

# Texas Register

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(1) An entity filing an application for approval of a proprietary real estate school in Texas shall submit material for no less than 180 hours of core real estate courses with the original application for approval.

(2) Professional or trade organizations or schools approved and regulated by an agency of this state may submit real estate or real estate related courses for approval limited to their areas of specialization.

(d)-(ii) (No change.)

(jj) The commission may place on probation or suspend [operation] or withdraw accreditation of a school or course offered by a school or other entity approved to offer courses for a violation of these sections or for other good cause as determined by the commission. The commission may place on probation, suspend operation, or withdraw accreditation of a school or course or for the failure of the school or entity [school's operator or owner] to provide within 15 days information requested by commission staff as a result of a formal or informal complaint to the commission which would indicate a violation of these sections.

(kk)-(ss) (No change.)

**§535.69. Additional Core Real Estate Courses.** In addition to the courses of study specified in Texas Civil Statutes, Article 6573a, §7(a), the following shall be considered core real estate courses.

(1) Promulgated contract forms (or equivalent) shall include but not be limited to:

- (A) unauthorized practice of law;
- (B) broker-lawyer committee;
- (C) current promulgated forms;
- (D) commission rules governing use of forms; and
- (E) case studies involving use of forms.

(2) Residential inspection for real estate agents (or equivalent) shall include but not be limited to:

- (A) property condition addendum;
- (B) inspector and client agreement;

(C) tools and procedures;

(D) electromechanical systems (plumbing, heating, air conditioning, appliances, energy-saving considerations); and

(E) structures (lot and landscape, roofs, chimney, gutters, paved areas, walls, windows and doors, insect damage, and storage areas).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 26, 1991.

TRD-9108998

Mark A. Moseley  
General Counsel  
Texas Real Estate  
Commission

Earliest possible date of adoption: September 6, 1991

For further information, please call: (512) 465-3900



## Chapter 544. Rules Relating to Certified Real Estate Appraisers

### • 22 TAC §§544.1-544.9

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Real Estate Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Real Estate Commission proposes the repeal of §§544.1-544.9, concerning certified real estate appraisers. Repeal of these sections is necessary because of the repeal of Texas Civil Statutes, Article 6573a, §22, by the 72nd Legislature (1991). Authority to certify real estate appraisers has been transferred to the newly created Texas Appraiser Licensing and Certification Board.

Mark A. Moseley, general counsel, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Moseley also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be conforming the agency's sections with the law. There will be no effect on small businesses as a result of enforcing the repeals. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed. There will be no impact on local employment.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The repeals are proposed under Texas Civil

Statutes, Article 6573a, §5(h), which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

§544.1. Definitions.

§544.2. Application for Certification.

§544.3. Examinations.

§544.4. Experience Required for Certification.

§544.5. Educational Requirements for Certification or Renewal.

§544.6. Renewal of Certification.

§544.7. The Committee.

§544.8. Disciplinary Actions.

§544.9. Standards of Professional Practice.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 26, 1991.

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Mark A. Moseley  
General Counsel  
Texas Real Estate  
Commission

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For further information, please call: (512) 465-3900

## ◆ ◆ ◆ TITLE 31. NATURAL RESOURCES AND CONSERVATION Part III. Texas Air Control Board

### Chapter 111. Control of Air Pollution from Visible Emissions and Particulate Matter

#### Visible Emissions

##### • 31 TAC §111.111

The Texas Air Control Board (TACB) proposes an amendment to §111.111, concerning visible emissions, by adding controls for solid fuel heating devices. This action is being proposed in conjunction with the development of a state implementation plan for the control of inhalable particulate matter, in accordance with the 1990 Federal Clean Air Amendments.

The proposed section would regulate the use of solid fuel heating devices in the City of El Paso during periods of inadequate dispersion and establish conditions under which exemp-

tions from the requirements would be applicable.

Bennie Engelke, director of administrative services, has determined that for the first five-year period the section is in effect fiscal implications for state and local government as a result of enforcing or administering the section are estimated to be minimal. An ordinance has already been adopted by the City of El Paso, and the proposed rule incorporate the principal provisions of this ordinance.

Lane Hartsock, director of the Planning and Development Program, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be rules which are enforceable by state and federal authorities. There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

A public hearing on this proposal is scheduled for 6 p.m. on September 5, 1991 in the El Paso City Council Chambers, 2 Civic Center Plaza, El Paso.

Copies of the proposed new section are available at the TACB central office and at all regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearing. Written testimony received by 4 p.m. on September 6, 1991 will be included in the hearing record. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 12124 Park 35 Circle, Austin, Texas 78753.

