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# TEXAS REGISTER

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TEXAS DOCUMENTS

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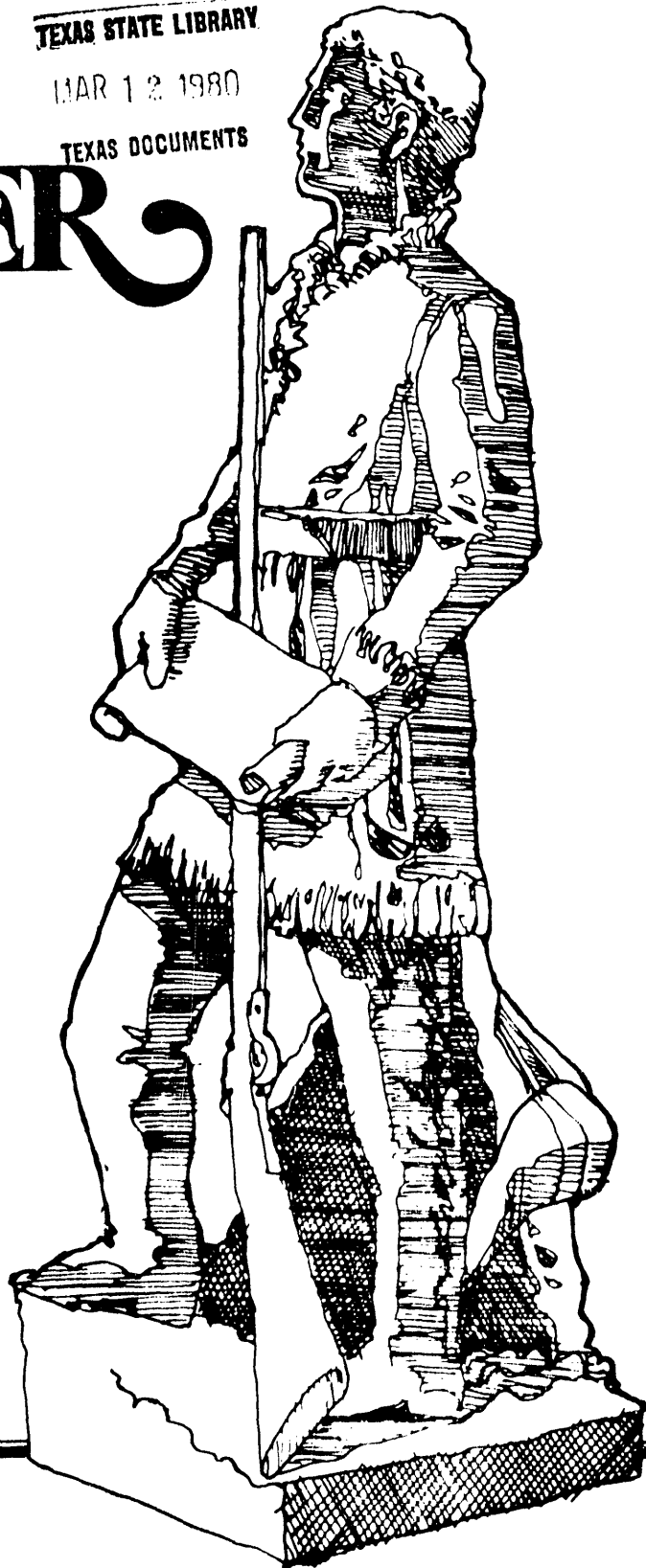
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Office of the Secretary of State

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 31, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 1, Oct. 79

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*Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.*

# TEXAS REGISTER



*George W. Strake, Jr.*  
Secretary of State

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- 894 *RQ-283 (concerning applicability of certain statutes to higher education authorities)*
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Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.

## Requests for Opinions

### Summary of Request for Opinion RQ-282

Request from Patrick J. Ridley, county attorney, Bell County.

**Summary of Request:**

(1) Is Section 143A(a)(2), Article 6701d, Vernon's Texas Civil Statutes, constitutional in its mandate to the court directing it to dismiss charges if the stated three conditions are met by the accused, since there is no discretion allowed the trial court?

(2) If Section 143A(A)(2) is ruled to be constitutional by your office, what is the interpretation to be given the words "and the evidence presented is accepted by the court" (these words found in Section 143A(b))?

Doc. No. 801687

### Summary of Request for Opinion RQ-283

Request from Wilhelmina Delco, House Committee on Higher Education, Austin.

**Summary of Request:**

Do the following statutes apply to higher education authorities created under Chapter 53 of the Education Code?

- (a) Article 6252-9b, Vernon's Texas Civil Statutes (financial disclosure)
- (b) Article 6252-11b, Vernon's Texas Civil Statutes (posting of job opportunities)
- (c) Article 6252-13a, Vernon's Texas Civil Statutes (publication of rules in *Texas Register*)
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- (f) Article 6252-11c, Vernon's Texas Civil Statutes (use of private consultants)
- (g) Article 601b, Vernon's Texas Civil Statutes (State Purchasing and General Services Act)
- (h) statutory and constitutional oath of office requirements

Doc. No. 801688

### Summary of Request for Opinion RQ-284

Request from Mike Westergren, county attorney, Nueces County.

**Summary of Request:**

(1) Does Article 1926a repeal that portion of Article 5133BBB establishing a juvenile board for Nueces County composed of only the county judge and judges of the district court and court of domestic relations (now Family District Court)?

(2) Does Article 1926a repeal that portion of Article 5139BBB establishing a ceiling of \$8,000 for members of the juvenile board?

Doc. No. 801689

### Summary of Request for Opinion RQ-285

Request from W. P. Daves, Jr., chairman, State Board of Insurance, Austin.

**Summary of Request:** Must banks and savings and loan associations licensed under Chapter 3 of the Texas Credit Code, who are also engaged in the business of insurance premium financing, pay the annual license renewal fee specified in Chapter 24 of the Texas Insurance Code?

Doc. No. 801690

### Summary of Request for Opinion RQ-286

Request from Warren G. Harding, state treasurer, Austin.

**Summary of Request:** Is Article 1581h, Vernon's Texas Civil Statutes, relating to unclaimed funds held by county and precinct officers, constitutional?

Doc. No. 801691

### Summary of Request for Opinion RQ-287

Request from Warren G. Harding, state treasurer, Austin.

**Summary of Request:** Is the state treasurer required to cancel a distributor's cigarette tax surety bond on receiving cancellation notice from the surety company?

Issued in Austin, Texas, on February 29, 1980.

Doc. No. 801692      C. Robert Heath  
Opinion Committee Chairman  
Attorney General's Office

For further information, please call (512) 475-5445.

An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules may be effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for the emergency adoption of rules.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

**Symbology**—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

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## NONCODIFIED

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### Texas State Board of Dental Examiners Dentistry

#### Denture Set-Up, Diagnosis, and Treatment Plan/Preclinical Examination 382.01.06

The Texas State Board of Dental Examiners has adopted an amendment to Rule 382.01.06.002 on an emergency basis so that the applicants who are scheduled to take the March 14-17, 1980, examination can be made aware of and be prepared for this change on the examination.

Since the board is requiring applicants to bring their own patient(s), the board is changing the diagnosis and treatment portion of the examination by requiring applicants to pass a slide examination on diagnosis and treatment planning instead of requiring applicants to prepare a diagnosis and treatment plan on their patient. The board feels this will be a fair way of examining and grading applicants on this portion of the examination.

This amendment is promulgated under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

*.002. Diagnosis and Treatment Plan and Patient History.* After a dental applicant has passed the jurisprudence and set-up portion of the examination, *he will be given an examination on diagnosis and treatment planning and will also be required to prepare a medical-dental history for his dental patient(s) before being permitted to proceed further in the examination* [he must prepare for the Texas State Board of Dental Examiners an acceptable diagnosis and

treatment plan and a medical history for his assigned dental patient before being permitted to proceed further in the clinical examination].

Doc. No. 801701

### Conduct

#### Advertising 382.19.20

The Texas State Board of Dental Examiners is adopting Rule 382.19.20.003 on an emergency basis so that dentists may immediately let the public know that credit is available and thus will aid the public in seeking needed dental health care.

This rule permits the dentists to advertise his type of credit plan(s) in any announcement, advertisement, listing, or notice.

This rule is promulgated under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

*.003. Credit Notice.* Anything in these rules to the contrary notwithstanding, the use of the words "credit available," "Master Charge," "VISA," "American Express," "BankAmericard," or other time payment "plan(s)" is permissible in any announcement, advertisement, listing, or notice.

Issued in Austin, Texas, on March 3, 1980.

Doc. No. 801702

Carl C. Hardin, Jr.  
Executive Director  
Texas State Board of Dental Examiners

Effective Date: March 4, 1980

Expiration Date: June 7, 1980

For further information, please call (512) 475-2443.



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

Symbology—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

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## NONCODIFIED

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### Texas State Board of Dental Examiners

#### Dentistry

##### Denture Set-Up, Diagnosis, and Treatment Plan/Preclinical Examination 382.01.06

(Editor's note: The Texas State Board of Dental Examiners is proposing for permanent adoption the emergency amendment it adopts in this issue. The text of the rule appears in the Emergency Rules section.)

The Texas State Board of Dental Examiners is proposing an amendment to Rule 382.01.06.002. Since the board is requiring applicants to bring their own patient(s), the board is changing the diagnosis and treatment portion of the examination by requiring applicants to pass a slide examination on diagnosis and treatment planning instead of requiring applicants to prepare a diagnosis and treatment plan on their patient. The board feels this will be a fair way of examining and grading applicants on this portion of the examination.

The board has determined that this amendment will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon these amendments should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

This amendment is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

Doc. No. 801703

### Conduct

#### Advertising 382.19.20

(Editor's note: The Texas State Board of Dental Examiners is proposing for permanent adoption the emergency new rule it adopts in this issue. The text of the rule appears in the Emergency Rules section.)

The Texas State Board of Dental Examiners is proposing to adopt Rule 382.19.20.003 so that dentists may let the public know that credit is available and thus will aid the public in seeking needed dental health care. This rule permits the dentists to advertise his type of credit plan(s) in any announcement, advertisement, listing, or notice.

The board has determined that this rule will have no fiscal implications for the state or for units of local government.

Those desiring to comment upon this rule should direct their comments in writing to the Texas State Board of Dental Examiners, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

This rule is proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

Issued in Austin, Texas, on March 3, 1980.

Doc No 801704      Carl C Hardin, Jr.  
Executive Director  
Texas State Board of Dental Examiners

Proposed Date of Adoption: April 11, 1980

For further information, please call (512) 475-2443.

### Texas Education Agency

#### State Commissioner of Education

##### Adoptions by Reference: General 226.13.90

The Texas Education Agency proposes to amend Rule 226.13.90.040, the adoption by reference of the Network-System Plan for Computer Services. The Network System Plan serves as the master plan for implementation of computer services for school districts. The revised plan for 1979-80 incorporates most of the recommendations of the Browne Reinken Rogers Report on computer services. All recommendations contained in that evaluation were endorsed by the Statewide Advisory Committee for Computer Services. The plan also incorporates a new chapter (IV) which delineates specific tasks, schedules, and responsibilities for achieving the goals and objectives of the plan.

It is the intent of the Texas Education Agency to provide leadership and direction in the following areas.

- (1) Support the computer network concept as an integral part of the Texas Education Agency mission.
- (2) Discourage the proliferation of innumerable incompatible computers in school districts and in education service centers.

(3) Encourage the sharing of administrative application software within the network.

(4) Develop and adopt standards for the network in the areas of data, hardware, software, communications, and personnel.

(5) Provide arrangements and incentives for centralized program development and documentation.

(6) Provide arrangements and incentives for implementation of the common core of data concept. Under this concept, districts would maintain data required for state and federal reports in accordance with state data standards. These records would be maintained on the designated network facility.

(7) Improve the equality of access to the network for school districts.

(8) Establish procedures, standards, and controls which will significantly increase the cooperation and collaboration between the regional processing centers, the multi-regional processing centers, and the Texas Education Agency. The objective of these measures will be to improve services to districts and to the state through a true information management services network in both a logical and physical sense.

The Texas Education Agency does not anticipate the proposed amendment to Rule .040 will have state or local fiscal implications.

Public comment on the proposed amendment to Rule .040 is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule amendment is proposed under the authority of Section 11.33(d), Texas Education Code.

*.040. Network-System Plan for Computer Services.* The rules for computer services are described in the official Texas Education Agency bulletin, *Network-System Plan for Computer Services, 1979-1980* [1978], which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency Building, (headquarters), 201 East 11th Street, Austin, Texas.

Issued in Austin, Texas, on February 29, 1980.

Doc. No. 801686      A. O. Bowen  
Commissioner of Education

Proposed Date of Adoption: April 11, 1980  
For further information, please call (512) 475-7077.

