMED:

(Monthly Inspection – Initial and date below)

§ 34.521. Red Tags

(a) If impairments are found which make a portable extinguisher or fixed system unsafe or inoperable, the owner or his representative must be notified in writing of all impairments. The registered firm shall notify the owner or his representative immediately and must also notify the local authority having jurisdiction (AHJ) when available within 24 hours by phone, fax, or e-mail describing the impairments or deficiencies. A copy of the written notice to the owner shall be submitted to the AHJ within 3 business days. A completed red tag must be attached to indicate that corrective action or replacement is necessary. The signature of the licensee on the tag certifies that the impairments listed indicate that the equipment is unsafe or inoperable. A service tag must not be attached until the impairments have been corrected or the portable extinguisher or fixed system replaced and the extinguisher or fire extinguisher system reinspected and found to be in good operating condition.

(b) Red tags must be the same size as service tags.

determined in accordance with and governed by the provisions of statutes, sections, orders, or official interpretations in effect at the time of the occurrence of the subject event.

§ 34.524. Yellow Tags

(a) After any service of a pre-engineered fixed fire extinguishing system installed in accordance with NFPA 17, NFPA 17A or NFPA 96 of the adopted standards for the protection of commercial cooking areas, if it is determined that the system is not in compliance with the minimum requirements of Underwriters Laboratories, Inc., Standard 300, "Fire Testing of Fire Extinguishing Systems for Protection of Restaurant Cooking Area" (UL 300), a yellow tag must be completed in detail indicating all work that has been done, and then attached to the system in such a position as to permit convenient inspection and to not hamper its actuation or operation.

The owner or the owner's representative must be notified in writing that the system does not comply with UL Standard 300 and that the system may not extinguish a typical fire, that a red tag shall be attached to the system after January 1, 2008, and that the owner should consider replacing or upgrading the system before that time. A copy of the written notice to the owner shall be postmarked, e-mailed, faxed, or hand delivered to the AHJ within 5 business days. The signature of the licensee on the tag certifies that the service performed complies with requirements of law.

(b) The yellow tag shall be attached instead of a service tag.

(c) Tags must be 5 1/4 inches in height and 2 5/8 inches in width.

(d) Yellow tags must be yellow in color.

(e) Tags may be printed and established for a multiple period of years.

(f) A yellow tag may be removed only by an authorized employee of a registered firm who has corrected the impairments and certified the service, an employee of the state fire marshal's office, or an authorized representative of a governmental agency with appropriate regulatory authority.

(g) Yellow tags must contain the following information in the format of the tag shown in subsection (h) of this section:

(1) "DO NOT REMOVE BY ORDER OF THE TEXAS STATE FIRE MARSHAL" (all capital letters, at least 10-point boldface type);

(2) firm's name, address, and telephone number;

(3) firm's certificate of registration number;

(4) licensee's name and license number;

(5) licensee's signature (a stamped signature is prohibited);

(6) month and year (to be punched);

(7) type of work, maintenance or service (to be punched);

(8) the inscription "SYSTEM DOES NOT COMPLY WITH STANDARD UL300. SYSTEM MAY NOT EXTINGUISH A TYPICAL FIRE." (all capital letters, at least 10-point boldface type);

(9) the inscription "This fire protection system may have met the nationally recognized testing requirements at the time it was installed. However recent changes to modern cooking appliances and/or the cooking media may prevent the fire protection system from extinguishing a typical fire. Since this system was not tested according to Underwriter's Laboratories test Standard UL 300 it will be red tagged after January 1, 2008. The owner should consider replacing or upgrading the system before that time.";

(10) name and address of owner or occupant; and

(11) service performed.

(h) Sample Yellow tag:

**DO NOT REMOVE BY ORDER OF
TEXAS STATE FIRE MARSHAL**

**SYSTEM DOES NOT COMPLY WITH STANDARD UL 300.
SYSTEM MAY NOT EXTINGUISH A TYPICAL FIRE.**

Name & Address and
Phone No.
of Extinguisher Firm

Certificate of
Registration Number

Name of Licensee

License Number

Signature

TYPE OF WORK

Maintenance

Service

**DATE MARKED IS DATE
OF LAST SERVICE**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	2010
												2009
												2008
												2007
												2006
												2005

**SYSTEM DOES NOT COMPLY
WITH STANDARD UL 300.**

This fire protection system may have met the nationally recognized testing requirements at the time it was installed. However recent changes to modern cooking appliances and/or the cooking media may prevent the fire protection system from extinguishing a typical fire. Since this system was not tested according to Underwriter's Laboratories test Standard UL 300 it will be red tagged after January 1, 2008. The owner should consider replacing or upgrading the system before that time.