The amendment is proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

#### §111.111. Requirements for Specified Sources.

(a)-(b) (No change.)

(c) Solid fuel heating devices.

(1) Operating restrictions. In the city of El Paso, including the Fort Bliss Military Reservation, no person shall operate a solid fuel heating device during a period when available meteorological data indicates that expected atmospheric conditions will not adequately disperse smoke resulting from the operation of solid fuel heating devices. For the purposes of this section, a solid fuel heating device shall be defined as any fireplace, wood heater, wood stove, wood-fired boiler, coal-fired furnace, or similar device burning any solid fuel which is used for aesthetic, cooking (excluding commercial cooking), or heating purposes, and located inside a building.

(2) Exemptions. An exemption from the requirements of this section may be granted by the regional director of the Texas Air Control Board if one or more of the following conditions are met:

(A) the solid fuel heating device is in a period of burn down; that is, a period of time not to exceed three hours for the cessation of combustion within the device;

(B) the solid fuel heating device is the sole source of heat for the building in which it is situated; or

(C) the solid fuel heating device becomes the sole source of heat within the building because of a temporary power loss.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 25, 1991.

TRD-9109128

Lane Hartsock  
Director, Planning and  
Development Board  
Texas Air Control Board

Earliest possible date of adoption: September 6, 1991

For further information, please call: (512) 908-1770

### Materials Handling, Construction, Roads, Streets, Alleys, and Parking Lots

#### • 31 TAC §§111.141, 111.145, 111.147

The Texas Air Control Board (TACB) proposes amendments to §§111.141, 111.145, and 111.147, concerning materials handling, construction, roads, streets, alleys, and parking lots. This action is being proposed in conjunction with the development of a state implementation plan for the control of inhalable particulate matter, in accordance with the 1990 Federal Clean Air Act Amendments. All revisions are applicable only to the City of El Paso.

The revisions to §111.141, concerning geographic areas of application and date of compliance, would include the Fort Bliss Military Reservation in the definition of the areas which must comply with the requirements of the undesignated head concerning materials handling, construction, roads, streets, alleys, and parking lots, and establish a separate compliance date of December 10, 1993 for newly-affected sources. The revisions to §111.145, concerning construction and demolition, specify that controls are necessary for all such activities, regardless of the size of the area of land affected, and would require the application of asphalt, other suitable paving, or wetting agents for construction/demolition site access roads. The revisions to §111.147, concerning roads, streets, and alleys, eliminate the exemption for the removal of sand which is applied for the specific purpose of snow or ice control, add requirements for paving and cleaning all vehicle traffic surfaces at specific facilities, require that specific thoroughfares be paved, add paving requirements for alleys and levee roads, and define a street sweeping schedule and recordkeeping requirements.

Bennie Engelke, director of administrative services, has determined that for the first five-year period the sections are in effect the cost incurred for local governments would be to the City of El Paso for the costs of implementing and enforcing dust control measures enumerated in the rules. These costs are estimated to be \$1 million per year for paving, \$200,000 per year for street sweeping, and \$275,000 per year for enforcement. There will be no effect on state government. Economic costs to small businesses required to implement the proposed construction/demolition dust control measures are estimated to be \$400,000 per city block for construction and \$350,000 per city block per year for demolition.

Lane Hartsock, director of the Planning and Development Program, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be reduced public exposure to dust and inhalable particulates. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

A public hearing on this proposal is scheduled for 6 p.m. on September 5, 1991 in the El Paso City Council Chambers, 2 Civic Center Plaza, El Paso.

Copies of the proposed new sections are available at the TACB central office and at all regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearing. Written testimony received by 4 p.m. on September 6, 1991 will be included in the hearing record. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 12124 Park 35 Circle, Austin, Texas 78753.

The amendments are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§111.141. Geographic Areas of Application and Date of Compliance. Section 111.141 of this title (relating to Geographic Areas of Application and Date of Compliance), §111.143 of this title (relating to Materials Handling), §111.145 of this title (relating to Construction and Demolition), §111.147 of this title (relating to Roads, Streets, and Alleys), and §111.149 of this title (relating to Parking Lots) shall apply to the following areas: the City of El Paso, including the Fort Bliss Military Reservation, unless otherwise specified; that portion of Harris County inside the loop formed by Beltway 8; and that area of Nueces County outlined in the Group II State Implementation Plan for Inhalable Particulate Matter adopted by the Texas Air Control Board on May 13, 1988. Compliance with these sections shall be as soon as practicable, but no later than December 31, 1991, except as follows: compliance on the Fort Bliss Military Reservation and compliance with §111.145(3) of this title (relating to Construction and Demolition); and §111.147(1), (E), (F), and (2) of

this title (relating to Roads, Streets and Alleys), shall be as soon as practicable, but no later than December 10, 1993.