## Texas Commission on Jail Standards

The Texas Commission on Jail Standards proposes to amend several rules which discuss the temperature level of water in inmate areas. These amendments clarify the intent to provide hot water in inmate living areas and dayrooms.

The Texas Commission on Jail Standards has determined that these amendments should not increase expenditures by state, county, or local government.

Public comment on the proposed amendments of Rule .083 is invited. Comments may be submitted by telephoning the agency at (512) 475-2716 or by writing to the commission at P.O. Box 12985, Austin, Texas 78711.

## New Construction

### New Jail Design, Construction, and Furnishing Requirements 217.05.02

The amendment is proposed under the authority of Article 5115.1, Texas Civil Statutes.

*.083. Plumbing and Drainage.* Plumbing work shall meet the requirements of *the southern standard building code, or equivalent* [state and local commercial plumbing codes]. Water closets, showers, and lavatories used by high-risk inmates shall be of vandal-resistive type. **Warm water shall be provided in inmate areas at each lavatory and shower.** [Hot] Water shall not exceed 110° Fahrenheit at *its outlet in these areas* [a lavatory or shower in the inmate living area]. All plumbing to inmate areas shall have a quick shutoff valve or other approved means to prevent flooding.

Doc. No. 801639

### New Lock-Up Design, Construction, and Furnishing Requirements 217.05.03

The amendment is proposed under the authority of Article 5115.1, Texas Civil Statutes.

*.078. Plumbing and Drainage.* Plumbing work shall meet the requirements of *the southern standard building code, or equivalent* [state and local commercial plumbing codes]. Water closets, showers, and lavatories used by high-risk inmates shall be of vandal-resistive type. **Warm water shall be provided in inmate areas at each lavatory and shower.** [Hot] Water shall not exceed 110° Fahrenheit at *its outlet in these areas* [a lavatory or shower in the inmate living area]. All plumbing to inmate areas shall have a quick shutoff valve or other approved means to prevent flooding.

Doc. No. 801640

### New Low Risk Design, Construction, and Furnishing Requirements 217.05.04

The amendment is proposed under the authority of Article 5115.1, Texas Civil Statutes.

*.071. Plumbing and Drainage.* Plumbing work shall meet the requirements of *the southern standard building code, or equivalent* [state and local commercial plumbing codes]. Water closets, showers, and lavatories need not be of the vandal-resistive type. **Warm water shall be provided in inmate areas at each lavatory and shower.** [Hot] Water shall not exceed 110° Fahrenheit at *its outlet in these areas* [a

lavatory or shower in the inmate living area. All plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

Doc. No. 801641

## Existing Construction

### Existing Jail Design, Construction, and Furnishing Requirements 217.07.01

The amendment is proposed under the authority of Article 5115.1, Texas Civil Statutes.

.082. *Plumbing and Drainage.* Plumbing work shall meet the requirements of *the southern standard building code, or equivalent* [state and local commercial plumbing codes]. Water closets, showers, and lavatories used by high-risk inmates shall be of vandal-resistive type. *Warm water shall be provided in inmate areas at each shower.* [Hot] Water shall not exceed 110° Fahrenheit at *its outlet in these areas* [a lavatory or shower in the inmate living area]. All plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

Doc. No. 801642

### Existing Lock-Up Design, Construction, and Furnishing Requirements 217.07.02

The amendment is proposed under the authority of Article 5115.1, Texas Civil Statutes.

.077. *Plumbing and Drainage.* Plumbing work shall meet the requirements of *the southern standard building code, or equivalent* [state and local commercial plumbing codes]. Water closets, showers, and lavatories used by high-risk inmates shall be of vandal-resistive type. *Warm water shall be provided in inmate areas at each shower.* [Hot] Water shall not exceed 110° Fahrenheit at *its outlet in these areas* [a lavatory or shower in the inmate living area]. All plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

Doc. No. 801643

### Existing Low Risk Design, Construction, and Furnishing Requirements 217.07.03

The amendment is proposed under the authority of Article 5115.1, Texas Civil Statutes.

.070. *Plumbing and Drainage.* Plumbing work shall meet the requirements of *the southern standard building code, or equivalent* [state and local commercial plumbing codes]. Water closets, showers, and lavatories need not be of the vandal-resistive type. *Warm water shall be provided in inmate areas at each shower.* [Hot] Water shall not exceed 110° Fahrenheit at *its outlet in these areas* [a lavatory or

shower in the inmate living area. All plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

Doc. No. 801644

## Supervision of Inmates 217.14.00

The Texas Commission on Jail Standards proposes to amend Rule 217.14.00.001 which discusses the time requirement for visual observation of inmates. The wording is being changed to clarify the intended requirement for visual observation of inmates.

The Texas Commission on Jail Standards has determined that this amendment should not increase expenditures by state, county, or local government.

Public comment on the proposed amendment of Rule .001 is invited. Comments may be submitted by telephoning the agency at (512) 475-2716 or by writing to the commission at P.O. Box 12985, Austin, Texas 78711.

The amendment is proposed under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Regular Observation by Corrections Officers.* Every detention facility housing inmates shall have a corrections officer at the facility 24 hours each day. Detention facilities shall have an established procedure for visual observation of all inmates by corrections officers [either in person or by a monitoring system, with audio capability] at least once every hour [and]. *Observation shall be performed* on a more frequent basis in high-risk areas and in areas where inmates who are known to be assaultive, potentially suicidal, mentally ill, or who have demonstrated bizarre behavior are confined. *There shall be a voice communications capability between inmates and custodial personnel at all times.* In counties where a corrections officer lives in the facility, mandatory hourly observation is not required at night provided that the facility shall have a continuously operating means of communication with such corrections officer (by electrical intercommunication system, buzzer, alarm, or similar device) available at all times to each inmate for the purpose of notifying such corrections officer of emergencies, illnesses, personal attack, etc., and provided further that such corrections officer must be close enough to the inmate housing area to respond immediately to such notification. *Closed circuit television (CCTV) may be used, but not in lieu of the hourly personal observation.*

Issued in Austin, Texas, on February 27, 1980.

Doc. No. 801645

Steve H. Suttle  
Chairman

Texas Commission on Jail Standards

Proposed Date of Adoption April 11, 1980

For further information, please call (512) 475-2716.



## Texas Parks and Wildlife Department Design and Construction

### Land and Water Conservation Fund Program 127.50.05

The Texas Parks and Wildlife Department proposes to amend Rule 127.50.05.001, relating to application procedures on the Land and Water Conservation Fund Program.

The proposed amendments reflect amendments to the procedural guide for the Land and Water Conservation Fund Program. The amendments change the name of the Bureau of Outdoor Recreation to the Heritage Conservation and Recreation Service, adopt the manual for use for the Texas Local Parks, Recreation, and Open Space Fund Program, include data required for Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, and change the department's semiannual review of projects to periodic reviews.

The staff of the department has determined that there are no fiscal implications for the state or any unit of local government that would result from these amendments.

Public comments on the proposed amendments are invited, and may be submitted by contacting William R. Kopp, Grants-in-Aid Branch, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4951. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

The amendments are proposed pursuant to the authority of Section 11.037, Sections 13.302-13.312, Texas Parks and Wildlife Code, and Public Law 88-578.

#### .001. Application Procedures.

(a) The Texas Parks and Wildlife Department adopts the procedural guide for Land and Water Conservation Fund Program, **as published in August 1978, and as amended in January 1980,** [January 1975,] by reference. The department is the state agency designated to cooperate with the federal government in the administration of the provisions of the Land and Water Conservation Fund Act of 1965. This procedural guide is designed to assist local governments in making application for federal funds, and describes the rules and regulations governing the disbursement of such funds.

(b) **Copies of the procedural guide are available at the Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744.** [A copy of this procedural guide may be seen in the office of the executive director, Room 100, John H. Reagan Building, Austin, Texas.]

Doc No. 801705

## Guidelines for Administration of Texas Local Parks, Recreation, and Open Space Fund Program 127.50.09

The Texas Parks and Wildlife Commission is proposing to adopt Rule 127.50.09.001, relating to the Texas Local Parks, Recreation, and Open Space Fund Program. The proposed rule establishes procedures for operating the direct state matching grants for parks located in a standard metropolitan statistical area as authorized by Section 24.005, Texas Parks and Wildlife Code.

The fiscal implications of adoption of this rule would be to permit the expenditure of an estimated \$16.6 million over each of the next four years from a statutory fund for state and local outdoor recreation projects. Texas Parks and Wildlife Department administrative costs of the program would be negligible and within statutory guidelines.

Public comments on the proposed rule are invited, and may be submitted by contacting William R. Kopp, Grants-in-Aid Branch, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4951. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

This rule is proposed under the authority of Section 24.005, Texas Parks and Wildlife Code.

.001. *Policy.* It is the Texas Parks and Wildlife Commission policy that the executive director shall administer local projects in accord with the following guidelines with interpretation of intent to be made to provide the greatest number of outdoor recreational opportunities for Texas in accord with priorities of the Texas Outdoor Recreation Plan. In keeping with this policy, local projects will not be approved from both the Texas Local Parks, Recreation, and Open Space Fund and the Federal Land and Water Conservation Fund Program unless extraordinary circumstances dictate that high priority public needs will not be met without the full or partial funding of both programs.

(1) Rule 127.50.05.001, the procedural guide for Land and Water Conservation Fund Program, is adopted for the Texas Local Parks, Recreation, and Open Space Fund Program.

(2) Rule 127.50.08.001, guidelines for administration of Local Land and Water Conservation Fund projects, is adopted for the Texas Local Parks, Recreation, and Open Space Fund Program, except all references to the state liaison officer shall mean the executive director.

Issued in Austin, Texas, on March 4, 1980.

Doc. No. 801706      Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife Department

Proposed Date of Adoption: April 11, 1980  
For further information, please call (512) 475-4951.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

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## CODIFIED

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### TITLE 4. AGRICULTURE

#### Part II. Texas Animal Health Commission

#### Chapter 35. Brucellosis

#### Subchapter A. Eradication of Brucellosis in Cattle

The Texas Animal Health Commission has adopted the repeal of §§35.1-35.26 (177.03.01.017), Regulations for Eradication of Brucellosis in Cattle. The proposed repeal was published in the January 8, 1980, issue of the *Texas Register* (5 TexReg 38). The repeal of §§35.1-35.26 (.017) was proposed because the existing rule was based on the 1975 Uniform Methods and Rules, which was adopted by the United States Animal and Plant Health Inspection Service as its minimum standards for the State Federal Cooperative Program. The United States Animal and Plant Health Inspection Service updated its rules effective September 4, 1979, and §§35.1-35.26 (.017) no longer comply with the minimum standards required by rules of the United States Animal and Plant Health Inspection Service.

Pursuant to the authority of Vernon's Texas, Article 7014f-1, the Texas Animal Health Commission has repealed §§35.1-35.26 (.017), Regulations for Eradication of Brucellosis in Cattle.

Doc. No. 801737

(Editor's note: Rule .021 of the following rules was published under TAC §35.28 on January 22, 1980. It now is published under TAC §35.2.)

The Texas Animal Health Commission has adopted §§35.1-35.3 and 35.5 (177.03.01.020-.022 and .024), concerning effective control leading to eradication of the disease brucellosis, also known as "Bang's" disease from the cattle herds in the State of Texas. As a result of comments received from statewide hearings held during February 1980, the following rules have been changed to require the following.

In §35.1 (.020), Definitions, subsection (j) as proposed, special regulated pasture, was deleted because the age of cattle to enter the pasture has been raised to 18 months, and there is no need for this type pasture. In subsection (k) of the rule as proposed (now subsection (j)), permit, an error was made in a portion of paragraph (1). Paragraph (1) was erroneously placed in paragraph (2) where an "E" permit was described. Comments were received concerning subsection (dd), cattle exempt from testing requirements, that stated it would be more advantageous to rearrange the order of the title so that when one is searching for this definition of exempt cattle the word "exempt" will appear at the beginning of the title.

In §35.2 (.021), General Requirements, subsection (k) (as proposed, subsection (l)), concerning dairy herds, mentions dairy herds being negative to the last milk ring test prior to completion of a herd plan. Comments and discussion were that the additional test provision was not clear to the public. The test provision pertains to affected beef and dairy herds alike.

In §35.3 (.022), Requirements for Certified Brucellosis Free Herd of Cattle, subsection (c), cattle required to be tested, comments suggested that the wording contained in this subsection should be changed so that it will conform to the same wording found in other sections of the regulation dealing with the same subject matter.

In §35.5 (.042), Class "B" Brucellosis Control Area, subsection (b) refers to the size of the area and names the counties to be included in the Class "B" control. This subsection was modified by deleting 27 counties which will be placed in the Class "A" brucellosis control area.

These rules are promulgated under the authority of Article 7014f-1, Vernon's Texas Civil Statutes.

#### §35.1 (177.03.01.020). Definitions.

(a) Brucellosis—(Bang's disease, contagious abortion). For purposes of this regulation, brucellosis is a contagious, infectious disease of cattle, sheep, goats, horses, and swine caused by bacteria of the genus *brucella*.