Name of owner or occupant

Address

List Services

Effective December 5, 1984, 9 TexReg 6006; amended to be effective April 14, 1989, 14 TexReg 1632; amended to be effective February 1, 1991, 16 TexReg 311; transferred effective September 1, 1991, as published in the Texas Register March 6, 1992, 17 TexReg 1745; amended to be effective March 23, 1994, 19 TexReg 1682; amended to be effective December 14, 1994, 19 TexReg 9526; amended to be effective September 20, 1995, 20 TexReg 7077; amended to be effective May 10, 1996, 21 TexReg 3714; amended to be effective January 1, 1997, 21 TexReg 11521; transferred effective September 1, 1997, 22 TexReg 11091; amended to be effective August 26, 2001, 26 TexReg 6105; amended to be effective March 7, 2002, 27 TexReg 1496; amended to be effective June 3, 2004, 29 TexReg 5403; amended to be effective September 20, 2004, 29 TexReg 9006.

Sections amended April 1, 2006 are marked with a vertical line in the margin.

Fire Extinguisher System Installation Certification
TEXAS STATE FIRE MARSHAL'S OFFICE
 P. O. Box 149221
 Austin, TX 78714-9221



INSTALLING COMPANY _____
 Address: _____
 City _____ Zip _____
 Phone: _____
 Company Certificate of Registration Number _____

PROTECTED PROPERTY

Name: _____
 Street Address: _____
 City: _____ Zip: _____
 Owner or Owner's representative instructed on system operation & maintenance: Yes No
 Owners Rep, if applicable: _____

LOCAL AUTHORITY HAVING JURISDICTION

Name: _____
 Street Address: _____
 City: _____ Zip: _____

HAZARD ANALYSIS

Name of area, room, building or hazard protected _____
 Primary Class of Protected Hazard
 Class A - Wood, paper, etc. Class D - Combustible metals
 Class B - Flammable liquids Explosives
 Class C - Electrical equipment _____

SYSTEM INFORMATION

System Manufacturer's Name: _____
 Installation Manual: _____ UL Number: _____ Date: _____
 Design type: _____ Pre-engineered: _____ Engineered: _____
 If Pre-engineered, Model Number _____
 Coverage Type: _____ Total Flooding: _____ Local App: _____
 System Actuation: _____ Automatic: _____ Manual: _____
 Air/Fan shutdown on actuation? Yes: _____ No: _____
 Design discharge rate or concentration level: _____
 Design discharge time: _____ Seconds: _____

AGENT INFORMATION

Type of agent provided: _____

Qty	Storage cylinder	Manufacturer	Part No.	Amount of agent
_____	_____	_____	_____	_____

EQUIPMENT INFORMATION

Initiating Devices

Qty	Item	Manufacturer	Part No.	Temperature
_____	Fusible Links	_____	_____	_____
_____	Sprinkler Heads	_____	_____	_____
_____	Heat Detectors	_____	_____	_____
_____	Smoke Detectors	_____	_____	_____
_____	Other Fire Detectors	_____	_____	_____
_____	Manual Pull Stations	_____	_____	_____

Nozzles

Part No.	Qty	Part No.
_____	_____	_____

Interlock

Item	Manufacturer	Part No.
_____	_____	_____
Fan or A/C Shutdown	_____	_____
Gas line Shut-off	_____	_____
Electric Shut-off	_____	_____

Use the back of the form, or or additional paper, to sketch the piping configuration and device location

Kitchen Hoods & Appliance System

	Height	Length	Width
Overall Hood	_____ ft	_____ ft	_____ ft
Plenum	_____ ft	_____ ft	_____ ft
Exhaust duct perimeter	_____ in	_____ in	_____ in

Qty	Appliances Protected	Gas or Elect	Length	Width
_____	Deep Fat Fryer	_____	_____ in	_____ in
_____	Range	_____	_____ in	_____ in
_____	Griddle	_____	_____ in	_____ in
_____	Char Broiler	_____	_____ in	_____ in
_____	Radiant Broiler	_____	_____ in	_____ in
_____	Upright Broiler	_____	_____ in	_____ in
_____	_____	_____	_____ in	_____ in
_____	_____	_____	_____ in	_____ in
_____	_____	_____	_____ in	_____ in

Other Type Hazards

Is hazard normally occupied? Yes No N/A

Size of Hazard

Total Volume _____ cuft
 or Total Area _____ sqft

Height	Length	Width
approx. _____ ft	_____ ft	_____ ft
approx. _____ ft	_____ ft	_____ ft
approx. _____ ft	_____ ft	_____ ft

Area sealed to prevent agent loss? Yes No N/A

Number of room air changes per minute? _____ /min. N/A

Warning & instruction signs posted? Yes No N/A

TESTING

Method system was tested: _____

This system was installed in accordance with the following codes:
 NFPA _____ Year _____
 NFPA _____ Year _____
 _____ Year _____
 _____ Year _____

I certify that this fixed fire extinguishing system has been tested and complies with the requirements of Article 5.43-1 of the Texas Insurance Code, as amended, and the fire extinguisher rules and adopted NFPA Standards.

_____ Planning Superintendent & License Number
 _____ Signature of Licensee & License Number
 _____ Completion Date _____

Reproduce Form & Distribute
 Original to Protected Premise
 Copy 1 to Installing Contractor
 Copy 2 Authority having Jurisdiction
 Copy 3 State Fire Marshal's Office

Form # FML 010 January 1999
 SF205 Rev. 01/99