

~~SUPERSEDED~~ 1.7.89

Texas Administrative Code

Annotated

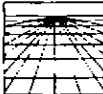
Compiled from the Texas Register

Title 19. Education

Coordinating Board, Texas College and University System
Texas Education Agency
Texas Professional Practices Commission
Advisory Council for Technical and Vocational Education in Texas



Published and distributed by

HART 
INFORMATION
SYSTEMS
a subsidiary of hart graphics, inc.

P.O. Box 9802 #588
Austin, Texas 78766
(512) 454-3786

HOW TO USE YOUR TAC VOLUMES

To find the location of any agency rule published in your Texas Administrative Code volumes, please refer to the Table of Contents which lists every agency rule published and its location by page number.

The Index lists various subjects and topics that are covered by the agency rules published in TAC and cross references the section numbers where the rules are located.

For further information, please read the material published in the front matter (pages A2 - A11) which describes the organizational structure and content of TAC to help familiarize you with your volumes.

HOW TO FILE SUPPLEMENTS TO TAC

Each page in your TAC volume is numbered with consecutive arabic numerals. Every time we publish an update to TAC, we will send you new pages to be added to your existing volumes. We will also send you filing instructions that indicate which pages are to be added, along with a checklist which shows what pages should remain in your TAC volume after it has been supplemented.

If there is a change to a particular TAC section that requires additional pages to be added, these pages will be added between existing pages. These pages will have page numbers that are decimal numbers rather than whole numbers. The numbering sequence for replacement pages that are added between existing pages is as follows:

<u>Change</u>	<u>Revision Level</u>	<u>Page Numbering Sequence</u>
	original printing	1, 2, 3, 4
add 2 pages	1 st Revision	1, 2, 2.1, 2.2, 3, 4
add 2 pages	2 nd Revision	1, 2, 2.1, 2.2, 2.3, 2.4, 3, 4
add 2 pages	3 rd Revision	1, 2, 2.1, 2.2, 2.2.1, 2.2.2, 2.3, 2.4, 3, 4
delete 2 pages	4 th Revision	1, 2, 2.1, 2.2, 2.2.1, 2.2.2, 3, 4
add 2 pages	* 5 th Revision	1, 2, 3, 4, 5, 6, 7, 8, 9, 10

* Periodically, we will recompile your TAC volumes when the number of changed pages or "dot" pages becomes excessive due to numerous changes. When your volume is recompiled, all the pages will be renumbered and the "dot" pages will be eliminated as shown above.

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PUBLICATION DESCRIPTION

The Texas Administrative Code (TAC) is a compiled and indexed collection of rules adopted by various state agencies which comprise the existing body of law of official administrative rules which have the force of law. The rules published in TAC are compiled directly from state agencies or taken from the Texas Register which is a companion publication to the Texas Administrative Code. The Texas Administrative Code is published pursuant to the Texas Administrative Code Act and complies with Acts 1977, 65th Legislature, pg. 1703, chapter 678, effective August 29, 1977 (Texas Civil Statutes, Art. 6252-13b). The Texas Administrative Code is a looseleaf publication which is supplemented periodically to include agency rules that have been subsequently adopted, amended or withdrawn.

TABLE OF TITLES AND PARTS CONTAINED IN TAC

TITLE 1. ADMINISTRATION

- PART I. Office of the Governor
- PART II. Lieutenant Governor [RESERVED]
- PART III. Office of Attorney General
- PART IV. Office of the Secretary of State
- PART V. State Purchasing and General Services Commission
- PART VI. Texas Surplus Property Agency
- PART VII. Texas Merit System Council
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- PART IX. State Aircraft Pooling Board
- PART X. Automated Information and Telecommunications Council
- PART XI. State Ethics Advisory Commission

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- PART IV. State Entomologist
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- PART V. Office of Consumer Credit Commissioner
- PART VI. Credit Union Department
- PART VII. State Securities Board

TITLE 10. COMMUNITY DEVELOPMENT

- PART I. Texas Department of Community Affairs
- PART II. Texas Economic Development Commission
- PART III. Texas Tourist Development Agency
- PART IV. Texas Housing Agency

TITLE 13. CULTURAL RESOURCES

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- PART II. Texas Historical Commission
- PART III. Texas Commission on the Arts
- PART IV. Texas Antiquities Committee
- PART V. Texas Sesquicentennial Commission
- PART VI. Good Neighbor Commission
- PART VII. State Preservation Board