(b) Reactor—cattle classified as being infected with brucellosis as a result of serological testing or microbiological culturing of blood, tissue, secretion, or excretions from the animal.

(c) Suspect—cattle classified as being suspicious of being infected with brucellosis as a result of serological testing of blood, secretions, or excretions from the animal.

(d) Premises—an area which can be defined by recognizable physical barriers creating its boundaries that prevent cattle from crossing said boundary under ordinary circumstances.

(e) Herd—a herd is all cattle that are in one premise, or more than one premise and that have had interchange or con-

tact of cattle by usual management practices during a 12-month period.

(f) **Individual herd plan**—a herd disease management and testing plan to prevent, control, and eliminate brucellosis in a herd of cattle.

(g) **Feedlot**—a confined drylot area for finish feeding of cattle on concentrated feed with no facilities for pasturing or grazing. All cattle in a feedlot are considered a "herd" for purposes of these regulations.

(h) **Quarantined feedlot**—a feedlot under a plan of restricted movement, approved jointly by Animal and Plant Health Inspection Service, Veterinary Services, and the commission in which all cattle except steers and spayed heifers are classified as exposed to brucellosis.

(i) **Quarantined pasture**—a designated confined area for limited grazing under a plan of restricted movement approved jointly by Animal and Plant Health Inspection Service, Veterinary Services, and the commission. All cattle except steers and spayed heifers shall be classified as exposed to brucellosis. All cattle permitted to a quarantined pasture must originate from a Texas farm or ranch and move directly to a quarantined pasture or through a Texas market to a quarantined pasture.

(j) **Permit**—a permit is a document adopted by the commission with specified conditions relative to movement and testing of cattle which is required to accompany the cattle entering, leaving, or moving within the State of Texas.

(1) **"E" permit**—a premovement authorization for entry of cattle into the state or between control areas within the state by the Texas Animal Health Commission. The "E" permit shall state the conditions under which movement may be made, and restrictions and test requirements after arrival.

(2) **"S" permit**—a premovement authorization for exposed, suspect, or nontested cattle in marketing channels having restricted destination.

(3) **"B" permit (VS Form 1-27)**—a premovement authorization for movement of reactor cattle in marketing channels moving to slaughter.

(k) **Official eartag**—a metal identification eartag conforming to the nine-character alpha-numeric National Uniform Eartagging System, using a color (e.g. orange for vaccination) which provides unique identification for each individual animal.

(l) **Market cattle identification**—the process of individually identifying cattle on change of ownership by back tag or eartag issued by USDA showing their herd of origin.

(m) **Approved brucella vaccine**—a product that is produced under license of the USDA and used in accordance with the current guidelines of USDA for its use in cattle to enhance their resistance to brucellosis.

(n) **Official vaccinate**.

(1) **Calfhood vaccinate**—female cattle of a dairy breed vaccinated between 90 and 179 days of age with an approved brucella vaccine. Female cattle of a beef breed vaccinated between 90 and 299 days of age with an approved brucella vaccine.

(2) **Adult vaccinate**—female cattle that have been blood tested negative within 10 days prior to vaccination and vaccinated at an age over the ages given in (1) above with an approved dose of brucella vaccine as part of a whole herd vaccination plan.

(o) **Traceback of reactors**—the epidemiological procedure in locating the premise or premises and the cattle that

have been in contact with the reactor during a specified period of time.

(p) **Exposed cattle**—cattle that are part of an affected herd; or cattle that have been in contact with reactors in marketing channels for periods of 24 hours; and periods of less than 24 hours if the reactor has recently aborted, calved, or has a vaginal or uterine discharge. These cattle shall be classified as exposed regardless of any blood test results.

(q) **Cattle**—all dairy and beef animals (genus *Bos*) and bison (genus *Bison*).

(r) **Dealer**:

(1) any person engaged in the business of buying or selling cattle in commerce either on his own account, or as the employee or agent of the vendor or purchaser, or both; or

(2) any person engaged in the business of buying or selling cattle in commerce on a commission basis;

(3) the term shall not include a person who buys or sells cattle as part of his own bona fide breeding, feeding, dairy, or stocker operations.

(s) **Auction**—a public sale of cattle.

(t) **Auctioneer**—a person who sells or makes a business of selling cattle at auction.

(u) **Commission firm**—a person, partnership, or corporation which buys and sells cattle as a third party and who reports to the seller and to the buyer details of the transactions. This includes any such person or group whether or not a fee is charged for the service.

(v) **Class "A" brucellosis control area**—a group of contiguous counties designated by the Texas Animal Health Commission for the purpose of achieving Class "A" status for the entire area.

(w) **Class "A" status**—status achieved when there is no infection due to field strain *B. abortus* in the area for 12 months except where field strain *B. abortus*, if detected, is traced to a source outside the area and the field strain *B. abortus* is not traced outside the affected herd and an approved surveillance program is in progress.

(x) **Class "B" brucellosis control area**—a group of contiguous counties designated by the Texas Animal Health Commission for the purpose of achieving Class "B" status for the entire area.

(y) **Class "B" status**—an area that does not exceed an annual 12 months prevalence rate of 1.0% of herd infection with field strain *B. abortus*. No county in the area shall have an annual prevalence rate exceeding 2.0% of the herds. The area must maintain an annual prevalence rate not to exceed five reactors per 1,000 cattle not in affected herds tested and the area has an approved surveillance program in progress.

(z) **Commission**—the Texas Animal Health Commission.

(aa) **Executive director**—the chief executive officer of the Texas Animal Health Commission appointed by the commissioners and authorized to act for the commissioners in the absence of the chairman.

(bb) **Affected herd**—any herd in which any cattle have been classified as a reactor or suspect and has not completed the requirements of the individual herd plan.

(cc) **Approved personnel**—Texas Animal Health Commission inspectors and veterinarians, federal animal health technicians and veterinarians, accredited Texas veterinarians, and others that have been approved to do those assigned duties as described in these regulations for brucellosis control and eradication.

(dd) Exempt cattle (from testing requirements)—cattle that have been physically rendered sterile for breeding, and officially vaccinated female cattle of dairy breeds under 20 months of age and of beef breeds under 24 months of age except those officially vaccinated cattle of the ages stated which are in the third trimester of pregnancy, or that have calved.

(ee) Adjacent herds—a herd located on a premise contiguous to a premise with affected cattle.

(ff) High risk herd—a herd that is epidemiologically judged to have a high probability of developing brucellosis.

(gg) Tested herd—herd of cattle located in a noncertified area for which a state has records showing that the herd has been subjected to official testing for brucellosis in accordance with the procedures for herd tests within 12 months prior to movement and that the herd is not known to be affected with brucellosis.

### §35.2 (177.03.01.021). General Requirements.

#### (a) Testing of blood.

(1) No test shall be made the basis for compliance with these regulations except a test made by approved personnel. All samples initially tested at other than state-federal laboratories shall be submitted (mailed) within 48 hours of collection and confirmed at the state-federal laboratory.

(2) No test shall be made the basis for compliance with these regulations except a test which has been confirmed by a state-federal laboratory.

(b) Classification of cattle. Cattle shall be classified by approved personnel by an evaluation of titer responses for all cattle to serological tests, or by identification of brucella abortus in specimens taken from these cattle. The following serological tests may be used for the classification of cattle:

(1) Card test. The card test (Buffered Brucella Antigen) is a test that may be used to classify cattle as suspects. The card test may be used as a test to classify cattle as reactors on written approval of the owner or his agent. The owner or his agent's signature on test charts prior to "B" branding will be accepted as approval. Card tests may be used to classify cattle negative on surveillance samples collected at slaughter, on routine samples collected on farms, at livestock markets and on tests of suspicious and affected herds.

(2) Complement fixation test (CF). The complement fixation test conducted by methods approved by National Veterinary Services Laboratories (NVSL) is a test that may be used to classify cattle as suspects and reactors.

(3) Rivanol test. The rivanol test conducted by methods approved by National Veterinary Services Laboratories (NVSL) is a test that may be used to classify cattle as reactors.

(4) Semen plasma test. The semen plasma test is a test that may be used in bulls used for artificial insemination when used in conjunction with another serological test.

(5) Buffered acidified plate antigen test. Buffered acidified plate antigen tests may be used to classify cattle as suspects on MCI samples collected at slaughter and at livestock markets. Such tests may also be used in state-federal laboratories for routine samples collected on farms.

(6) Rapid screening test (RST). The RST may be used as a test for classifying cattle as suspects in state-federal laboratories or markets.

(7) Standard tube test (STT) or standard plate test (SPT) may be used on request to the laboratory to classify cattle as reactors or suspects.

(8) Other serological tests. Additional tests developed to use as an aid in classifying cattle as reactors or suspects. These tests are the mercaptoethanol (ME), acid plate antigen (APA) at various phs, fluorescent antibody (FA), enzyme labeled antibody (ELA), and brucellosis ring test (BRT).

(9) New tests under research. Laboratory tests approved by the executive director are authorized to be used in conjunction with tests above for evaluation of their future usefulness in the program.

(c) Reclassification of reactors. Cattle initially classified reactors may be reclassified provided a complete epidemiological investigation of the herd is conducted and there is no evidence of field strain B. abortus infection or exposure thereto.

(d) Requirements for a herd test. A herd test shall include all nonexempt cattle in the herd six months of age or older.

(e) Reserved.

(f) Reserved.

(g) Retest of reactors. Reactors in markets or on farms and ranches will be retested at the owner or his agent's request; provided this request is within 10 days of his notification of the original blood test results and prior to identification of the reactors by "B" brand and eartag.

(h) Identification of brucellosis affected cattle.

(1) Reactor cattle. All reactor cattle shall be permanently identified by hot iron branding with the letter "B" (at least two by two inches), placed on the left jaw. An approved reactor tag shall be placed in the left ear. Identification shall be prior to movement.

(2) Exposed cattle. All exposed cattle moving to a quarantined feedlot, quarantined pasture or to slaughter shall be identified by branding with a hot iron the letter "S" (at least two by two inches) placed on the left jaw, or high on the tailhead so as to be visible from ground level. Identification shall be prior to movement, except exposed cattle on the premise of origin may be "S" permitted to a livestock market where they shall be identified by "S" brand upon arrival. Exposed cattle returned from the livestock market to the herd of origin are exempt from such identification.

(3) Suspects. Cattle classified as suspects in markets will be identified as exposed cattle.

(i) Movement of cattle classified as reactors, exposed or suspects. There shall be no diversion from the permitted destination. When moved, the cattle must be maintained separate and apart from all other classes of livestock in designated pens reserved for this purpose at livestock markets or trucking facilities. These pens must be thoroughly cleaned and disinfected before reuse.

(1) Reactors. Reactors shall remain on the premises where disclosed until a "B" permit for movement to immediate slaughter has been obtained. Movement for immediate slaughter must be to a slaughtering establishment where federal or state meat inspection is maintained or to a livestock market for sale to such slaughtering establishment.

(2) Exposed cattle. All exposed cattle moving from a premise of origin or from a livestock market to a quarantined pasture, quarantined feedlot, or to immediate slaughter shall remain on the premise where disclosed until an "S" permit for movement to a quarantined premise has been prepared. Movement for immediate slaughter must be to a slaughtering establishment where federal or state meat inspection is

maintained or to a livestock market for sale to such slaughtering facility.

(3) Suspects. Will be moved the same as exposed cattle.

(j) Immediate slaughter of reactors. Reactor cattle shall be sold for immediate slaughter and removed from the premise under "B" permit within 15 days from the date of identification. The time may be extended 15 days for reasons acceptable to the executive director and the federal veterinarian in charge. Movement for immediate slaughter shall be to a slaughtering establishment where federal or state inspection is maintained or to a livestock market for sale to such a slaughtering establishment.

(k) Requirements following classification of cattle as reactors or suspects.

(1) A plan for prevention or elimination of brucellosis for each affected, adjacent or high risk herd classified as such due to the reactor or suspect shall be developed by the herd owner (and his veterinarian, if so requested by the owner), and an epidemiologist of the Brucellosis Control Program. In the event agreement cannot be reached, the plan of the epidemiologist shall be final. The plan shall be formalized in writing, with the provision that the plan may be re-evaluated and changed when a change in circumstances is evident to the epidemiologist. All parties to the agreement must adhere to the plan throughout the period of the plan. The plan may consist of testing, vaccinating, and limited movement including but not limited to the minimum requirements of these regulations.

