

ELEVATORS, ESCALATORS AND RELATED EQUIPMENT

*Administrative Rules of the Texas Department of Licensing and Regulation
16 Texas Administrative Code, Chapter 74*

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74.1. Authority. (*§74.1 effective January 7, 1994, 18 TexReg 9929; amended effective December 1, 2003, 28 TexReg 10460*)

The sections in this chapter are promulgated under the authority of the Health and Safety Code, Chapter 754, Subchapter B, and Texas Occupations Code, Chapter 51.

74.10. Definitions. (*§74.10 effective January 7, 1994, 18 TexReg 9929; amended effective June 21, 1994, 19 TexReg 4417; amended effective October 1, 1995, 20 TexReg 7279; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749*)

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

- (1) **The Act**--Texas Health and Safety Code, Chapter 754, Elevators, Escalators, and Related Equipment.
- (2) **Altered Equipment**--Any changed equipment, including its parts, components, and/or subsystems, other than maintenance, repair, or replacement. However, the term does include any repairs and replacements performed as part of any alteration(s).
- (3) **Code Providers**--
 - (A) ASCE--American Society of Civil Engineers;
 - (B) ASCE 21--Automated People Mover Standards; and
 - (C) ASME--American Society of Mechanical Engineers.
- (4) **ASME A17.1**--The ASME A17.1/CSA B 44-07 - "Safety Code for Elevators and Escalators" as adopted in §74.100.
- (5) **ASME A17.2**--The currently published edition of "The Guide for Inspection of Elevators, Escalators, and Moving Walks".
- (6) **ASME A17.3**--The ASME A17.3-2002, "Safety Code for Existing Elevators and Escalators."
- (7) **ASME A18.1**--The ASME 18.1, "Safety Standards for Platforms Lifts and Stairway Chairlifts" as adopted in §74.100.
- (8) **Automated People Mover (APM)**--a guided transit mode with fully automated operation, featuring vehicles that operate on guideways with exclusive right of way.
- (9) **Building Owner**--The person or persons, company, corporation, authority, commission, board, governmental entity, institution, or any other entity that holds title to the subject building or facility. For purposes under these rules and the Act, an owner may designate an agent.
- (10) **Contractor**--A person, partnership, company, corporation, or other entity engaging in the installation, alteration, repair, or maintenance of equipment. The term does not include an employee of a contractor.
- (11) **Delay**--Postponement of compliance with a requirement of the applicable ASME Safety Codes or ASCE Standard as adopted in §74.100, for a specific period of time.
- (12) **Existing Equipment**--equipment installed or altered before September 1, 1993.
- (13) **Inspection report**--A Department approved form used by the inspector to report the inspection results of one unit of equipment.

- (14) **Inspector**--A person engaged in the inspection of equipment for the purpose of determining compliance with these rules and adopted standards.
- (15) **New Equipment**--equipment installed or altered on or after September 1, 1993.
- (16) **Publicly visible area of building**--a location that is visible to the public in an elevator car or a common area lobby or hallway and accessible to the public at all times when any elevator is in operation, without the need for the viewer to obtain assistance or permission from building personnel.
- (17) **Reportable Condition**--a condition which exists where a defect requires the equipment to be removed from operation to prevent a risk of serious injury to passengers, operators, or the general public.
- (18) **Variance, New Technology**--Deferral of compliance with a requirement of the applicable ASME/ASCE Safety Codes to allow the installation of new technology if the new component, system, sub-system, function or device is found to be equivalent or superior to the standards adopted in §74.100. A new technology variance, once granted, may be applied to all like equipment installed in the state and a separate variance is not required for each installation. A variance applies to only one component, system, sub-system, function, or device. For example, one seeking a variance for a door system, a control system, and a suspension system would be required to file three separate variance applications.
- (19) **Waiver**--Deferral of compliance with a requirement of the applicable ASME Safety Codes for an indefinite period of time.