TITLE 16. ECONOMIC REGULATION

- PART I. Railroad Commission of Texas
- PART II. Public Utility Commission of Texas
- PART III. Texas Alcoholic Beverage Commission

TITLE 16. - continued

- PART IV. Texas Department of Labor and Standards
- PART V. Texas Amusement Machine Commission

TITLE 19. EDUCATION

- PART I. Coordinating Board, Texas College and University System
- PART II. Texas Education Agency
- PART III. Teacher's Professional Practices Commission
- PART IV. Advisory Council for Technical-Vocational Education in Texas

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- PART II. State Board of Barber Examiners
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- PART V. Texas State Board of Dental Examiners
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- PART VII. Texas Board of Examiners in Fitting and Dispensing of Hearing Aids
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- PART XVIII. Texas State Board of Podiatry Examiners
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- PART XX. Texas Board of Private Investigators and Private Security Agencies
- PART XXI. Texas State Board of Examiners of Psychologists
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- PART XII. Texas Deepwater Port Authority
- PART XIII. Board for Lease of University Lands
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- PART VIII. Commission on Fire Protection Personnel Standards and Education
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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

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- PART I. Texas Rehabilitation Commission
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- PART VI. Texas Commission for the Deaf
- PART VII. State Commission for the Blind
- PART VIII. State Pension Review Board
- PART IX. Texas Department of Aging
- PART X. Texas Employment Commission
- PART XI. Texas Commission on Human Rights
- PART XII. Texas Advisory Board of Occupational Therapy
- PART XIII. Texas Health and Human Services Coordinating Council
- PART XIV. Long-Term Care Coordinating Council for the Elderly

TITLE 43. TRANSPORTATION

- PART I. State Department of Highways and Public Transportation
- PART II. Texas Turnpike Authority
- PART III. Texas Aeronautics Commission

STRUCTURE AND ORGANIZATION OF RULES PUBLISHED IN TAC

The Texas Administrative Code is organized into 15 titles which are further subdivided, hierarchically, by part, chapter, sub-chapter, group and section number. Each part represents an agency of state government. The organizational structure of rules published in TAC is illustrated as follows:

Title 31 - Natural Resources and Conservation
Part XI - Texas Water Commission
Chapter 335 - Industrial Solid Waste and Municipal Hazardous Waste
Sub Chapter A - Industrial Solid Waste and Municipal Hazardous Waste Management in General
Section 1.0. - Definitions

HOW TO CITE AGENCY RULES PUBLISHED IN TAC

Each agency rule published in TAC is cited using the following syntax:

Section No.

XX TAC § XXX . XXXX
title no. chapter no. rule no.

The 2 digits preceding 'TAC' indicate the title number where the rule is located. The digits following the section symbol (§) indicate the section number where the rule is published. The combination of the TAC chapter number and agency rule number are referred to as the TAC section number. The digits to the left of the decimal point in the section number indicate the chapter number and the digits to the right of the decimal point in the section number indicate the rule number.

Example: Rule 1, chapter 335, title 31 is cited as :

31 TAC § 335.1 where:

- 31 indicates the TAC title number
- TAC stands for Texas Administrative Code
- 335.1 indicates the TAC section number

HOW TO CITE AGENCY RULES PUBLISHED IN THE TEXAS REGISTER

All adopted rules published in TAC can also be located in the Texas Register. The source notes in TAC cross-reference the volume and page number of the Texas Register issue where each agency rule was initially adopted.

The Texas Register is a bi-weekly publication, published 100 times per year by the office of the Secretary of State. The Texas Register contains the following information:

- Adopted rules promulgated by state agencies
- Emergency rules adopted by state agencies on an emergency basis
- Proposed, amended or withdrawn agency rules
- Summaries of requests for opinions, and the opinions and open record decisions by the Attorney General.

Each adopted agency rule published in the Texas register is cited using the following syntax:

XX, Tex Reg XXXX
vol. no. page no.

Example: TAC rule 31 TAC § 335.1 is cited in the Texas Register as:

11 Tex Reg 2335 where:

- 11 is the volume number of the Texas Register
- Tex Reg stands for Texas Register
- 2335 is the page number in the Texas Register where rule 31 TAC § 335.1 can be found.