(2) Appeal from the plan. Any person who desires a meeting for the purpose of protesting the entering into of a plan for the prevention or elimination of brucellosis for each of his affected, adjacent or high risk herds which have been classified as such due to a reactor or suspect may file with an authorized representative of the commission a request to meet with the executive director to discuss his objections to the plan. Upon receipt of the request, the executive director will set a meeting for the purpose of discussing the herd plan and attempt to resolve the objection. If the problem is not resolved after the meeting, any person may file, within 10 days from date of the meeting, a sworn application for hearing; such application to be forwarded to the chairman of the commission and upon receipt of the application will set a date for a hearing, give notice to the applicant and other parties who join the action. The applicant may appear at the hearing either in person or by attorney, or both, and may submit such ex parte affidavits as he desires. The hearing shall be conducted and governed by the terms and provisions of the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Annotated Civil Statutes. The commission shall also consider controverting affidavits and statements. The Administrative Procedure and Texas Register Act provides generally as follows with respect to hearings: The commission may swear witnesses and take their testimony under oath and the rules of evidence as applied in nonjury civil cases shall be followed. Upon a showing of good cause, witnesses and any party can be compelled to produce such records and documents as may be necessary and proper for the proceedings; witnesses shall be subject to cross-examination; and the commission can take notice of those generally recognized facts within the commission's area of expertise. The commission shall render its decision in writing and transmit the same to the applicant or transmit the

same to him by registered mail to the address shown in said application.

(3) All cattle in the affected herd, except steers and spayed heifers over six months of age, shall be confined to the premise until the herd plan is completed or the herd is sold for slaughter, except calves under six months of age that are nursed by brucellosis-exposed cows may move from the premise within 10 days after a negative brucellosis test on the dam; or calves under six months of age that are nursed by reactor or exposed cows may move from the premise provided they have been weaned for not less than 30 days prior to movement. The individual herd plan for these herds shall include the provision for negative herd tests with the first negative herd test occurring not less than 30 days after the removal and slaughter of all previous reactors and the second test not less than 120 days following removal of the last reactor. Also, it is provided that the provision for official vaccinates positive on the card test or having a titer between +2 at 1:10 or +4 at 1:20 on the CF test in AV herds on an otherwise negative second test shall be classified as suspects and be held as an individual herd until they are card negative and less than +2 at 1:10 on the CF test. Movement of cattle from the herd following the second negative test will be permitted, except that following movement, adult vaccinated cattle shall be subject to a retest at destination between 120 and 180 days after arrival. Dairy herds shall be negative to the last milk ring test prior to completion of a herd plan. Individual adult vaccinated dairy cattle require less than a 1:16 titer on individual samples of all quarters for movement other than to slaughter. For all affected beef and dairy herds an additional herd test not less than 10 months from removal of the last reactor will be included in this test provision.

(l) Requirements following adult vaccination of cattle in nonaffected herds. The individual herd plan for these herds shall include the provisions of two tests without reactors following vaccination. The first test may be not less than 30 days post vaccination and the second test conducted may be not less than 90 days following the first test. Official vaccinates positive on the card test or having a titer between +2 at 1:10 or +4 at 1:20 on the CF test in AV herds on the otherwise negative second test shall be classified as suspects and be held as an individual herd until they are card negative and less than +2 at 1:10 on the CF test. Dairy herds shall be negative to the last milk ring test prior to completion of a herd plan. Individual adult vaccinated dairy cattle require less than a 1:16 titer on individual samples of all quarters for movement other than to slaughter.

(m) Official vaccination requirements.

(1) All official vaccination will be conducted by approved personnel only.

(2) Calfhood vaccinated animals shall be permanently identified as vaccinates by tattoo and by official vaccination eartag. Vaccination tattoos will be applied to the right ear. The tattoo will include the U.S. Registered Shield and V which will be preceded by a number indicating the quarter of the year and will be followed by a number corresponding to the last digit of the year in which the vaccination was done. Official vaccination eartags will be applied to the right ear. The eartag will include the state prefix and a V, followed by two letters and four numbers. Individual animal registration tattoos or brands may be substituted for official eartags.

(3) Adult vaccinated cattle shall be permanently identified as vaccinates by tattoo or by hot "V" brand and by

official eartag. Tattoos will be applied to the right ear. The tattoo will include the letters AV, which will be preceded by a number indicating the quarter of the year and will be followed by a number corresponding to the last digit of the year in which the vaccination was done. Hot "V" brands will be applied to the right jaw, open end of the "V" up. An official eartag will be placed in the right ear.

(n) Community notification of affected herds.

(1) The status of affected herds and the application of quarantined feedlots and quarantined pastures are to be made known to herd owners in the immediate community. Notification of such herd owners may be achieved by means of an educational letter delivered through personal contact or by mail. When the herd has completed its individual herd plan, or the quarantined premise approval is terminated, the herd owners shall also be notified within 30 days by personal contact or by mail.

(2) Notification to Texas Department of Health. The Texas Department of Health will be notified within 15 days of the classification of an affected herd.

(o) Requirements for a quarantined feedlot. All cattle except steers and spayed heifers in a quarantined feedlot shall be classified as exposed to brucellosis. The quarantined feedlot shall be maintained for finish feeding of cattle in drylot with no provisions for pasturing or grazing. All cattle, except steers, spayed heifers, and cattle under 18 months of age, must be permanently identified with a hot iron "S" brand either on the left jaw or high on the tailhead upon entering such feedlots. All cattle except steers and spayed heifers leaving such feedlot must go directly to slaughter; or may be moved directly to another quarantined feedlot with an "S" permit; or may be "S" branded at the feedlot and move to a market to be sold for movement with an "S" permit issued at the market directly to another quarantined feedlot or directly to slaughter.

(p) Requirements for a quarantined pasture. Quarantined pastures may receive only intrastate cattle and may not involve interstate movements except to slaughter or quarantined feedlots. The quarantined pasture shall be for the purpose of utilizing available forage to grow or to improve flesh condition of cattle. Sex shall be the same (e.g. all cows or all bulls) except that steers and spayed heifers may share the quarantined pasture. All animals except steers and spayed heifers must be permanently identified with a hot iron "S" brand either on the left jaw or high on the tailhead upon entering the quarantined pasture. All cattle except steers and spayed heifers leaving such quarantined pasture must go directly to slaughter; or may be moved directly to a quarantined feedlot; or may move to a market to be sold for movement directly to slaughter or a quarantined feedlot. Issuance of an "S" brand permit is required prior to movement from a quarantined pasture. Approval of a quarantined pasture shall not exceed a period longer than 10 months. All exposed cattle must vacate the premise on or before the expiration of approval.

(q) Market cattle identification. All cattle two years of age or over, except steers and spayed heifers which are being moved from markets to slaughtering establishments shall be identified by a USDA-approved backtag placed just below the midline and just behind the shoulder of the animal. The check-in document will identify each backtagged animal to the consignor.

(r) Entering premises. Representatives engaged in the Brucellosis Control Program are authorized to enter into any

property for the exercise of any authority or the performance of any duties authorized in this regulation and shall practice such sanitary procedures so as to minimize the risk of physically transmitting the disease to other premises. Owners and caretakers owning or having charge of cattle shall gather their cattle and furnish necessary labor in drawing blood or milk samples, vaccinating, and identifying animals.

(s) Requirements for cleaning and disinfecting.

(1) Dairy. When reactors are disclosed in cattle which use the same facilities daily, those facilities will be cleaned and disinfected under the supervision of approved personnel upon removal of infected animals.

(2) Beef. As determined by approved personnel under individual herd plan following removal of reactor animals.

(t) Requirements on dealer record keeping. Any dealer, auctioneer, or commission firm must maintain records of test-age cattle. Such records shall show the seller's name and address, county of origin, number of animals, description of each animal, including sex, age, color, breed, weight, brands, and some form of individual identification numbers. Records at auctions and commission firms shall show the delivery vehicle license number.

(u) Brucellosis committee. Upon the designation of an area as either Class "A" control area or Class "B" control area, and upon request of five cattle owners residing within the designated areas, the chairman of the commission shall appoint an area advisory committee from recommendations made by cattle owners within the area. The area committee shall be advised at all times of the general plan for inspection and testing of cattle in the area and the progress or lack of progress in the inspection and testing of cattle within the designated area and contemplated changes in boundary area designation.

(v) Extenuating circumstances. In case of unusual circumstances or individual hardship, the executive director may vary or waive any provision of these rules provided such waiver is not in conflict with sound epidemiologic principles. Individual hardship will commonly mean unforeseen circumstances affecting the owner or his operation beyond his control.

(w) Reserved.

### *§35.3 (177.03.01.022). Requirements for Certified Brucellosis-Free Herd of Cattle.*

(a) Complete and sign herd plan agreement with the Texas Animal Health Commission and the USDA, Animal and Plant Health Inspection Service and Veterinary Services.

(b) Testing will be on a herd basis including all offspring that are of an age to be tested. Certified free herd status is for a 12-month period.

(c) Cattle required to be tested. Official vaccinated animals are subject to test requirements when in the third trimester of pregnancy or that have been calved.

(1) Dairy—over 20 months of age.

(2) Beef—over 24 months of age.

(As evidenced by the presence of the first pair of permanent incisor teeth.)

(3) Nonvaccinates. All heifers and bulls over six months of age.

(d) Qualifying methods. A herd may qualify by one or more of the following methods:

**(1) Initial certification.**

(A) **Milk ring test (BRT).** A minimum of three consecutive, negative milk ring tests conducted at not less than 90-day intervals, followed by a negative herd blood test conducted within 90 days after the last negative milk ring test.

(B) **Complete herd blood test.** Two consecutive, negative blood tests of all cattle required to be tested not less than 10 months, nor more than 14 months apart.

(2) **Recertification.** A negative herd blood test of all cattle required to be tested, conducted within 60 days of each anniversary date is required for continuous certification. If the certification test is conducted within 60 days following the anniversary date, the certification period will be 12 months from the anniversary and not 12 months from the date of the recertifying test. If a herd blood test for recertification is not conducted within 60 days following the anniversary date, then certification requirements are the same as for initial certification.

**(e) Qualifying standards.**

(1) **Herd infection rates.** The individual herd must disclose no evidence of infection at the time of initial certification or recertification.

(2) **Animal infection rates.** The individual animals must disclose no evidence of infection at the time of initial herd certification or recertification.

(3) **Suspects.** When suspects are disclosed, an individual herd plan shall be developed for the future testing of the suspect(s) and the handling of the herd.

(4) **Herd status, if reactors are classified.** When one or more reactors are disclosed in a certified herd or in a herd under test for initial certification, it shall be considered affected and the quarantine and retest provisions shall apply. If a retest of a certified herd, or of animals from such a herd reveals only one reactor, the certification status will be suspended until all provisions for release of quarantine have been met. If more than one reactor is disclosed, the herd certification is terminated until all provisions for release of quarantine have been met, and when additional provisions for initial certified brucellosis-free herd status required under Section III, D-1, Initial Certification, have been met. Herd retests for quarantine release, and to fulfill the provisions required under Section III, D-1, Initial Certification, may be conducted concurrently.

(5) **Movement of cattle into a certified brucellosis-free herd.**

(A) **From certified brucellosis-free herds or certified brucellosis-free areas.** No test requirements on breeding or dairy cattle originating from certified brucellosis-free herds or certified brucellosis-free areas. Cattle added to a certified brucellosis-free herd under this provision shall not receive new herd status for sale purposes until they have passed a 60-120 day postentry retest.

(B) **From modified certified areas.** Cattle required to be tested from herds not under quarantine must be blood tested negative for brucellosis within 30 days prior to the date of movement and must be retested negative between 60 and 120 days after being moved. Cattle added to a certified brucellosis-free herd under this provision shall not receive new herd status for sale purposes until they have passed a 60-120 day postentry retest.

(C) **From noncertified areas.** Test age cattle from tested herds must have an additional retest within 30 days of the date of movement and must be retested negative between 60 and 120 days after being moved. Animals added to a cer-

tified brucellosis-free herd under this provision shall not receive new herd status for sale purposes until they have passed the 60-120 day postentry retest.

**§35.5 (177.03.01.024). Class "B" Brucellosis Control Area.**

(a) **General provisions.** The purpose of a Class "B" brucellosis control area is to use all feasible methods of finding and eliminating brucellosis in an area so that this area will become a Class "B" area at a later date.

(b) **Area to include the following counties:** Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Clay, Collin, Colorado, Cooke, Coryell, Dallas, Delta, Denton, DeWitt, Dimmit, Duval, Ellis, Erath, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Frio, Galveston, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kenedy, Kleberg, Lamar, LaSalle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, McLennan, McMullen, Madison, Marion, Matagorda, Medina, Milam, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Palo Pinto, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Smith, Somervell, Starr, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wise, Wood, and Zapata.

(c) Reserved.

(d) Reserved.

