

**CHAPTER 34. STATE FIRE MARSHAL  
SUBCHAPTER F. FIRE ALARM RULES  
28 TAC §34.616**

**INTRODUCTION.** The Commissioner of Insurance adopts amendments to 28 TAC §34.616, relating to fire detection sales, installation, and service standards. The amendments are adopted with changes to the proposed text published in the January 22, 2021, issue of the *Texas Register* (46 TexReg 549).

**REASONED JUSTIFICATION.** The amended section is necessary to clarify existing rules to eliminate confusion with respect to fire protection planning, installation, and servicing standards. The changes to the proposed text correct nonsubstantive grammatical errors.

Chapter 6002 authorizes the State Fire Marshal's Office to safeguard lives and property by regulating the planning, certifying, leasing, selling, servicing, installing, monitoring, and maintaining of fire detection and fire alarm devices and systems. The amendments to §34.616 clarify that as long as all related tasks are done by licensed parties, the fire protection licensee responsible for planning the fire protection system can be different from the licensee installing the system. In addition, the amendments allow local governments more flexibility in determining the standard required for planning, installing, and servicing fire protection services by allowing the use of standards previously adopted by the local political jurisdiction as well as the currently adopted standard found in §34.607. The proposed amendments also corrected punctuation errors and included nonsubstantive editorial changes for readability.

The Texas Department of Insurance (TDI) adopts §34.616 with nonsubstantive grammatical changes to the proposed text. These changes include adding commas after the phrase "Insurance Code Chapter 6002" in the first sentence of §34.616(b)(1) and after the phrase "currently adopted standards" in the second sentence of §34.616(b)(5), and deleting an unnecessary comma in the phrase "fire alarm planning superintendent, for the work permitted by the license" in the second sentence in §34.616(b)(2). The adopted changes also include adding a space after the first hyphen in the phrase "one-or two-family dwelling" in §34.616(c)(6). This space is correctly shown in the existing rule text but was incorrectly omitted in the proposed rule text published in the *Texas Register*.

**SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenters:** One comment was received on the proposed amendments. The City of Richardson Fire Marshal's Office asked a clarifying question regarding an amendment in §34.616(a)(4). It did not express support or disapproval for the proposal.

**Comment:** A commenter asked whether the amendment authorizing a political subdivision to use standards it had previously adopted instead of the standards published in §34.607 (relating to Adopted Standards), referred to standards adopted by a political subdivision before the commencement of the work or before the effective date of this rule.

**Agency Response:** TDI clarifies that the provision allows political subdivisions to use standards it had adopted before the commencement of work in lieu of the standards published in §34.607, relating to Adopted Standards.

**STATUTORY AUTHORITY.** The Commissioner adopts the amendments to 28 TAC §34.616 under Government Code §417.005 and Insurance Code §§6002.051, 6002.052, and 36.001.

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 §6002.051(a) specifies that the department will administer Insurance Code Chapter 6002. Insurance Code §6002.051(b) provides that the Commissioner may adopt rules as necessary to administer Chapter 6002, including rules the Commissioner considers necessary to administer Chapter 6002 through the state fire marshal.

Insurance Code §6002.052(b) specifies that rules adopted under Insurance Code §6002.051 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, and that 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.

**TEXT.**

**§34.616. Sales, Installation, and Service.**

(a) Residential alarm (single station).

(1) Registered firms may employ persons exempt from the licensing provisions of Insurance Code §6002.155(10) to sell, install, and service residential, single

station alarms. Exempted persons must be under the supervision of a residential fire alarm superintendent (single station), residential fire alarm superintendent, or fire alarm planning superintendent.

(2) Each registered firm that employs persons exempt from licensing provisions of Insurance Code §6002.155(10) is required to maintain documentation to include lesson plans and annual test results demonstrating competency of those employees regarding the provisions of Insurance Code Chapter 6002, adopted standards, and this subchapter applicable to single station devices.

(b) Fire detection and fire alarm devices or systems other than residential single station.