74.20. Inspector Registration Requirements. (*§74.20 effective January 7, 1994, 18 TexReg 9929; amended effective May 7, 1997, 22 TexReg 3779; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749*)

- (a) An applicant registering with the Department as an inspector shall submit a completed application for registration on the forms provided by the Department. A completed application shall include:
 - (1) the original application fee referenced in §74.80; and
 - (2) a copy of both sides of a valid ASME QEI-1 elevator safety inspector certification card.
- (b) Inspectors must complete an orientation session approved by the Department regarding Department forms, inspection procedures, and applicable law and rules.
- (c) Registration renewal applications must be filed by the registration expiration date. Inspectors shall submit a completed registration renewal application on forms provided by the Department. A completed renewal application shall include:
 - (1) the renewal application fee referenced in §74.80; and
 - (2) a copy of both sides of a valid ASME QEI-1 elevator safety inspector certification card.
- (d) Inspectors shall attend a law and rules update seminar conducted by the Department as part of their requirements to renew their registration, when required by the Executive Director.
- (e) The inspector shall notify the Department in writing within 30 days of any changes to information submitted on the application or renewal forms.

74.25. Contractor Registration Requirements. (*§74.25 effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749*)

- (a) A person registering with the Department as a contractor shall submit a completed application for registration on the forms provided by the Department. A complete application shall include the original application fee referenced in §74.80.
- (b) Registration renewal applications must be filed by the expiration date. Contractors shall submit a completed registration renewal application on forms provided by the Department. A completed contractor registration renewal application shall include the renewal application fee referenced in §74.80.
- (c) The contractor shall notify the Department in writing within 30 days of any changes to information submitted on the application or renewal forms.

74.26. Reporting Requirements--Contractor. *(New section adopted effective February 1, 2008, 33 TexReg 749)*

- (a) Contractors must submit to the Department reports regarding installation, repair, alteration, or maintenance jobs on a format approved by the Department.
 - (1) An initial report is due no later than 60 days of the application date and must include all jobs performed by the contractor during the two years prior to the application date.
 - (2) Quarterly reports are due each calendar year in accordance with the following schedule.
 - (A) 1st quarter--April 30
 - (B) 2nd quarter--July 31
 - (C) 3rd quarter--October 31
 - (D) 4th quarter--January 31 of the next year.
 - (3) Quarterly reports must only include all jobs performed in the quarter which have not been previously reported to the Department.
- (b) Contractors are not required to file a report with the Department regarding the items listed in subsection (a) above for equipment located in a single family dwelling, for construction-use only elevators or equipment in a building owned and operated by the federal government.
- (c) Contractors shall, by e-mail, fax, letter or telephone, report to the Building Owner and Department, within 24 hours of discovery, all equipment they encounter that has a reportable condition.

74.30. Exemptions. *(§74.30 effective January 7, 1994, 18 TexReg 9929; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488)*

This chapter does not apply to:

- (1) buildings owned and operated by the federal government;
- (2) equipment regulated by a municipal inspection and certification program approved under §74.65(b); and
- (3) the following structures if access is limited primarily to employees:
 - (A) equipment in an industrial facility;
 - (B) grain silos;

- (C) radio antennas;
 - (D) bridge towers;
 - (E) underground facilities; and
 - (F) dams.
- (4) equipment located in a private building of less than three stories that is used exclusively by a labor union, trade association, private club, or charitable organization; and
 - (5) elevators located in a single family dwelling except as provided by Health and Safety Code, §754.0141.

74.50. Reporting Requirements--Building Owner. (*§74.50 effective January 7, 1994, 18 TexReg 9929; amended effective October 1, 1995, 20 TexReg 7279; amended effective May 7, 1997, 22 TexReg 3779; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749; amended effective December 15, 2009, 34 TexReg 8965*)

- (a) To obtain a Certificate of Compliance, the building owner must submit to the Department within 60 days of the equipment inspection date, the following items:
 - (1) the application for Certificate of Compliance;
 - (2) a copy of the inspection reports for each unit of equipment;
 - (3) written documentation to verify that all violations of the applicable ASME Safety Codes or ASCE Standards as adopted in §74.100, cited on the inspection report, are in compliance with §74.70(a)(3);
 - (4) any application(s) for Delay or Waiver if applicable; and,
 - (5) all applicable fees.
- (b) Requests to delay the installation of door restrictors until September 1, 2010, and provide firefighters' service until September 1, 2012, must be made on a Department approved form and include:
 - (1) verification that the building owner:
 - (A) provided written notification of the application to delay the installation of door restrictors and/or providing firefighters' service and the plan of compliance to all tenants in the building; and
 - (B) will provide written notification of the application and the plan of compliance to delay installation of door restrictors and/or providing firefighters' service immediately upon request to any occupants in the building.
 - (2) the building owner plan of compliance; and
 - (3) all applicable fees.
- (c) The owner shall notify the Department, in writing and within 30 days, of equipment that has been placed out of service. The equipment must be placed out of service in accordance with the definition in A17.1, "*installation placed out of service.*"
- (d) The owner shall notify the Department, in writing and within 30 days, of an elevator that has had alterations converting the equipment to a material lift. The conversion shall comply with the applicable sections of A17.1.