OFFICIAL STATUS OF TAC

The contract between Hart Information Systems, Inc. (Hart) and the Office of the Secretary of State of Texas to publish an official version of TAC was terminated by mutual agreement on June 30, 1987. Hart Information Systems is continuing to publish supplements to certain TAC titles independently without the involvement of the office of the Secretary of State.

The supplements published by Hart are true and correct facsimile copies of the official agency rules published in the Texas Register. All material published in TAC is compiled from official sources. Agency rules published in TAC, can be relied upon as being an exact replication of existing, codified administrative rules.

TEXT OF THE TEXAS ADMINISTRATIVE CODE ACT

Acts 1977, 65th Leg., p. 1703, ch. 678, effective August 29, 1977, (Texas Civ. St. art. 6252-13b).

An Act relating to the establishment of a Texas Administrative Code and the contents thereof; and declaring an emergency.

Art. 6252-13b. Administrative Code Act

Short title

Section 1. This Act shall be known and may be cited as the Texas Administrative Code Act.

Definitions

Sec. 2. As used in this Act:

- (1) "Agency" means any state board, commission, department, or officer having statewide jurisdiction, other than an agency wholly financed by federal funds, the legislature, the courts, the Industrial Accident Board, and institutions of higher education, that makes rules or determines contested cases.
- (2) "Code" means the Texas Administrative Code established by this Act.
- (3) "Rule" means any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of an agency. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of any agency and not affecting private rights or procedures.

Compilation; exclusions

Sec. 3 (a) The secretary of state shall compile, index, and cause to be published a Texas Administrative Code. Periodic supplementation of the code shall be made as often as necessary, but not less than once each year. The code shall contain all rules adopted by each agency pursuant to the Administrative Procedure and Texas Register Act¹, but shall not contain emergency rules adopted pursuant to Section 10(a)(2) of that Act. The code shall also contain appropriate annotations to judicial decisions and opinions of the Attorney General of the State of Texas.

(b) The secretary of state may omit from the code all rules which are general in form but of such local or limited application as to make their inclusion therein impracticable, undesirable, or unnecessary. The secretary of state may also omit from the code any information the publication of which he deems cumbersome, expensive, or otherwise inexpedient, if the information is made available in printed or processed form by the adopting agency on application for it, and if the code contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained. Any such exclusions from the publication in the code shall not affect the validity or effectiveness of any rules omitted.

¹Article 6252-13a.

Evidentiary value

Sec. 4. The codified rules of the agencies published in the Texas Administrative Code, as approved by the secretary of state and as amended by documents subsequently filed with the office of the secretary of state, are to be judicially noticed and constitute prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of the notation.

Rules

Sec. 5. The secretary of state may promulgate rules to ensure the effective administration of this Act. The rules may include, but are not limited to, rules establishing titles of the code and a system of classification of the subject matter of the code.

Confidentiality of data base

Sec. 5A. The data base, which is the machine-readable form of the material prepared for and used in the publication of the Texas Administrative Code, including indexes, annotations, tables of contents, tables of authority, cross-references, compiled rules, and other unique material, is confidential and is exempted from disclosure under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

SUBMISSION OF AGENCY RULES AS EVIDENCE IN LITIGATION

The agency rules published in TAC by Hart Information Systems, Inc. can be used as evidence in court pursuant to Rule 204 of the Texas Rules of Civil Evidence. The TAC rules published by Hart in the administrative code are true and correct copies of the official Administrative Code.

If there is a dispute as to the exact text of an agency rule published in TAC, a copy of the Texas Register containing the identical rule as published in TAC can also be submitted as evidence in court under current Texas law.

Copies of current issues of the Texas Register can be obtained from the Texas Register Publication Division; Office of the Secretary of State of Texas; P. O. Box 13824; Austin, Texas 78711-3824. Phone (512)463-5561.

You may also go to the Texas Register Office; 505 E. Sam Houston Building; Austin, Texas to research rules published in TAC. Material published in TAC can be found and researched by consulting Texas Register indexes and other sources which are available for public inspection and use. A subscription to the Texas Register costs \$80 per year and includes 96 issues per year plus four index issues. Individual copies of the Texas Register can be purchased for \$3.