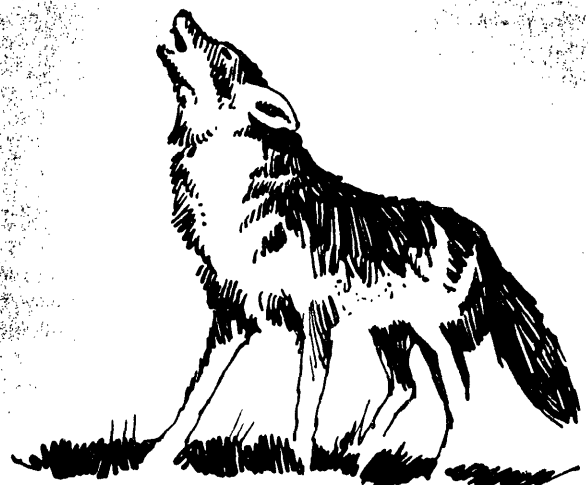
Issued in Austin, Texas, on March 5, 1980.

Doc. No. 801738      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Effective Date: March 26, 1980

Proposal Publication Date: January 1, 1980

For further information, please call (512) 475-4111.



## TITLE 13. CULTURAL RESOURCES

### Part 1. Texas State Library and Archives Commission

#### Chapter 1. Library Development

##### LSCA Annual Plan and Long-Range Plan

The Texas State Library adopts by reference the amendment to the 1980 LSCA Annual Program §1.21 (351.20.02.001), which establishes the procedures and the criteria used in making application for grants and determining recipients of grants under the Title III, Interlibrary Cooperation project.

The amendment to §1.21 (.001) is adopted under the authority of Article 5436a, Vernon's Annotated Civil Statutes.

§1.21 (351.20.02.001). *Adoption by Reference.* The Texas State Library adopts by reference all rules contained in the LSCA Annual Program, 1980 and Long-Range Plan, 1980-84 as amended in February 1980. Copies may be obtained from the Library Development Department of the Texas State Library, P.O. Box 12927, Capitol Station, Austin, Texas 78711.

Doc. No. 801716

##### Minimum Standards for Accreditation of Public Libraries in the State Library System

The Texas State Library has adopted §§1.71 and 1.72 (351.20.05.001 and .002), which deal with minimum standards for accreditation of public libraries in the state library system. As a result of comments at a public hearing, the wording in §1.71 (.001), Definition of Population Served, was changed to clarify the meaning of the rule. The wording did not change the substance of the section as it was proposed. Section 1.72 (.002), Public Library Service, was adopted with no changes.

These sections are adopted under the authority of Article 5446a, Texas Civil Statutes.

§1.71 (351.20.05.001). *Definition of Population Served.* For a city and/or county spending public monies for public library service, the population served by a public library is the population in the most recent decennial census or official population estimate of the U.S. Department of Commerce, Bureau of Census. Calculations will be based upon the following:

- (1) In counties with one or more public libraries that do not spend any county funds, each library is credited with serving only the city population in which it is located.
- (2) In counties with only one public library that spends county funds, the library is credited with serving the entire county population.
- (3) In counties with two or more public libraries and only one library spends county funds, the library that spends county funds is credited with serving its city population and all of the county population living outside cities with public libraries.

(4) In counties with two or more libraries that spend both city and county funds, the libraries that spend county funds serve their city population plus a percentage of the population living outside the cities. The percentage is the ratio of each city's population to the total of all the cities' populations that spend county funds.

(5) In counties with a county library and one or more city libraries that spend county funds, the city libraries that spend county funds are credited with serving their city populations plus a percentage of the county population living outside the cities. The percentage is the ratio of each city's population to the county population. The county library serves all county residents not served by a city library.

§1.72 (351.20.05.002). *Public Library Service.* Library services include the dissemination of materials and/or information by the library staff to the general public during posted or otherwise published hours of library outlets. A public library shall provide library services without a use charge to all persons residing in the library's tax supporting political subdivision with the following exceptions: reserving library materials; use of meeting rooms; replacement of lost borrower cards; fines for overdue, lost, or damaged materials in accordance with local library policies; searches of machine-readable data bases; postage; in-depth reference services on a contractual basis; photocopying; library parking; service to nonresidents; sale of publications; and rental and deposits on equipment.

Issued in Austin, Texas, on March 4, 1980.

Doc. No. 801717 William D. Gooch  
Assistant State Librarian  
Texas State Library

Effective Date: March 26, 1980

Proposal Publication Date: January 18, 1980

For further information, please call (512) 475-4119.

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part XI. Texas Department of Water Resources

#### Chapter 371. Private Sewage Facilities

##### Subchapter K. Livingston Reservoir

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, have adopted §§371.201-371.216 (157.31.01.001-.016), concerning the establishment of a regulated area around Lake Livingston, promulgating rules and regulations for the control of sewage within the area which is not disposed of in authorized disposal systems, providing for licensing of private sewage facilities, and designating the Trinity River Authority of Texas to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

The Texas Water Quality Board, a predecessor agency to the Texas Department of Water Resources, adopted Rules 130.12.01.002-.018, concerning the regulation of private



sewage facilities within a regulated area around Lake Livingston. The adopted rules adopt the substantive provisions of Texas Water Quality Board Rules 130.12.01.002-.018 with changes made in nomenclature and clarifying the definition of "private sewage facility" to note that holding tanks are included.

Copies of these adopted sections may be examined in the offices of or obtained from the Texas Water Commission. Copies may also be examined in the Office of the Secretary of State, Texas Register Division.

The Trinity River Authority of Texas owns and operates the Livingston Dam and Reservoir project in Walker, Trinity, San Jacinto, and Polk Counties. This reservoir has been constructed primarily as a water supply resource to serve the residents of the lower reaches of the Trinity River Basin and the Houston metropolitan area. An important secondary purpose for the reservoir is to provide an important water-based recreational facility for the state.

Among the potential sources of water pollution which must be controlled in order to maintain these standards of water quality is the disposal of sewage from individual dwellings, motels, marinas, businesses, and other such developments surrounding the reservoir. Sewage discharged into organized waste collection, treatment, and disposal systems is regulated through the permit system of the Department of Water Resources. The regulation of sewage discharged into private sewage facilities is the special concern of this subchapter because the area surrounding Lake Livingston does not possess absorption characteristics suitable for the use of private sewage facilities.

These sections are promulgated under the authority of the Texas Water Code, Section 26.031.

**§371.201 (157.31.01.001). Definitions.**

- (a) "Authority" means the Trinity River Authority of Texas.
- (b) "Board" means the Texas Water Development Board.
- (c) "Commission" means the Texas Water Commission.
- (d) "Department" means the Texas Department of Water Resources.
- (e) "Holding tank" means an internally vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for periodic delivery to an approved sewage disposal system.
- (f) "House sewer" means the lines which carry sewage from plumbing fixtures to a septic tank, holding tank, or other private sewage facility.
- (g) "Lake Livingston" or "Livingston Reservoir" means the lake in Walker, Trinity, San Jacinto, and Polk Counties created by a dam located approximately six miles southwest of the City of Livingston on the Trinity River between Polk and San Jacinto Counties.
- (h) "Organized disposal system" means any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.
- (i) "Private sewage facility" means all facilities, systems, and methods, including holding tanks, used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

(j) "Sewage" means waterborne human waste and wastes from domestic and commercial activities, such as washing, bathing, and food preparation.

(k) "Absorption field" is that part of a septic tank system consisting of perforated PVC pipe and surrounding permeable material used for the subsurface disposal of septic tank effluent.

(l) "Subdivision" means:

(A) a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(B) any four or more adjoining lots or tracts, any of which is less than two acres in size.

**§371.202 (157.31.01.002). Restricted Area.** The commission hereby designates the Lake Livingston Restricted Area as the area adjacent to the normal shoreline of Lake Livingston lying within two parallel lines, one of which is the contour line of elevation 131 foot MSL (mean sea level) and the other of which is a line parallel to the 131 foot MSL line, located at a distance of 75 feet from the 131 foot MSL line, measured horizontally away from the lake. The restricted area also includes all the area of the lake bed including all islands.

**§371.203 (157.31.01.003). Water Quality Area.** The commission hereby designates the Lake Livingston Water Quality Area as the area adjacent to the restricted area and lying within two parallel lines, one of which is a line parallel to the 131 foot MSL line located at a distance of 75 feet from the 131 foot MSL line, measured horizontally away from the lake, and the other of which is a line parallel to the 131 foot MSL line, located at a distance of 2,000 feet from the 131 foot MSL line, measured horizontally away from the lake.

**§371.204 (157.31.01.004). Regulations Controlling the Discharge of Sewage within the Restricted Area.** No sewage discharges from private sewage facilities of any kind may be made within the restricted area. However, this does not prohibit the removal and disposal of wastes from boats and other watercraft in accordance with department §§337.1-337.20 (156.23.05.001-.020) of this title. The authority may not license any private sewage facility in the restricted area which might allow interchange of sewage with lake water during times of flooding. Upon its finding that a holding tank system, properly constructed and carefully operated, presents only a remote threat to endanger water quality in the lake, the authority may license the system as it would such a system under §371.207(b) (.007), below.

**§371.205 (157.31.01.005). Regulations Controlling the Discharge of Sewage within the Water Quality Area.** All sewage disposal within the water quality area shall be in accordance with one of the following types of authorizations:

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission; or

(2) sewage discharged into a private sewage facility licensed in accordance with the regulations contained in this subchapter; or sewage discharged into an alternate type of private sewage facility which meets the standards of the Texas Department of Health and licensed by the authority.

**§371.206 (157.31.01.006). Licensing Functions.** The Trinity River Authority of Texas is designated by the commission to

perform all licensing functions and enforcement of this subchapter. The authority shall have the following powers:

- (1) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and
- (2) to perform all the duties necessary and proper to fulfill the requirements of this subchapter.

**§371.207 (157.31.01.007). Licensing Requirements for Private Sewage Facilities.**

(a) Private sewage facilities installed within the boundaries of the water quality area must meet with the following requirements:

- (1) A license must be obtained for the use of these facilities from the authority.
- (2) The lot or tract which the private sewage facilities, including holding tanks, will serve must be at least 15,000 square feet in size unless the lot or tract was platted and recorded prior to July 14, 1977.
- (b) All private sewage facilities in the water quality area must meet the standards as set out by the Texas Department of Health, a copy of which is available from the authority.

(c) Terms for licenses of private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence, provided the new owner applies to the authority and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The authority must approve and record all transfers in order for a succeeding owner to be compliant with this subchapter.

(2) Application forms for licenses may be obtained from the authority. In order to initiate an application, a complete application form together with the appropriate fee shall be filed with the authority.

(3) The authority will cause to be performed such inspections and tests as may be deemed necessary as soon as practicable.

(4) The authority will cause to be performed such inspections as may be necessary to issue a renewal license.

(5) Upon a finding by the authority that the use of a private sewage facility will not cause pollution or injury to the public health, is not in conflict with the terms and conditions of this subchapter, and can be operated in general conformance with the standards set out by the Texas Department of Health, the authority will, after its final inspection and receipt of the appropriate fee, issue a license or a renewal license.

(6) Upon a finding by the authority that the private sewage facility will not be licensed or not be issued a renewal license, the applicant shall be notified in writing of that finding and of the nature of the faults which prevent licensure.

**§371.208 (157.31.01.008). Approval of Subdivision Plans for Private Sewage Facilities.**

(a) Any developer or person desiring to create a subdivision, which lies partially or wholly within the restricted or water quality areas, using private sewage facilities must obtain approval from the authority of his plan or sewage disposal. He must fulfill the following requirements:

(1) A plat of the proposed subdivision must be filed with, approved by, and recorded by the county commissioners court of the county in which it is located.

(2) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the authority.

(3) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision; and

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(4) If investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The authority will perform or cause to be performed tests and inspections, deemed necessary by it, to determine whether the subdivision can be served with private sewage facilities, such tests to be at the expense of the developer. By direction of the authority, all or part of the tests may be performed by an engineering firm or soils testing laboratory approved by the authority. The authority will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the authority will notify the developer of any areas not suitable for use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

**§371.209 (157.31.01.009). Existing Private Sewage Disposal Systems.** All licenses issued by the authority will remain in effect for the term stated thereon as if issued under this subchapter.

**§371.210 (157.31.01.010). Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.** In order to implement the stated policy of the legislature and the department that the development and use by interested and affected parties or organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the following requirements are set out:

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system capable of serving in lieu thereof. Rather, the facility shall be connected to the organized system whenever feasible.

(2) Whenever an organized disposal system with service capability is developed within 300 feet in horizontal distance from any part of a private sewage facility, that facility shall be connected to the organized system whenever feasible.

**§371.211 (157.31.01.011). Terms and Conditions for Granting Exceptions.** The commission intends that the regulations contained in this subchapter shall be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in this subchapter

s that hardships may be avoided. Therefore, the following terms and conditions are established:

(1) Any person desiring an exception shall file an application with the authority for its analyses of the specifics of the situation.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out what corrective measures, if any, could be undertaken to obtain licensu.