(1) The installation of all fire detection and fire alarm devices or systems, including monitoring equipment subject to Insurance Code Chapter 6002, must be performed by or under the direct on-site supervision of a licensed fire alarm technician, residential fire alarm technician, residential fire alarm superintendent, or a fire alarm planning superintendent for the work permitted by the license. The licensee responsible for the planning of all fire detection and fire alarm devices or systems, including monitoring equipment subject to Insurance Code Chapter 6002, must be licensed under the Alarm Certificate of Registration (ACR) number of the registered firm responsible for the planning. The certifying licensee, who is licensed under the ACR number of the registered firm responsible for the installation, must be present for the final acceptance test prior to certification. The registered firm responsible for the planning of the fire devices or system can be different from the firm responsible for the installation.

(2) The maintenance or servicing of all fire detection and fire alarm devices or systems must be performed by or under the direct on-site supervision of a licensed fire alarm technician, residential fire alarm technician, residential fire alarm superintendent, or

a fire alarm planning superintendent for the work permitted by the license. The licensee attaching a label must be licensed under the ACR number of the primary registered firm.

(3) If the installation or servicing of a fire alarm system also includes installation or servicing of any part of a fire protection sprinkler system or a fire extinguisher system, the licensing requirements of Insurance Code Chapters 6001 and 6003 must be satisfied, as appropriate.

(4) The planning, installation, and servicing of fire detection or fire alarm devices or systems, including monitoring equipment, must be performed according to standards adopted in §34.607 of this title (relating to Adopted Standards) except when the planning and installation complies with an edition of the standard that has been previously adopted by the political subdivision in which the system is installed.

(5) Fire alarm system equipment replaced in the same location with the same or similar electrical and functional characteristics and listed to be compatible with the existing equipment, as determined by a fire alarm planning superintendent, may be considered a repair. The equipment replaced must comply with the currently adopted standards, but the entire system is not automatically required to be modified to meet the applicable adopted code. The local authority having jurisdiction (AHJ) must be consulted to determine whether to update the entire system to comply with the current code and if plans or a permit is required prior to making the repair.

(6) On request of the owner of the fire alarm system, a registered firm must provide all passwords, including those for the site-specific software, but the registered firm may refrain from providing that information until the system owner signs a liability waiver provided by the registered firm.

(c) Monitoring requirements.

(1) A registered firm may not monitor a fire alarm system located in the State of Texas for an unregistered firm.

(2) A registered firm may not connect a fire alarm system to a monitoring service unless:

(A) the monitoring service is registered under Insurance Code Chapter 6002 or is exempt from the licensing requirements of that chapter; and

(B) the monitoring equipment being used is in compliance with Insurance Code §6002.251.

(3) A registered firm must employ at least one technician licensee at each central station location. Each dispatcher at the central station is not required to be a fire alarm technician licensee.

(4) A registered firm subcontracting monitoring services to another registered firm must advise the monitoring services subscriber of the identity and location of the registered firm actually providing the services unless the registered firm's contract with the subscriber contains a clause giving the registered firm the right, at the registered firm's sole discretion, to subcontract any or all of the work or service.

(5) A registered monitoring firm reporting an alarm or supervisory signal to a municipal or county emergency services center must provide, at a minimum, the type of alarm, address of alarm, name of subscriber, dispatcher's identification, and call-back phone number. If requested, the firm must also provide the name, registration number, and call-back phone number of the firm contracted with the subscriber to provide monitoring service if other than the monitoring station.

(6) If the monitoring service provided under this subchapter is discontinued before the end of the contract with the subscriber, the monitoring firm, central station, or service provider must notify the owner or owner's representative of the monitored

property and the local AHJ a minimum of seven days before terminating the monitoring service. If the monitored property is a one- or two-family dwelling, notification of the local AHJ is not required.

(d) Record keeping. The firm must keep complete records of all service, maintenance, and testing on the system for a minimum of two years. The records must be available for examination by the state fire marshal or the state fire marshal's representative.

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

Issued at Austin, Texas, on April 7, 2021.

DocuSigned by:  
*James Person*  
75578E954EFC48A...  
James Person, General Counsel  
Texas Department of Insurance

The Commissioner adopts amended 28 TAC §34.616.

Commissioner of Insurance

By: *Doug Slape*  
C77A87C8C21B435...  
Doug Slape  
Chief Deputy Commissioner  
Tex. Gov't Code §601.002  
Commissioner's Order No. 2018-5528