- (e) The owner shall notify the Department, in writing and within 30 days, of a material lift that has had alterations converting the equipment to an elevator. The elevator must be inspected and brought into compliance with A17.1 as a new installation.
- (f) When a Delay has been approved, the owner shall notify the Department, in writing within 30 days of the date of correction.

74.55. Reporting Requirements--Inspector. (*§74.55 effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749; amended effective August 1, 2009, 34 TexReg 4866*)

- (a) For new installations or alterations the inspector shall provide a copy of the Elevator Equipment Inspection Form to the Department and the building owner not later than the 10th calendar day after completing the inspection.
- (b) Inspectors, by e-mail, fax, letter or telephone, shall report to the Department, within 72 hours of discovery, all equipment they encounter that does not have a decal number.
- (c) The inspector shall clearly note on the inspection report any equipment found with a reportable condition, and shall report it immediately by submitting a copy of the report to the building owner and by e-mail, fax, letter or telephone to the Department within 24 hours.
- (d) Inspectors, by e-mail, fax, telephone, letter, or by using the Online Inspection Reporting System, for each piece of equipment inspected, shall report to the Department within 72 hours of completing an annual inspection, or an inspection of a new installation:
 - (1) The inspector's TDLR license number;
 - (2) The ELBI number of the equipment for annual inspections;
 - (3) The decal number of equipment; and
 - (4) The date of the inspection.

74.60. Standards of Conduct for Inspector or Contractor Registrants. (*§74.60 effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749*)

- (a) *Competency.* The registrant shall be knowledgeable of and adhere to the Act, these rules, the ASME Safety Codes or ASCE Standards as adopted in §74.100, and all procedures established by the Department for equipment inspections or performance of a contract to install, alter, repair, or maintain equipment. It is the obligation of the registrant to exercise reasonable judgment and skill in the performance of equipment inspections or performance of a contract to install, alter, repair, or maintain equipment.
- (b) *Integrity.* A registrant shall be honest and trustworthy in the performance of equipment inspections or performance of a contract to install, alter, repair, or maintain equipment, and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission. Acts or practices that constitute threats, coercion, or extortion are prohibited. The registrant shall accurately and truthfully represent to any prospective client his/her capabilities and qualifications to perform the services to be rendered.
- (c) *Interest.* The primary interest of the registrant is to ensure compliance with the Act, these rules, and the ASME Safety Codes or ASCE Standards adopted in §74.100, and all procedures established by the Department. The registrant's position, in this respect, should be clear to all parties concerned while conducting equipment inspections or completing the performance of a contract to install, alter, repair, or maintain equipment.
- (d) *Conflict of Interest.* A registrant is obliged to avoid conflicts of interest and the appearance of conflicts of

interest. A conflict of interest exists when an inspector performs or agrees to perform equipment inspections for a building in which he has a financial interest, whether direct or indirect. A conflict of interest also exists when a registrant's professional judgment and independence are affected by his/her family, business, property, or other personal interests or relationships.

- (e) *Specific Rules of Conduct.* A registrant shall not:
- (1) participate, whether individually or in concert with others, in any plan, scheme, or arrangement attempting or having as its purpose the evasion of any provision of the Act, these rules, or the Standards adopted by the Commission;
 - (2) knowingly furnish inaccurate, deceitful, or misleading information to the department, a building owner, or other person involved in equipment inspections or equipment contracts;
 - (3) state or imply to a building owner that the department will grant a delay or waiver;
 - (4) engage in any activity that constitutes dishonesty, misrepresentation, or fraud while performing equipment inspections or completing an equipment contract;
 - (5) perform equipment inspections or complete an equipment contract in a negligent or incompetent manner;
 - (6) perform equipment inspections in a building or facility in which the inspector registrant is an owner, either in whole or in part;
 - (7) perform equipment inspections in a building or facility wherein the registrant, for compensation, participated in obtaining an equipment contract for the building;
 - (8) indulge in advertising that is false, misleading, or deceptive;
 - (9) misrepresent the amount or extent or prior education or experience to any client; or
 - (10) hold out as being engaged in partnership or association with any person unless a partnership or association exists in fact.
- (f) An inspector registrant may not perform inspections upon equipment for which the inspectors' employer also has a contract to perform installations, maintenance, repairs, replacements or alterations on that equipment.
- (g) An inspector registrant shall withdraw from employment when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client, but then only upon reasonable notice to the client.