**§371.212 (157.31.01.012). Terms and Conditions of Appeal.**

(a) The department intends that any disputes concerning the application of these sections to individual situations be negotiated to conclusion between the authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met;

(2) the aggrieved person has made a conscientious effort to resolve his problems with the authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Department of Water Resources who will then cause notice of the appeal to be issued to the authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§371.213 (157.31.01.013). License Fees.**

(a) License fees, inspection fees, and renewal fees will be in accordance with a fee schedule established by the authority and approved by the Texas Water Development Board. These fees shall be paid to and collected by the authority so long as the authority remains the designated agent for the purposes and functions specified in this subchapter. The fee schedule is set out in §371.216 (.016) of this subchapter.

(b) The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the authority for special services performed by the authority at the request of the applicant in connection with presentation of an application and required data. Percolation tests and other examinations may be performed by engineering firms or soils testing laboratories approved by the authority.

**§371.214 (157.31.01.014). Enforcement of This Subchapter.**

Unauthorized private sewage facilities, unlicensed private sewage facilities, and malfunctioning private sewage facilities, which later systems are a threat to water quality and public health, are subject to, among other enforcement actions, the following:

(1) Criminal penalty (Section 26.214, Texas Water Code).

(A) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(B) Jurisdiction for prosecution of a suit under this section is in the justice of peace courts.

(C) Venue for prosecution of a suit under this section is in the justice of peace precinct in which the violation is alleged to have occurred.

(2) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

**§371.215 (157.31.01.015). Saving Clause.** If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this subchapter and of the application of such provision to other persons and circumstances shall be affected thereby.

**§371.216 (157.31.01.016). Fee Schedule.** The following is the approved fee schedule for the private sewage facilities regulatory program around Lake Livingston:

(1) application, inspection, and license fee—\$15;

(2) percolation test—\$25;

(3) renewal inspection and license fee—\$5.00/two years;

(4) subdivision plan review—\$25;

(5) subdivision percolation test—\$25/hour.

Doc. No. 801633

## Subchapter L. Guadalupe River

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, have adopted §§371.231-371.247 (157.31.20.001-.017), concerning the establishment of a regulated zone adjacent to the Guadalupe River and its normally flowing tributaries in Kerr County, promulgating rules and regulations for the control of sewage within the zone which is not disposed of in authorized disposal systems, providing for licensing of private sewage facilities, and designating the Upper Guadalupe River Authority to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

The Texas Water Quality Board, a predecessor agency to the Texas Department of Water Resources, adopted Rules 130.12.20.001-.017, concerning the regulation of private sewage facilities within a regulated zone adjacent to the Guadalupe River and its normally flowing tributaries in Kerr County. The adopted rules adopt the substantive provisions of Texas Water Quality Board Rules 130.12.20.001-.017 with changes made in nomenclature, minimum lot size requirements, and defining of additional streams that are tributaries of the Guadalupe River in Kerr County.

Copies of these adopted sections may be examined in the offices of or obtained from the Texas Water Commission. Copies may also be examined in the Office of the Secretary of State, Texas Register Division.

At the present time, the water in the Guadalupe River in Kerr County is of a good quality and will be used as a source of domestic water. Also it is highly valued for recreational use and for its aesthetically attractive condition.

Among the potential sources of pollution which must be controlled in order to maintain a good quality of water is sewage from subdivisions and individual dwellings in the area of the Guadalupe River. Sewage discharged into organized disposal systems is regulated through the waste permit system of the department. Therefore, this subchapter is concerned with control of sewage not discharged into organized disposal systems. Much of the area in the flood plain contains gravels and alluviums which could allow effluent from septic tanks in the area to enter the river. This could cause adverse effects on the quality of water in the river, including eutrophication of the river. Some areas near the Guadalupe River where soil conditions are not fully conducive to the use of private sewage facilities are expected to rapidly increase in population density.

These sections are promulgated under the authority of the Texas Water Code, Section 26.031.

**§371.231 (157.31.20.001). Definitions.**

(a) "Authority" means the Upper Guadalupe River Authority of Texas.

(b) "Commission" means the Texas Water Commission.

(c) "Board" means the Texas Water Development Board.

(d) "Department" means the Texas Department of Water Resources.

(e) "Guadalupe River" means that portion of the Guadalupe River and its tributaries which lie within Kerr County, Texas.

(f) "Organized disposal systems" means any public system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

(g) "Private sewage facility" means septic tanks and all other facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

(h) "Sewage" means waterborne human or other domestic waste.

(i) "Subdivision" means:

(1) a subdivision which has been platted and recorded with the county clerk of the county in which the land lies, or which is required by statute to be so platted and recorded; or

(2) any 10 or more adjoining lots or tracts, any of which is less than one acre in size.

(j) "Septic tank system" means a system for disposing of sewage through soil absorption and consisting of the following components: the house sewer, the septic tank, and the soil absorption field.

(k) "Soil absorption field" is that part of a septic tank system consisting of drainage pipe and surrounding permeable soil used for the subsurface disposal of septic tank effluent.

(l) "Normally flowing tributaries" are the creeks and branches, to their origin spring, which flow into the Guadalupe River and its three principal tributaries (North Fork, South Fork, and Johnson Creek). The tributaries are listed below and the extent to which each is included in this subchapter is shown on a map in the office of the Upper Guadalupe River Authority and in the Austin office of the Texas Department of Water Resources:

Bear Creek (near Kerrville)	Kelley Creek
Bear Creek (North Fork)	Lin Prong
Bee Caves Creek	Marshall Creek
Bruins Creek	Mullen Creek
Buffalo Creek	Nichols Creek
Byas Branch	North Fork of Cypress Creek
Camp Meeting Creek	Palmer Creek
Cherry Creek	Pass Creek
Clear Springs Creek	Peterson Creek
Cow Head Hollow	Quinlan Creek
Cypress Creek (Comfort)	Rattlesnake Creek
Cypress Creek (South Fork)	Second Creek
Dietert Creek	Silver Creek
Dry Hollow	Spring Creek
East Town Creek	Spur Branch
Elm Creek	Steel Creek
Fall Branch	Tegener Creek
Fall Creek	Third Creek
Fessenden Branch	Town Creek
Goat Creek	Turtle Creek
Hasenwinkel Creek	Verde Creek
Henderson Branch	Wade Hollow
Honey Creek	West Creek
Indian Creek (at Ingram)	Wilson Creek

**§371.232 (157.31.20.002). Regulated Zone.** The regulated zone is designated as the area on either side of the Guadalupe River and its normally flowing tributaries which is within 1,500 feet of the water's edge (at normal flow), measured horizontally away from the stream.

**§371.233 (157.31.20.003). Restricted Area.** The restricted area is designated as the area in the regulated zone immediately adjacent to either side of the Guadalupe River and its normally flowing tributaries which is 125 feet away from the water's edge (at normal flow) measured horizontally away from the stream except where the average percolation rate is less than five minutes per inch of fall, this distance is increased to 200 feet from the water's edge.

**§371.234 (157.31.20.004). Sewage Facilities.**

(a) Regulated zone. Effective June 24, 1976, no sewage facilities of any kind may be constructed within the regulated zone except those of organized disposal systems authorized by valid permits issued by the Texas Water Commission and septic tanks or other approved systems licensed in accordance with this subchapter.

(b) Restricted area. Effective June 24, 1976, no part of any soil absorption field may be constructed within the restricted area. Septic tanks, part of septic tank systems, holding tanks, holding tank systems, tile or concrete sanitary systems, sewer manholes, lift stations, or other sewage facilities will be permitted in the restricted area provided they are constructed in such a way to preclude interchange of sewage with river water.

**§371.235 (157.31.20.005). Discharge of Sewage.** All sewage disposal within the regulated zone shall be in accordance with one of the following types of authorizations:

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission;

(2) sewage discharged into a private sewage facility licensed in accordance with the regulations contained in this subchapter; or sewage discharged into an alternate type of

private sewage facility approved by the Texas Department of Health and licensed by the authority; or

(3) sewage discharged into a private sewage facility existing on June 24, 1976, which is registered with the authority and not causing pollution or injury to public health.

**§371.236 (157.31.20.006). Licensing and Registration Functions.**

(a) The Upper Guadalupe River Authority of Texas is designated by the commission to perform all of the licensing, registration, and enforcement functions of this subchapter.

(1) The authority shall have the following powers:

(A) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter;

(B) to collect all fees approved by the board necessary to recover all costs incurred in meeting the requirements of this subchapter.

(2) The authority shall have the responsibility to perform all the duties necessary to meet the requirements of this subchapter.

(b) Upon showing of necessity, the department may assume all of the powers and responsibilities delegated to the authority by this subchapter.

**§371.237 (157.31.20.007). Local Governments and This Subchapter.**

(a) Any local government with ordinance-making power which has jurisdiction within the area covered by this subchapter shall have the opportunity to apply for designation by the commission as the licensing authority within its jurisdiction for the purposes of this subchapter. A local government applying for such designation shall make a showing of satisfactory capability regarding administration and enforcement of the terms of this subchapter. Upon a showing of satisfactory capability by an applying local government, the commission shall designate the local government as the licensing authority within its jurisdiction for purposes of this subchapter.

(b) A local government designated by the commission as the licensing authority within its own jurisdiction shall have all the rights and powers as well as the responsibilities granted to the Upper Guadalupe River Authority in §371.236 (.006) above.

(c) Upon a showing of necessity, the department may assume all of the duties and responsibilities granted to the local government designated as the licensing authority pursuant to the terms of this subchapter.

**§371.238 (157.31.20.008). Licensing Requirements for New Private Sewage Facilities.**

(a) New private sewage facilities or existing private sewage facilities which are substantially or materially altered, to be located within the boundaries of the regulated zone, must meet the following requirements:

(1) a license must be obtained for the use of these facilities from the authority; and

(2) the lot or tract in question must be large enough, considering soil and drainage conditions and anticipated waste loading, to permit the use of a private sewage facility without causing water pollution, nuisance conditions, or endangerment to public health.

(b) All private sewage facilities to be installed or constructed after June 24, 1976, must conform to the standards set out by the Texas Department of Health which are available from the Upper Guadalupe River Authority.

(c) A new subdivision to be developed within the regulated zone after June 24, 1976, which utilizes private sewage facilities must meet the following requirements:

(1) A license must be obtained from the authority for each private sewage facility.

(2) The lot or tract in the subdivision must be at least 15,000 square feet in size. However, an exception may be granted under the terms and conditions of §371.242 (.012) of this subchapter for subdivisions which have been platted and filed of record in the plat or deed records of Kerr County, Texas, prior to June 24, 1976.

(d) Terms of license for new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence for the unexpired term of the license provided the new owner applies to the authority and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The authority will charge a transfer fee whenever a license is transferred to a succeeding owner.

(2) Application forms for licenses may be obtained from the office of the authority. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the authority.

(3) The authority will perform as soon as practicable such inspections and tests as may be deemed necessary.

(4) Upon a finding by the authority that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and regulations of this subchapter:

(A) A license effective for a term of five years will be issued. At the end of five years, the system will be reinspected and an inspection fee assessed.

(B) A new license issued under the above terms may be renewed for successive terms of five years.

(5) Upon a finding by the authority that the private sewage facility will not be licensed, the applicant shall be notified in writing of that finding and of the faults which prevent licensing.

**§371.239 (157.31.20.009). Approval of Subdivision Plans for Private Sewage Facilities.**

(a) Any developer or person desiring to create a subdivision using private sewage facilities within the boundaries of the regulated zone must obtain approval from the authority of his or her plans for sewage disposal. The party must fulfill the following requirements:

(1) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the authority.

(2) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision;

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(3) If investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The authority will perform necessary tests and inspections to determine whether the subdivision can be served

with private sewage facilities. By agreement between the authority and the developer, all or part of the tests may be performed by an engineering firm or soils testing laboratory approved by the authority or of recognized ability. The authority will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the authority will notify the developer of any areas not suitable for the use of private sewage facilities and whether the proposed development density is consistent with use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in the subdivision.

**§371.240 (157.31.20.010). Registration Requirements for Existing Private Sewage Facilities in Regulated Zone.**

(a) Every private sewage facility existing within the regulated zone on June 24, 1976, will be exempt from the licensing provisions of this subchapter provided:

(1) the facility is registered with the authority within 60 days after written notification is made by the licensing authority;

(2) the system is not malfunctioning and is not causing pollution or injury to public health and the facility is not substantially or materially altered.

(b) The authority will perform as soon as practicable such inspections and tests as may be deemed necessary.

(c) A registration will be effective for a term of five years. At the end of five years, the system will be reinspected.

(d) A registration issued by the authority will be transferred to a succeeding owner provided the new owner applies to the authority and pays the appropriate transfer fee.

(e) A new registration under the above terms may be renewed for successive terms of five years.

**§371.241 (157.31.20.011). Connection of Private Sewage Facility to Organized Waste Collection, Treatment, and Disposal Systems.** In order to implement the stated policy of the legislature and the department that the development and use of organized waste collection, treatment, and/or disposal systems should be encouraged to meet the needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state, the following requirements are set out:

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized waste collection, treatment, and disposal system is developed to within 300 feet in horizontal distance from any part of a private sewage facility, licensed or not, that facility shall be connected to the organized system whenever feasible and legally possible.