TAC TITLES AVAILABLE FROM HART INFORMATION SYSTEMS

Hart Information Systems is continuing to publish the following TAC titles:

<u>Title</u>	<u>Description</u>	<u>Agencies Represented</u>
7	Banking & Securities 1 - volume, 364 pages	State Finance Commission, Banking Department of Texas, State Banking Board, Texas Savings and Loan Department, Office of Consumer Credit Commissioner, Credit Union Department, State Securities Board
16	Economic Regulation 2 - volumes, 882 pages	Railroad Commissioner of Texas, Public Utility Commission, Texas Alcoholic Beverage Commission, Texas Department of Labor and Standards, Texas Motor Vehicle Commission
19	Education 2 - volumes, 1110 pages	Coordinating Board, Texas College and University System, Texas Professional Practices Commission, Advisory Council for Technical Vocational Education in Texas
28	Insurance 1 - volume, 642 pages	State Board of Insurance, Industrial Accident Board
31	Natural Resources and Conservation 2 - volumes, 1622 pages	General Land Office, Texas Parks and Wildlife, Texas Air Control Board, School Land Board, Board for lease of State-Owned Lands Texas Conservation Foundation,

Texas Water Well Drillers Board,
Texas Energy and Natural Resources Advisory Council,
Texas Water Commission,
Texas Water Development Board,
Texas Department of Water Resources,
Board for Lease of University Lands Texas Board of
Irrigators,
Texas Low-Level Radioactive Waste Disposal,
State Soil and Water Conservation Board

The below listed titles are available for sale by Hart but will not be supplemented. These titles contain agency rules that are current through October 31, 1986.

Title 1 -	Administration	Title 4 -	Agriculture
Title 10 -	Community Development	Title 13 -	Cultural Resources
Title 22 -	Examining Boards	Title 25 -	Health Services
Title 34 -	Public Finance	Title 37 -	Public Safety and Corrections
Title 40 -	Social Services an Assistance	Title 43 -	Transportation

SUPPLEMENTATION OF RULES PUBLISHED IN TAC

All agency rules published in TAC will be updated and supplemented 6 times per year on the following schedule.

<u>TAC Revision No.*</u>	<u>Effective Date of Rules</u>	<u>Mailing Date</u>
5	Dec. 31 1987	Feb. 28, 1988
6	Mar. 1, 1988	April 30, 1988
7	Apr. 30, 1988	June 30, 1988
8	June 30, 1988	Aug. 31, 1988
9	Aug. 31, 1988	Oct. 31, 1988
10	Dec. 31, 1988	Dec. 31, 1988
11	Dec. 31, 1988	Feb. 28, 1989

* The originally published version of TAC has four (4) revisions.
Future revisions will start with revision No. 5.

The updated material published in TAC will be published in a looseleaf format.
Up to 80% of the rules published in TAC change every year.

MATERIAL TO BE PUBLISHED IN TAC

The following material will be published in TAC and revised 6 times per year:

Filing Instructions and Checklist

Each supplement to TAC will be accompanied with a set of filing instructions and a checklist. The checklist indicates which pages should be retained in each volume and title after it has been revised.

The filing instructions indicate which pages should be added and which pages should be deleted from each part.

Table of Contents

The Table of Contents to TAC will be revised when each supplement to TAC is published. The Table of Contents must be replaced with a new Table of Contents after every revision since the page locations where an individual rule appears may change.

Agency Rules

The full text of all adopted rules, including related illustrations, graphs, tables, and charts will be published for each adopted rule.

Source Notes

Source notes will indicate the effective date of adoption or amendment of rules and give the volume and page number of the Texas Register where the rule appears.

Cross References

Cross references cite related rules contained in other TAC sections.

Index

The TAC will be indexed once a year or whenever significant changes to the TAC have occurred. The TAC index cross references various subjects to corresponding sections in TAC where these topics are located.

HOW TO LOCATE AGENCY RULES IN TAC

The rules of each state agency are located within a specific title and part number in TAC. To locate a specific rule promulgated by a particular agency, first determine the title number where the agency is listed. The front matter of each title of TAC lists all the agencies represented in each title (see TAC Titles available from Hart Information Systems in the front of your Volume).

The rules for each agency located in TAC are located behind the appropriate index tab dividers. The index tab has the part number and agency name printed on the divider.

Each part is divided into chapters or subchapters. To find a specific rule, locate the chapter where the rule is located and then locate the section number. Rules are published in numerical order by section number.

The Table of Contents and Summary Table of Contents list all the rules published in TAC giving the page number where each rule is located.

The Index lists subjects, key words and phrases that are contained in the published rules and gives the section number locations where the referenced topic can be found.