74.65 Advisory Board (*§74.65 effective February 3, 1994, 19 TexReg 508; amended effective October 1, 1995, 20 TexReg 7279; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488*)

- (a) Board members will serve for staggered three year terms with two regulated industry positions and two consumer positions expiring in each of the first, second, and third years and one consumer position expiring in the third year. Terms shall expire November 1 of the third year of the member's term.
- (b) If with the advice of the Elevator Advisory Board, the Executive Director determines that the standards of inspection and certification of a municipal inspection and certification program are at least equivalent to those contained in the Act, the municipal ordinance shall apply.
- (c) Board meetings may be called by the Executive Director or the presiding officer.

74.70. Responsibilities of the Building Owner. (*§74.70 effective January 7, 1994, 18 TexReg 9929; amended effective October 1, 1995, 20 TexReg 7279; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749*)

- (a) The building owner shall:
 - (1) obtain the services of an inspector registered with the Department to perform inspections in accordance with §74.75 and §74.100;
 - (2) keep the equipment free from reportable conditions;
 - (3) have all violations cited on an inspection report;
 - (A) corrected within 60 calendar days of the date of inspection;
 - (B) have them under contract to be corrected and all work completed not later than the next inspection due date; or
 - (C) have an approved waiver or delay.
- (b) The owner of the building in which equipment is located shall have such equipment inspected at an interval not to exceed every twelve (12) months to determine compliance with the applicable standards adopted in §74.100.
- (c) The owner of the building in which the equipment is located must have available all maintenance and inspection records and maintenance control programs for the equipment during the life of the equipment as required by the applicable standards adopted in §74.100. These records and programs shall be available in the building.
- (d) The building owner or the owner's representative must report all accidents, as defined in Texas Health and Safety Code, §754.011, involving equipment to the Department, using a Department approved form, within 72 hours of the accident. If the accident results in serious bodily injury or a fatality, the equipment shall be removed from service and shall not be moved (except as necessary to extricate an injured party or effect a life-saving rescue) or returned to service until a representative of the Department completes an investigation and issues an approval to return the unit to service.
- (e) The building owner shall ensure that all of the tests required by the applicable codes and standards adopted in §74.100 are performed.
- (f) If any equipment is determined to have a reportable condition by inspection or other means, the building owner shall notify the Department in writing within 24 hours, and shall place the unsafe equipment out of operation until repairs to correct the reportable condition(s) are completed. After repairs have been completed, the building owner shall have the equipment re-inspected and re-certified and submit written verification to the Department that the reportable condition has been corrected before returning the equipment to service.
- (g) New equipment installations must be inspected and tested to determine their safety and compliance with the requirements of the codes and standards as adopted in §74.100 before being placed in service. The equipment shall be free of any violations, unless a Waiver, Delay or New Technology Variance has been granted by the Department in writing, before being placed in service.
- (h) Altered equipment must be inspected and tested to determine its safety and compliance with the requirements of the codes and standards as adopted in §74.100 before being placed back in service. The equipment shall be free of any violations, unless a Waiver, Delay or New Technology Variance has been granted by the Department in writing, before being placed back into service.
- (i) Equipment must be tested to determine its safety and compliance with the requirements of the codes and standards as adopted in §74.100.