**§371.242 (157.31.20.012). Terms and Conditions for Granting of Exceptions.** The commission intends that the regulations contained in the subchapter be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established:

(1) Any person desiring an exception shall file an application with the authority for its analysis of the specific nature of the situation.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the authority's decision and may also set out what corrective measures, if any, could be undertaken to achieve licensure.

**§371.243 (157.31.20.013). Terms and Conditions of Appeal.**

(a) The department intends that any disputes concerning the application of these rules to individual situations be negotiated to conclusion between the authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met;

(2) the aggrieved person has made a conscientious effort to resolve his problems with the authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Department of Water Resources who will then cause notice of the appeal to be issued to the authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§371.244 (157.31.20.014). License Fees.** License fees, inspection fees, transfer fees, and renewal fees will be in accordance with a fee schedule established by the authority and approved by the Texas Water Development Board as set out in §371.247 (.017). These fees shall be paid to and collected by the authority so long as the authority remains the delegatee of the Texas Water Commission for the purposes and functions specified in this subchapter. The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the authority for special services performed by the authority at the request of the applicant in connection with presentation of an application and collection of required data. Percolation tests and other examinations will be performed by the authority on a cost basis. These tests may be performed by a registered engineer or a registered sanitarian.

**§371.245 (157.31.20.015). Enforcement of This Subchapter.**

(a) Criminal penalty (Section 26.214, Texas Water Code).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

**§371.246 (157.31.20.016). Saving Clause.** If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the subchapter and the application of such provision to other persons and circumstances shall not be affected thereby.

**§371.247 (157.31.20.017). Fee Schedule.** The following is the approved fee schedule for the private sewage facility regulatory program concerning the Guadalupe River and its normally flowing tributaries in Kerr County:

- (1) application for license, including inspections—  
\$35;
- (2) percolation test—\$50;
- (3) percolation test with holes provided by owner—  
\$20;
- (4) subdivision application—\$75;
- (5) license and registration renewal—\$15;
- (6) transfer—\$5.00.

Doc. No. 801634

### Subchapter M. Greenbelt Reservoir

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, have adopted §§371.261-371.273 (157.31.21.001-.013), concerning the establishment of a regulated area around Greenbelt Reservoir, promulgating rules and regulations for the control of sewage within the area which is not disposed of in authorized disposal systems, providing for licensing of private sewage facilities, and designating the Greenbelt Municipal and Industrial Water Authority to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

The Texas Water Quality Board, a predecessor agency to the Texas Department of Water Resources, adopted Rules 130.12.21.001-.013, concerning the regulation of private sewage facilities within a regulated area around Greenbelt Reservoir. The adopted rules adopt the substantive provisions of Texas Water Quality Board Rules 130.12.21.001-.014 with changes made in nomenclature.

After considering the request to increase the fees involving applications for licenses and percolation tests, the Texas Water Development Board decided not to grant the increases originally proposed and published. Section 371.273 (.013) has been changed to specify a fee of \$25 for applications for licenses and \$50 for percolation tests.

Copies of these adopted sections may be examined in or obtained from the Texas Water Commission. Copies may also be examined in the Office of the Secretary of State, Texas Register Division.

Greenbelt Reservoir is a 1,990 surface-acre reservoir located on the Salt Fork of the Red River and its tributaries in Donley County. The reservoir is an important source of water for municipal and industrial use. The reservoir is also utilized for recreational purposes, such as boating, skiing, swimming, and fishing.

Among the potential sources of pollution which must be controlled in order to maintain water quality in the reservoir is

sewage from subdivisions, individual dwellings, parks, motels, restaurants, marinas, and other developments surrounding the reservoir. Sewage discharged into organized sewage collection treatment systems is regulated through the permit system of the department; therefore, this subchapter is concerned with the regulations and control of private sewage facilities not operated under a permit issued by the commission. This regulation and control is needed to protect the quality of the waters of Greenbelt Reservoir.

These sections are promulgated under the authority of the Texas Water Code, Section 26.031.

**§371.261 (157.31.21.001). Definitions.**

(a) "Authority" means the Greenbelt Municipal and Industrial Water Authority.

(b) "Board" means the Texas Water Development Board.

(c) "Department" means the Texas Department of Water Resources.

(d) "Commission" means the Texas Water Commission.

(e) "Greenbelt Reservoir" means the reservoir located on the Salt Fork of the Red River and its tributaries in Donley County, approximately five miles north of Clarendon, Texas.

(f) "Organized disposal system" means any system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit issued by the Texas Water Commission.

(g) "Private sewage facilities" means all facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

(h) "Sewage" means waterborne human or other domestic waste.

(i) "Subdivision" means:

(1) a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(2) any 10 or more adjoining lots or tracts, each of which is less than one acre in size.

(j) "msl" is the abbreviation for mean sea level.

**§371.262 (157.31.21.002). Licensing Area.**

(a) **Restricted area.** The restricted area is designated as all the area bounded by a line parallel to and not less than 75 feet from the 2,674.0-foot above msl contour line, measured horizontally away from the reservoir. The restricted area also includes all the area of the lake bed to the 2,674.0-foot above msl contour line, and all islands.

(b) **Water quality area.** The water quality area is defined as all the area in the Greenbelt Reservoir watershed beyond the restricted area bounded by a line parallel to and 2,000 feet from the 2,674.0-foot above msl contour line, measured horizontally away from the reservoir.

(c) **Regulated area.** The regulated area is that area for which this subchapter applies. This area is defined as all the area within the restricted area and water quality area.

**§371.263 (157.31.21.003). Sewage Facilities.**

(a) **Restricted area.** After June 24, 1976, no part of any soil absorption field may be constructed within the restricted area. Sewage facilities or any part of a sewage facility which permits an interchange of sewage with reservoir water may not be constructed within the restricted area after June 24, 1976. Prior to any construction of the following sewage

facilities, plans must be submitted to the authority for determination of the above requirements: lift stations, sewer manholes, septic tanks, parts of septic tank systems, holding tank systems, and tile or concrete sanitary systems.

(b) Water quality area. After June 24, 1976, no sewage facilities of any kind may be constructed within the water quality area except those of organized disposal systems authorized by valid permits issued by the commission or septic tanks or other approved systems licensed in accordance with this subchapter.

**§371.264 (157.31.21.004). Discharge of Sewage.** All sewage disposal within the regulated area shall be in accordance with one of the following types of authorizations:

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission;

(2) sewage discharged into a private sewage facility licensed in accordance with the regulations contained in this subchapter; or licensed by the authority prior to the effective date of this subchapter; or sewage discharged into an alternate type of private sewage facility approved by the Texas Department of Health and licensed by the authority; or

(3) sewage discharged into a private sewage facility existing on June 24, 1976, and not causing pollution or injury to public health.

**§371.265 (157.31.21.005). Licensing Function and Requirements.**

(a) The Greenbelt Municipal and Industrial Water Authority is designated by the commission to perform all of the licensing, enforcement, and related functions of this subchapter.

(1) The authority shall have the following powers:

(A) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and

(B) to collect all fees approved by the board necessary to recover all the costs incurred in meeting the requirements of this subchapter.

(2) The authority shall perform all the duties necessary to meet the requirements of this subchapter.

(b) Upon a showing of necessity, the department may assume all of the powers and responsibilities delegated to the authority by this subchapter.

(c) New private sewage facilities, or existing private sewage facilities which are substantially or materially altered, to be located within the boundaries of the regulated area or within an existing subdivision in the regulated area, must meet the following requirements:

(1) a license must be obtained for the use of these facilities from the authority; and

(2) the lot or tract in question must be large enough, considering soil and drainage conditions and anticipated waste loadings, to permit the use of a private sewage facility without causing water pollution, nuisance conditions, or endangerment to public health.

(d) All private sewage facilities to be installed or constructed after the effective date of this subchapter must conform to the latest standards set out by the Texas Department of Health.

(e) Septic tanks for nonresidential institutions (motels, tourist camps, tourist courts, hospitals, service stations, etc.) to be installed or constructed after the effective date of this

subchapter must conform to the latest standards set out by the Texas Department of Health.

(f) A new subdivision to be developed within the regulated area after June 24, 1976, which utilizes private sewage facilities must meet the following requirements:

(1) a license must be obtained from the authority for each private sewage facility; and

(2) each lot or tract in the subdivision must be at least 1/2 acre in size.

(g) Terms of license for new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence for the unexpired term of the license provided the new owner applies to the authority and provided there is no significant change in amount or quality of waste to be placed in the private sewage facility. The authority will charge a transfer fee whenever a license is transferred to a succeeding owner.

(2) Application forms for licenses may be obtained from the authority. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the authority.

(3) The authority will perform as soon as practical such inspections and tests as may be deemed necessary.

(4) Upon a finding by the authority that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and regulations of this subchapter:

(A) A license effective for a term of five years will be issued. At the end of five years, the system will be reinspected and an inspection fee assessed; and

(B) A new license issued under the above terms may be renewed for successive terms of five years.

(5) Upon a finding by the authority that the private sewage facility will not be licensed, the applicant shall be notified in writing of the finding and of the faults which prevent licensing.

**§371.266 (157.31.21.006). Approval of Subdivisions for Private Sewage Facilities.** Any developer or other person interested in creating a subdivision using private sewage facilities must obtain approval from the authority of the plans for sewage disposal. The party must fulfill the following requirements:

(1) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the authority.

(2) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision; and

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

**§371.267 (157.31.21.007). Connection of Private Sewage Facility to Organized Waste Collection, Treatment, and Disposal Systems.** In order to implement the state policy of the legislature and the department that the development and use of organized waste collection, treatment, and/or disposal systems should be encouraged to meet the needs of the citizens of the state and to prevent pollution and maintain



and enhance the quality of the water in the state, the following requirements are set out:

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized system whenever feasible and legally possible.

(2) Whenever an organized waste collection, treatment, and disposal system is developed to within 300 feet in horizontal distance from any part of a private sewage facility, licensed or not, that facility shall be connected to the organized system within 90 days whenever feasible and legally possible.

**§371.268 (157.31.21.008). Terms and Conditions for Granting of Exceptions.** The commission intends that the regulations contained in the order be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established:

(1) Any person desiring an exception shall file an application with the authority for its analysis of the specific nature of the situation.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the authority's decision and may also set out what corrective measures, if any, could be undertaken to achieve licensure.

**§371.269 (157.31.21.009). Terms and Conditions for Appeal.**

(a) The department intends that any disputes concerning the application of these sections to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met;

(2) the aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Department of Water Resources who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§371.270 (157.31.21.010). License Fees.** License fees, inspection fees, registration fees, transfer fees, and renewal fees will be in accordance with a fee schedule established by the authority and approved by the Texas Water Development Board. These fees shall be paid to and collected by the authority so long as the authority remains the delegatee of the Texas Water Commission for the purposes and functions specified in this subchapter. The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the authority at the request of the applicant in connection with presentation of an application and collection of required data. Percolation tests and other examinations will be performed by the authority on a cost basis. These tests may also be performed by a registered engineer or

a registered sanitarian. The fee schedule will be in accordance with §371.273 (.013) of this subchapter.

**§371.271 (157.31.21.011). Enforcement of This Order.**

(a) Criminal penalty. As provided in Section 26.214 of the Texas Water Code, a person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense. Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

**§371.272 (157.31.21.012). Severability Clause.** If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the subchapter and of the application of such provision to other persons and circumstances shall not be affected hereby.

**§371.273 (157.31.21.013). Fee Schedule.** The following represents the approved fee schedule for the private sewage facilities regulatory program around Greenbelt Reservoir:

- (1) application fee for license—\$25;
- (2) percolation test—\$50;
- (3) license renewal fee (five years)—\$10;
- (4) transfer—\$5.00

Doc. No. 801635

## Subchapter N. Cedar Creek Reservoir

The Texas Water Commission and the Texas Water Development Board, on behalf of the Texas Department of Water Resources, have adopted §§371.281-371.294 (157.31.22.001-.014), concerning the establishment of a regulated area around Cedar Creek Reservoir, promulgating rules and regulations for the control of sewage within the area which is not disposed of in authorized disposal systems, providing for licensing of private sewage facilities, and designating the Tarrant County Water Control and Improvement District No. 1 to perform the licensing, regulation, and enforcement functions related to the rules and regulations set forth herein.

The Texas Water Quality Board, a predecessor agency to the Texas Department of Water Resources, adopted Rules 130.12.22.001-.014, concerning the regulation of private sewage facilities within a regulated area around Cedar Creek Reservoir. The adopted rules adopt the substantive provisions of Texas Water Quality Board Rules 130.12.22.001-.014 with changes made in nomenclature.

Copies of these adopted sections may be examined in the offices of or obtained from the Texas Water Commission. Copies may also be examined in the Office of the Secretary of State, Texas Register Division.