HOW TO ORDER TAC

To order a subscription to TAC, write Hart Information Systems at #588, P. O. Box 9802, Austin, TX 78766 or call on Texas Wats 1 -TAC-HART, or phone (512) 467 - 4572.

Current Prices for a subscription to TAC are as follows:

Title	No. of Vols.	* Initial Order New Subscription	** Prior Months updates from 10/31/86 to 12/31/87	*** 1988 Update Service 1/1/88 to 12/31/88
7 Banking & Securities	1	\$70	\$65	\$65
16 Economic Regulations	2	\$130	\$120	\$120
19 Education	2	\$155	\$145	\$140
28 Insurance	1	\$95	\$90	\$95
31 Natural Resources and Conservation	2	\$195	\$195	\$195

* a new subscription includes the necessary binders and includes all prior months updates and supplements to TAC through the order date. A new subscription will be current as of the last published update.

** Prior months updates include all updates to TAC from 10/31/86 to 12/31/87. The TAC volumes and titles previously published by Hart are current through 10/31/86. To bring your old volumes up-to-date, you must purchase the prior months updates which will bring your volumes up-to-date.

- *** Rules published in TAC will be updated 6 times per year. The annual supplementation price is payable one year in advance and covers 12 months of updates which will be shipped bimonthly.

Postage & Handling

Prices for TAC titles include shipping and handling anywhere in Texas. Out-of-State customers should contact Hart Information Systems to obtain the additional postage and handling charges that will be added to your order.

Sales Taxes

Texas residents must add 8% to the sales price of their order to cover state and local sales taxes. Out-of-state customers are not required to pay Texas sales tax.

TERMS AND CONDITIONS OF SALE

ABOUT YOUR VOLUMES

- The Texas Administrative Code is sold as an annual subscription service and invoiced once every 12 months.
- The Texas Administrative Code is supplemented bimonthly or 6 times per year depending on the number of rule changes.

RECOMPILED VOLUMES

- The Texas Administrative Code will be recompiled periodically when the number of new replacement pages becomes excessive. In this event, a new version of the Code will be sent to you in lieu of a regularly scheduled update and will contain up-to-date material through the current update period.
- Recompiled versions of the Texas Administrative Code are provided free of charge to all subscribers of the update service.
- New subscribers will receive an updated Texas Administrative Code that is current as of the date of the last supplement.

AVERAGE ANNUAL UPDATING COSTS

- Costs vary from year to year based on the number of revisions required due to changes in law and administrative actions.
- The past years average update cost was \$55 per volume in 1986.

PAYMENTS

- All orders for TAC are cash in advance.
- All government agencies must submit a valid purchase order with their order.
- All tax exempt shipments must have a tax exemption certificate and number on file to avoid having taxes added to the invoice.
- When making payments for another company (such as a subsidiary with a different name) please note pertinent details on your check, including the customer number, if possible.

POSTAGE AND HANDLING

- We use several carriers to assure prompt delivery. Most common carriers such as UPS will not ship to a post office box, so it is imperative that we have your street address. You must specify U. S. Mail as the carrier if you wish your order shipped to a post office box, and we will ship to you at the appropriate book rate. Most orders will be sent UPS, using standard surface rates. Postage and handling charges are prefigured by zone and added to your order as applicable.
- Small revisions weighing one pound or less will be sent 4th Class Mail.

RETURNS

- When returning any material, please include a copy of your invoice and a brief explanation for the return.
- Always indicate your customer number on the return. You must obtain a return authorization number or we will not accept returned merchandise.
- Please do not fold, staple, or write on material being returned. Damaged or worn binders or printed material may not be eligible for credit.

FILING HINTS

- Please do not file any revisions without consulting your filing instructions.
- If you don't have filing instructions, please call our Customer Service Department.

LOST AND MISSING PAGES

- We will provide replacements for any missing pages you may discover. However, we reserve the right to send a complete new filler and invoice or charge for handling, if we determine the number of replacement pages you request is excessive.
- When requesting missing pages, please be sure to give us the exact page numbers needed.

GENERAL TERMS AND CONDITIONS

- Your purchase of the Texas Administrative Code is governed by current prices, and the terms and conditions stated above, all of which are subject to change without notice.
- Please be sure to give us a purchase order number and/or contact person when ordering your subscription so we will know who to contact about your order or shipment if we have a question.