- (j) The owner of the building in which equipment is located must obtain a yearly certificate of compliance from the Department evidencing that each unit of equipment in the building is in compliance with the Act and all applicable rules and standards. The owner of the building must have a current Certificate of Compliance in order to operate equipment located in the building.
- (k) The building owner must display the current Certificate of Compliance:
 - (1) if the certificate relates to an elevator,
 - (A) inside the elevator car not more than 7'0" or less than 3'0" above the finished car floor;
 - (B) outside the elevator car in the main elevator lobby within 10 feet of the elevator call button; or
 - (C) in a common area lobby or hallway location that is:
 - (i) accessible to the public without assistance or permission during all hours in which any elevator is in operation and
 - (ii) identified by a plaque mounted in the elevator car or within 10 feet of the elevator call button in the main elevator lobby. The font size for letters on the plaque shall be at least 18 and the plaque must state that the elevator is regulated by the Texas Department of Licensing and Regulation and include the department's telephone number 1-800-803-9202 and the building management's telephone number.
 - (2) if the certificate relates to an escalator, in a common area lobby or hallway location that is:
 - (A) accessible to the public without assistance or permission during all hours in which any escalator is in operation and
 - (B) identified by a plaque mounted within 10 feet of entry and exit of escalator in the main escalator lobby. The font size for letters on the plaque shall be at least 18 and the plaque must state that the escalator is regulated by the Texas Department of Licensing and Regulation and include the department's telephone number 1-800-803-9202 and the building management's telephone number.
 - (3) on the box containing the control circuitry if the certificate relates to a chairlift, platform lift, automated people mover operated by cables, moving sidewalk, or related equipment.
- (l) The building owner must display an inspection report at the location defined in subsection (k), selected by the owner, until a current certificate of compliance is issued by the Executive Director.
- (m) The building owner must have equipment re-inspected and re-certified if the equipment:
 - (1) has been altered;
 - (2) has been determined to have a reportable condition;
 - (3) has had any alteration made to the interior of elevator car enclosures or flooring; or
 - (4) inspection report shows an existing violation has continued longer than permitted in a delay granted by the executive director.
- (n) The building owner shall have copies of all current department issued Waivers, Delays, and New Technology Variances posted in the machine room/machinery space in a readily accessible and visible location available to elevator personnel.

74.75. Responsibilities of the Inspector. (*§74.75 effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749*)

(a) Inspection procedures.

- (1) The inspector must inspect all equipment for compliance with the applicable ASME Safety Codes or ASCE Standards as adopted in §74.100.
- (2) Inspectors must use the currently published edition of ASME A17.2, and the “Guide for Inspection of Elevators, Escalators, and Moving Walks” to conduct inspections and witness tests for compliance with the ASME Safety Codes or ASCE Standards adopted in §74.100.
- (3) The inspector shall report to the building owner before beginning any inspections.
- (4) The inspector and the building owner must sign and date the inspection report.
- (5) The inspector shall not perform any of the tests.
- (6) On new or altered equipment installations, the inspector may perform an inspection prior to the installation being completed. However, on these installations the Department will only accept inspection reports for final inspections performed by the inspector after the installation is completed.

(b) Department forms.

- (1) The inspector must use current Department approved forms for reporting inspections.
- (2) The Department forms shall be filled out completely, and shall be used to report the inspections of existing equipment and final inspections of new or altered equipment.
- (3) The inspector must list all ASME Code violations by code number and code edition for each unit inspected, and include a written description of the violation on the Department Form. If the ASME Code refers to another code, the inspector must list both code numbers and include a written description of the violation.
- (4) The inspector may not use the official elevator equipment inspection form to report the results of an inspection to the owner of equipment located in a single-family dwelling, construction-use only elevator, or Federal Facility.

(c) Inspector's Equipment.

- (1) Test Tags
 - (A) The inspector must purchase test tags from the Department and shall be the person who attaches these tags to the inspected equipment.
 - (B) The inspector shall inscribe all required information on each Department test tag. Department test tags shall not be replaced until after all date and signature spaces on the tag are filled.
 - (C) Upon completion of the initial Acceptance test, Department test tags shall be attached to each individual piece of equipment on or adjacent to the equipment controller or main line disconnect so that it is in a conspicuous location.
 - (D) All devices and adjustments required to be sealed by the adopted standard shall be sealed

with wire rope and lead seal by the inspector witnessing the tests(s). Once a device or adjustment has been so sealed, there shall be no need to replace the seal unless it is broken for whatever reason, whereupon an inspector shall witness the test and provide a seal as prescribed herein prior to the unit being returned to service. The lead seal shall be crimped onto the wire rope using a crimping tool bearing the Department's seal and the crimping tool number assigned to the inspector. An inspector may use the required crimping tool to seal lead seals provided by the manufacturer at the factory as long as the assigned number is legible.

- (E) Inspector's equipment may be purchased from the Department for:
 - (i) \$200 per 100 test tags (sold in multiples of 100); and
 - (ii) \$10 per 100 wire ropes and lead seals (sold in multiples of 100).
- (F) The inspector shall verify that contractor's test tags are placed on the equipment in conformance with the ASME Safety Codes or ASCE Standards adopted in §74.100.

