

**SUBCHAPTER B. FLAMMABLE LIQUIDS EQUIPMENT TESTING LABORATORY
RULES
28 TAC §§34.201 – 34.208****SUBCHAPTER D. TESTING LABORATORY RULES
28 TAC §§34.404 – 34.406****SUBCHAPTER E. FIRE EXTINGUISHER AND INSTALLATION
28 TAC §34.524**

1. INTRODUCTION. The Texas Department of Insurance adopts the repeal of 28 TAC §§34.201 – 34.208, §§34.404 – 34.406, and §34.524. The repeal is adopted without changes to the proposal published in the October 25, 2013, issue of the *Texas Register* (38TexReg 7418).

2. REASONED JUSTIFICATION. The repeal of §§34.201 – 34.208, concerning the flammable liquids equipment testing laboratory rules, is necessary to consolidate testing laboratory rules under one subchapter. The repeal of §§34.404 – 34.406, concerning the testing laboratory certification process, is necessary to simplify the process for becoming an approved testing laboratory and to eliminate unnecessary provisions. The repeal of §34.524, concerning yellow tags for fire extinguisher inspections for commercial cooking areas, is necessary because the section became obsolete after January 1, 2008.

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3. HOW THE SECTIONS WILL FUNCTION. The adoption of the repeal of §§34.201 – 34.208 will eliminate the subchapter and allow the consolidation with related rules. The adoption of the repeal of §§34.404 – 34.406 will simplify the process for becoming an approved testing laboratory and eliminate unnecessary provisions. The adoption of the repeal of §34.524 will result in the elimination of an obsolete provision

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI did not receive any comments on the published proposal.

6. STATUTORY AUTHORITY. TDI adopts the repeal of §§34.201 - 34.208 to comply with Health and Safety Code §753.003, Government Code §417.005, and Insurance Code §36.001.

Health and Safety Code §753.003 provides that the department, through the state fire marshal, shall adopt rules for the safe storage, handling, and use of flammable liquids at retail service stations. Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary to guide the state fire marshal in the performance of other duties for the commissioner. Insurance Code §36.001 provides that the commissioner of insurance 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.

TDI proposes the repeal of §§34.404 - 34.406 to comply with Government Code §417.005 and Insurance Code §36.001, §6001.054, Chapter 6002, and §6003.054.

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Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary to guide the state fire marshal in the performance of other duties for the commissioner. Insurance Code §36.001 provides that the commissioner of insurance 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. Insurance Code Chapter 6002 provides that fire alarm and fire detection devices must carry a label of approval or listing by a testing laboratory approved by the department. Insurance Code §6003.054 provides that the state fire marshal shall implement the rules adopted by the commissioner for the protection and preservation of life and property.

TDI proposes the repeal of §34.524 to comply with Government Code §417.005 and Insurance Code §36.001 and §6001.052(b).

Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary to guide the state fire marshal in the performance of other duties for the commissioner. Insurance Code §36.001 provides that the commissioner of insurance 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. Insurance Code §6001.052(b) specifies that the commissioner shall adopt and administer rules determined essentially necessary for the protection and preservation of life and property regarding: (i) 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

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extinguisher cylinders; (ii) the examination and licensing of individuals to install or service portable fire extinguishers and plan, certify, install, or service fixed fire extinguisher systems; and (iii) requirements for installing or servicing portable fire extinguishers and planning, certifying, installing, or servicing fixed fire extinguisher systems.

7. TEXT.

SUBCHAPTER B. FLAMMABLE LIQUIDS EQUIPMENT TESTING LABORATORY

RULES

§34.201 Purpose

§34.202 Title

§34.203 Applicability of Chapter

§34.204 Definitions

§34.205 Testing Laboratory Approval

§34.206 Alternate Method for Approval

§34.207 Applications

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§34.208 Severability

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§34.404 Notice

§34.405 Definitions

§34.406 Requirements for Approval

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§34.524 Yellow Tags

CERTIFICATION. This agency certifies that legal counsel has reviewed the adopted repeal and found it to be a valid exercise of the agency's legal authority.

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Texas Department of Insurance

The commissioner adopts the repeal of 28 TAC §§34.201 – 34.208, §§34.404 – 34.406,
and §34.524.



Julia Rathgeber
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **3075**