**§111.145. Construction and Demolition.** For the purpose of this section, the following restrictions apply if the area of land affected by the listed activities is more than one acre in size, except for the City of El Paso, where restrictions shall apply regardless of the size of the area of land affected. No person may cause, suffer, allow, or permit a structure, road, street, alley, or parking area to be constructed, altered, repaired, or demolished, or land to be cleared without taking at least the following precautions to achieve maximum control of dust emissions to the extent practicable:

(1)-(2) (No change.)

(3) application of asphalt, other paving materials, water, suitable oil, or chemicals on construction and/or demolition site access roads located in the City of El Paso.

**§111.147. Roads, Streets, and Alleys.** No person may cause, suffer, allow, or permit any public, industrial, commercial[,] or private road, street, or alley to be used without taking at least the following precautions to achieve maximum control of dust emissions to the extent practicable:

(1) application of asphalt, water, or suitable oil or chemicals on the following unpaved surfaces, except in the City of El Paso, where the use of paving materials is the only acceptable method of dust control:

(A)-(D) (No change.)

(E) alleys in the City of El Paso, shall be paved at the rate of 15 miles per year;

(F) levee roads in the City of El Paso, all levee roads and access to such roads shall be controlled with the application of asphalt, or suitable oil or chemicals as soon as practicable;

(2) removal from public thoroughfares, as necessary, of soil or other materials, except for sand applied for the specific purpose of snow or ice control. In the City of El Paso, removal of soil shall be by mechanical sweepers or their equivalent at the rate of four times per year for all public thoroughfares within the city limits and six times per week or as necessary for public thoroughfares within the central business district. For the purpose of this section, the central business district shall be defined as that area bordered by Loop 375 to the south, Santa Fe Street to the west, Missouri Street to the north, and Kansas Street to the east. In the City

of El Paso, spot cleaning of visibly dirty road areas, including sand applied for the specific purpose of snow or ice control, shall be accomplished as soon as practicable and records shall be maintained of all street sweeping activities.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 25, 1991.

TRD-9109127

Lane Hartssock  
Director, Planning and  
Development Program  
Texas Air Control Board

Earliest possible date of adoption: September 6, 1991

For further information, please call: (512) 908-1770

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part I. Texas Department of Public Safety

#### Chapter 1. Organization and Administration

##### Personnel and Employment Policies

###### • 37 TAC §1.22

The Texas Department of Public Safety proposes an amendment to §1.22, concerning screening of applicants on the basis of traffic and criminal record. Paragraph (2) is amended to delete and add language whereby a conviction of driving while intoxicated during the five-year period immediately prior to the date of application will be cause for automatic disqualification. The arrest title for driving under the influence of drugs is changed to driving while intoxicated by previous statutory provision.

Melvin C. Peoples, assistance chief of fiscal affairs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Terry H. Greene, commander of personnel bureau, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that applicants with a driving while intoxicated conviction that occurred more than five years prior to date of application for employment will be allowed to compete for non-commissioned positions within the department. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, (512) 465-2000.

The amendment is proposed under the Texas Government Code, §411.007, which provides the Public Safety Commission with the authority to establish grades and positions for the department and set standards of qualifications for each such grade and position so established. Rulemaking authority is granted in this section.

**§1.22. Screening of Applicants on the Basis of Traffic and Criminal Records.** When it is determined that an applicant fits into any of the following categories, the applicant will not be eligible to take the examination for entrance into the department, or if the applicant has completed the examination, the application will be rejected at once:

(1) a conviction for a felony. Probation will be considered a conviction until the case is dismissed;

(2) a conviction of driving while intoxicated during the five-year period immediately prior to the date of application [a conviction of driving while intoxicated or driving under the influence of drugs. Probation will be considered a conviction until the case is dismissed. This requirement may be waived for applicants seeking positions of labor or trades, providing the conviction has not occurred within the five-year period immediately prior to the date of application];

(3) the applicant's driver's license is suspended, cancelled, or revoked;

(4) a traffic record or other condition of such a nature that the department has started action or is about to start action to suspend, cancel, or revoke the applicant's license;

(5) a finding by a court of competent jurisdiction that the applicant was a delinquent child. If the applicant's record in the proceeding is ordered sealed, the incident should be disregarded and treated as though it did not exist;

(6) the applicant's driver's license has been suspended by the department during the last five years as a habitual violator.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 3, 1991.

TRD-9109016

Joe E. Milner  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption: September 6, 1991

For further information, please call: (512) 465-2000