(2) Decals

- (A) Each unit of equipment shall be identified with a unique identification number decal issued by the Department, which the inspector must affix to the upper right hand corner of the control panel. The decal shall remain on the control panel for the life of the equipment.
- (B) An additional Department decal shall not be affixed to equipment that has a current Department decal displayed.
- (C) All correspondence and inspection reports shall reference the decal number and Department building ID number, as reflected on the Certificate of Compliance.
- (D) If an inspector places a new decal on a unit of equipment to replace a lost or destroyed decal, the inspector must report the equipment's location, old decal number, and new decal number to the Department within ten calendar days of placing the new decal number upon the equipment.

74.80. Fees. (*§74.80 Effective January 7, 1994, 18 TexReg 9929; amended effective June 21, 1994, 19 TexReg 4417; amended effective October 1, 1995, 20 TexReg 7279; amended effective August 1, 1999, 24 TexReg 5867; amended effective December 1, 2000, 25 TexReg 11281; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749; amended effective June 1, 2008, 33 TexReg 4301*)

(a) Inspector registration fees.

- (1) original--\$50
- (2) renewal application--\$50
- (3) Revised/Duplicate registration card--\$25

(b) Certificate of Compliance filing fees:

- (1) submitted by building owner with a copy of inspection report within 60 days of the equipment inspection date-- \$20 per unit of equipment;
- (2) \$10 late filing fee per each unit for every thirty (30) day period if the inspection report, filing fees, and verification about correcting deficiencies in the inspection report are filed after the 90th day from the equipment inspection date, and

- (3) \$25 per Revised/Duplicate Certificate.
- (c) Waiver/Delay application fee: \$50 for each violation of the ASME Safety Codes or ASCE Standards as adopted in §74.100 per unit of equipment requested to be waived or delayed.
- (d) Fees shall be charged and collected by the Department for a waiver or delay application for an institution of higher education.
- (e) Contractor Registration fees
 - (1) original--\$115
 - (2) renewal application--\$115
 - (3) Revised/Duplicate registration card--\$25
- (f) The fee for Department personnel to disconnect power or lockout equipment in a building shall be \$200 per hour. Travel and per diem costs shall be reimbursed by the building owner in accordance with the current rate as established in the current Appropriations Act. The Department shall present a billing statement to the building owner or representative after disconnecting the power or lockout that is payable upon receipt unless the Department receives in writing verification that the expenses would be paid no later than the 10th day after the date power is reconnected or equipment is unlocked. The fee for Department personnel to reconnect power or unlock equipment is the same to disconnect or lockout equipment.
- (g) Late renewal fees for Inspector and Contractor registrations issued under this Chapter are provided under §60.83 of this title (relating to Late Renewal Fees).
- (h) The fee for a Variance--New Technology application is \$2,500.
- (i) The fee to file an appeal of a denial of an application for a Variance--New Technology is \$200.

74.85. Responsibilities of the Department. . (*§74.85 effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2006, 31 TexReg 488; amended effective February 1, 2008, 33 TexReg 749*)

- (a) When issuing Certificates of Compliance the Department shall:
 - (1) Assure that each certificate includes the decal number, inspection date, building name and physical address, owner name and mailing address, inspector name and QEI #, current inspection date, the date of the last inspection, the due date of the next inspection, contact information at the department to report a violation, indicate status of correcting code violations and the Executive Director's signature and date.
 - (2) Use the following procedures to issue a Certificate of Compliance:
 - (A) review inspection report and fees received by the Department;
 - (B) review verification submitted by building owner indicating which code violations have been remedied and which code violations are under contract to be corrected;
 - (C) review Waiver/Delay application and fees received by the Department;
 - (D) notify building owner with a Notice of Incomplete Submittal asking for any missing inspection documents and fees; and
 - (E) notify building owner of any denied waiver or delay requests and ask for verification that

violations have been remedied or under contract to be corrected.

- (F) After a determination is made that the building owner submitted an inspection report with the correct amount of filing fees and all deficiencies in the inspection report have been corrected, or under contract to be corrected, or delay or waiver granted, then a certificate of compliance is issued for each unit of equipment.
- (b) The Department shall provide notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment through the Department's website, press releases, and group presentations.
 - (c) Prior to the installation of any device, equipment or technology not permitted by the currently adopted standards, a request for New Technology Variance must be granted by the Department.
 - (1) Requests for New Technology Variances shall contain the following, if applicable:
 - (A) an enumeration and description of all the requirements of the adopted standard for which a new technology variance is being requested;
 - (B) documentary evidence to support a claim of equivalence or superiority to the requirements of the adopted standard;
 - (C) documentary evidence that the new technology is being or may be considered by the ASME code committee(s) for inclusion in a future standard;
 - (D) an estimated time frame for the approval of the new technology by the ASME code committee(s);
 - (E) any additional supporting evidence deemed by the applicant to be necessary to assist in making a determination; and
 - (F) the new technology variance application fees outlined in §74.80(h).
 - (2) The applicant shall be advised of the status of the application, in writing, not less often than quarterly.
 - (3) The applicant for a New Technology Variance shall be notified of the Department's decision in writing. If approved, the notification will itemize the specific code requirement deviations for which the variance(s) are approved.
 - (4) Appeal of Variance Denial.
 - (A) A denial of a Variance Application may be appealed to the Executive Director in writing within thirty (30) calendar days from issuance, upon payment of the applicable appeal fee. Supporting documentation such as the Variance Application and all documentation filed to support the application may be submitted for consideration.
 - (B) The applicant may request, in writing, within ten (10) calendar days of notification of the Executive Director's decision, a review by the Texas Commission of Licensing and Regulation.
 - (C) When a Variance review determination has been made, the applicant shall be advised in writing of the determination.
 - (D) The decision of the Executive Director regarding the Variance Application is final and binding on the applicant.

- (d) The Department may periodically review inspection reports to determine compliance with the applicable statutes and administrative rules.
- (e) The Department may require inspector attendance at periodic rules and/or law update seminars conducted by the Department when the Executive Director determines such seminars to be necessary.
- (f) The Department may conduct code, rule and law or other inspector training seminars where attendance by inspectors is not mandatory.

74.90. Sanctions. (*§74.90 effective January 7, 1994, 18 TexReg 9929; amended effective October 1, 1995, 20 TexReg 7279; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective February 1, 2006, 31 TexReg 488*)

If a person violates Texas Health and Safety Code Annotated, Chapter 754, or a rule, or order of the Executive Director or Commission relating to the Act, proceedings may be instituted to impose administrative sanctions and/or recommend administrative penalties in accordance with the Act or Texas Occupations Code, Chapter 51, and 16 Texas Administrative Code, Chapter 60 and Chapter 74.

74.100. Technical Requirements. (*§74.100 effective January 7, 1994, 18 TexReg 9929; amended effective June 21, 1994, 19 TexReg 4417; amended effective October 1, 1995, 20 TexReg 7279; amended effective May 7, 1997 22 TexReg 3379; amended effective August 1, 1999, 24 TexReg 5867; amended effective February 6, 2003, 28 TexReg 929; amended effective December 1, 2003, 28 TexReg 10460; amended effective February 1, 2008, 33 TexReg 749*)

- (a) The Department adopts the standards for the installation, maintenance, repair, replacement, alteration, testing, operation, and inspection of equipment that are contained in the following codes: ASME A17.1-2007/CSA B44-07 as amended below, ASME A17.3-2002, ASME A18.1-2005 and ASCE Codes 21.
- (b) The following amendments shall be made to ASME A17.1-2007/CSA B44-07:
 - (1) Delete requirement 1.2.1(c) and all references to A17.7 within the adopted standard, preface and appendices.
 - (2) Delete requirement 8.10.2.2.1(q) emergency or standby power operation.
 - (3) Delete requirement 8.10.2.3.2(l) emergency or standby power alterations.
 - (4) Delete requirement 8.10.3.3.2(l) emergency or standby power alterations.
 - (5) Delete 8.11.2.2.7 standby or emergency power operation.
 - (6) Delete requirement 8.11.2.3.5 emergency and standby power operation.
 - (7) Delete requirement 8.11.3.2.3(f) standby power operation.
 - (8) Delete the reference to ASME A17.3 contained within Section 9.1.
 - (9) Delete Appendix E in its entirety.
- (c) The effective dates of:
 - (1) ASME A17.1-2007/CSA B44-07 and the amendments in §74.100(b) shall be effective on September 1, 2008.
 - (2) ASME A18.1-2005 shall be effective September 1, 2008.
 - (3) ASME A17.3-2002 continues to be in effect.