Cedar Creek Reservoir is located approximately two miles south of the City of Kemp near the Trinity River in Kaufman and Henderson Counties. The lake is used as a water supply by the City of Fort Worth and other communities and for

recreation. Among the potential sources of water pollution which must be controlled in order to maintain these standards of water quality is the disposal of sewage from individual dwellings, motels, marinas, and other such developments surrounding the reservoir. Sewage discharged into organized waste collection, treatment, and disposal systems is regulated through the permit system of the Texas Department of Water Resources. The regulation of sewage discharged in the private sewage facilities is the special concern of this subchapter because the area surrounding Cedar Creek Reservoir is experiencing an increase in population density. This regulation and control is needed to protect the quality of the waters of Cedar Creek Reservoir.

These sections are promulgated under the authority of the Texas Water Code, Section 26.031.

**§371.281 (157.31.22.001). Definitions.**

- (a) "District" means the Tarrant County Water Control and Improvement District No. 1.
- (b) "Department" means the Texas Department of Water Resources.
- (c) "Commission" means the Texas Water Commission.
- (d) "Board" means the Texas Water Development Board.
- (e) "Cedar Creek Reservoir" means the lake near the Trinity River in Kaufman and Henderson Counties, approximately two miles south of the City of Kemp.
- (f) "Sewage" means waterborne human or other domestic waste.
- (g) "Organized disposal system" means any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.
- (h) "Private sewage facility" means all facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.
- (i) "Holding tank" means a vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for delivery to an approved sewage disposal system.
- (j) "Subdivision" means:
  - (1) a subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or
  - (2) any four or more adjoining lots or tracts, any of which is less than two acres in size.
- (k) "msl" is an abbreviation for mean sea level.

**§371.282 (157.31.22.002). Regulated Area.** The regulated area is the area for which this regulation applies. This area is defined as all the area in Cedar Creek Reservoir Watershed bounded by a line with all points on that line being a distance of 2,000 feet from the nearest point on the 325 foot msl contour line, measured horizontally away from the reservoir. The regulated area also includes all the area of the lake bed to the 325 foot msl contour line, and all islands.

**§371.283 (157.31.22.003). Regulations Controlling the Discharge of Sewage within the Regulated Area.** All sewage disposal within the regulated area shall be in accordance with one of the following types of authorizations:

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission;

(2) sewage discharged into private sewage facilities licensed in accordance with the regulations contained in this subchapter; or, sewage discharged into an alternate type of private sewage facility which meets the standards of the Texas Department of Health and licensed by the district; or

(3) sewage discharged into a private sewage facility registered in accordance with the terms and conditions of this subchapter.

**§371.284 (157.31.22.004). Licensing Functions.** The Tarrant County Water Control and Improvement District No. 1 is designated by the commission to perform all licensing and enforcement functions of the subchapter. The district shall have the following powers:

(1) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and

(2) to perform all the duties necessary to meet the requirements of this subchapter.

**§371.285 (157.31.22.005). Licensing Requirements for New Private Sewage Facilities.**

(a) Private sewage facilities installed after June 24, 1976, within the boundaries of the regulated area must meet with the following requirements:

(1) A license must be obtained for the construction of these facilities from the district.

(2) The lot or tract which the private sewage facilities will serve must be at least 15,000 square feet in size, except any lot or tract platted and recorded prior to October 1, 1975, must contain at least 4,000 square feet.

(b) All private sewage facilities to be installed or constructed after the effective date of this subchapter must conform to the standards set out by the Texas Department of Health. These standards are available from the Tarrant County Water Control and Improvement District No. 1 offices located in Fort Worth, Texas, or at Cedar Creek Reservoir.

(c) Terms for license of new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner and such license will continue in existence, provided the new owner applies to the district and provided there is no significant change in the amount or quality of waste to be placed in the private sewage facility. The district will charge a transfer fee whenever a license is transferred to a succeeding owner.

(2) Application forms for licenses may be obtained from the district. In order to initiate an application, a completed application form together with the appropriate fee shall be filed with the district.

(3) The district will cause to be performed such inspections and tests as may be deemed necessary as soon as practicable.

(4) Upon a finding by the district that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and regulations of this subchapter, a license will be issued.

(5) Upon a finding by the district that the private sewage facility will not be licensed, the applicant shall be notified in writing of that finding and of the nature of the faults which prevent licensing.

**§371.286 (157.31.22.006). Approval of Subdivision Plans for Private Sewage Facilities.**

(a) Any developer or other person interested in creating a subdivision using private sewage facilities must obtain approval from the district of his plan for sewage disposal. He must fulfill the following requirements:

(1) A plat of the proposed subdivision must be filed with, approved by, and recorded by the county commissioners court of the county in which it is located.

(2) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the district.

(3) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision; and

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(4) If investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The district will cause to be prepared a percolation test profile of the entire subdivision, consisting of percolation tests of a representative number of proposed lots or tracts (as determined and approved by the district) to determine whether the subdivision can be served with private sewage facilities, such tests to be at the expense of the developer.

(c) By direction of the district, all or part of the tests may be performed by an engineering firm or soils testing laboratory approved by the district. The district will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the district will notify the developer of any areas not suitable for use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

**§371.287 (157.31.22.007). Existing Private Sewage Disposal Systems.**

(a) Private sewage disposal facilities existing within the regulated area before June 24, 1976, are not required to be licensed provided the facility is not causing pollution or injury to public health.

(b) If a system in existence before June 24, 1976, is found to be malfunctioning, the district shall require correction and licensing as a new system in accordance with §371.285 (.005) of this title.

(c) Private sewage disposal facilities existing within the regulated area before June 24, 1976, must be licensed as a new facility if the facility is substantially or materially altered.

**§371.288 (157.31.22.008). Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.** In order to implement the stated policy of the legislature and the department that the development and use by interested and affected parties of organized waste collection, treatment, and disposal systems to serve the waste dis-

posal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state should be encouraged, the commission makes the following requirements:

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system capable of serving in lieu thereof; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized system with service capability is developed within 300 feet in horizontal distance from any part of a private sewage facility, that facility shall be connected to the organized system whenever feasible and legally possible.

**§371.289 (157.31.22.009). Terms and Conditions for Granting Exceptions.** The commission intends that the regulations contained in this subchapter shall be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established:

(1) Any person desiring an exception shall file an application with the district for its analyses of the specifics of the situation.

(2) The district shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the district's decision, and may also set out what corrective measures, if any, could be undertaken to obtain licensure.

**§371.290 (157.31.22.010). Terms and Conditions of Appeal.**

(a) The department intends that any disputes concerning the application of these rules to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) all of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met;

(2) the aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Department of Water Resources who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§371.291 (157.31.22.011). License Fees.**

(a) License fees will be in accordance with a fee schedule established by the district and approved by the Texas Water Development Board. These fees shall be paid to and collected by the district so long as the district remains the designated agent for the purposes and functions specified in this subchapter. The fee schedule is set out in Rule .014 of this subchapter.

(b) The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the district for special services performed by the district at the

request of the applicant in connection with presentation of an application and required data. Percolation tests and other examinations will be performed by engineering firms or soils testing laboratories approved by the district.

§371.292 (157.31.22.012). *Enforcement of This Subchapter.*

(a) Criminal penalty (Section 26.214, Texas Water Code).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Chapter 26 of the Texas Water Code.

§371.293 (157.31.22.013). *Severability Clause.* If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

§371.294 (157.31.22.014). *Fee Schedule.* The following represents the approved fee schedule for the private sewage facilities regulatory program around Cedar Creek Reservoir:

- (1) application and inspection fee—\$15;
- (2) percolation test—\$50;
- (3) transfer fee—\$5.00.

Issued in Austin, Texas, on February 27, 1980.

Doc. No. 801636      Mary Ann Heher  
 Chief Clerk  
 Texas Water Commission  
 Bruce Bigelow  
 General Counsel  
 Texas Department of Water Resources

Effective Date: March 21, 1980

Proposal Publication Date: November 30, 1979

For further information, please call (512) 475-1311.



## NONCODIFIED

### State Board of Barber Examiners Practice and Procedure

#### The Board 378.01.01

The State Board of Barber Examiners has adopted an amendment to Rule 378.01.01.001 under the authority of Articles 8401-8407 and 8407a, Texas Civil Statutes, to read as follows:

.001. *Regular Meetings and Examinations.* Examinations will be held on the first Monday of each month, and regular meetings of the State Board of Barber Examiners will be held on the Tuesday following the first Monday of each month, except September and any legal holiday which falls on the first Monday, when examinations will be held on the second Monday and the board will meet on the second Tuesday. Meetings of the board will be held at 5555 North Lamar, Building H, Suite 111, Austin, Texas.

Issued in Austin, Texas, on March 4, 1980.

Doc. No. 801697      Mary Jo McCrorey  
 Executive Secretary  
 State Board of Barber Examiners

Effective Date: March 25, 1980

Proposal Publication Date: January 18, 1980

For further information, please call (512) 458-2241.

### Texas State Board of Dental Examiners Dentistry

#### Denture Set-Up, Diagnosis, and Treatment Plan/Preclinical Examination 382.01.06

The Texas State Board of Dental Examiners withdraws from consideration a proposed amendment to Rule 382.01.06.002, Diagnosis and Treatment Plan. The amendment was proposed in the February 1, 1980, issue of the *Texas Register* (5 TexReg 308).

Issued in Austin, Texas, on March 5, 1980.

Doc. No. 801713      Carl C. Hardin, Jr.  
 Executive Director  
 Texas State Board of Dental Examiners

Filed: February 2, 1980, 9:41 a.m.

For further information, please call (512) 475-2443.

### Texas Department of Health Long-Term Care

The Texas Department of Health has adopted proposed amendments to Rule 301.54.02.006, Minimum Licensing

**Standards for Nursing Homes**, published in the December 11, 1979, issue of the *Texas Register*, (4 TexReg 4462), with a few changes as a result of written comments submitted to the department and testimony received at a public hearing. The major comments and the department's responses to them are as follows:

(1) Facility training coordinators should be able to delegate authority for checking the credentials of persons being trained. The department agrees with this suggestion and has provided wording accordingly.

(2) A consultant's time should be used only for consultation. The department believes a consultant's time spent in conducting in-service education may appropriately be counted as part of the time spent in consultation, though the time spent in teaching orientation or job-specific subjects should not be counted as consultation time. Since the proposed wording is in line with the department's position as above stated, no change in the proposed wording is necessary.

(3) A number of facilities use the training program as a mechanism for recruiting employees. In this instance, the training record of an individual not employed in a long-term facility should be available to that individual upon completion of training. Moreover, the availability of an individual's training record should be based upon successful completion of course work and demonstrated abilities to perform appropriate skill levels to the satisfaction of the training coordinator or his or her designee. Therefore, the granting of a record of training may or may not take as long as 120 days for an individual. The department agrees with the comment and has changed the proposed wording accordingly.

(4) The training time for orientation should be 15 days; the training time for completion of job-specific training should remain 90 days. The department believes the proposed times of 10 working days for completion of orientation and 120 calendar days following the 10 working day orientation period for completion of job-specific training are more appropriate, and the comments were not accepted.

The effective date of these amendments is March 31, 1980.

### Minimum Licensing Standards for Nursing Homes 301.54.02

These amendments are being adopted pursuant to Article 4442c, Texas Civil Statutes.

#### .006. Personnel.

(a)-(d) (No change.)

(e) Staff development.

(1) Each facility shall implement and maintain programs of orientation, training, and continuing in-service education of all employees who have any contact with the residents. The programs shall meet the requirements described below. However, these specified programs of orientation, training, and continuing in-service education do not apply to licensed facilities or sections thereof participating in the ICF-MR-V and VI categories under Title XIX of the Social Security Act.

(2) General description of orientation, training, and continuing in-service education programs. The following orientation, training, and continuing in-service education programs shall be provided by the facility for its employees as further defined:

(A) Present employees shall demonstrate and/or submit evidence to the facility training coordinator that they

have competency in the skills and have knowledge meeting the requirements of orientation and job-specific training, the same as required for new employees, or shall receive part or all orientation or training as necessary to have such required competency and knowledge. Documentation of attainment of competency and receipt of knowledge shall be on the same report forms as for new employees, those forms being derived from a standard training inventory list prepared by and supplied only in sample form by the licensing agency. The facility shall make all necessary copies. The form shall not be modified in any way. The standard training inventory list, hereinafter referred to as the training inventory list, will be the document used to accomplish the following:

(i) To serve as an inventory for determining if more training is needed for present employees, and if so, in what areas.

(ii) To determine the level of training success for each employee.

(iii) To point out employees who fail to adequately complete training and who must receive all or part of the orientation or training again as necessary to gain required competency and knowledge.

(iv) The orientation section of the training inventory list will be the same for all employees. Each job-specific area will be covered by the training inventory list. The inventory list will be administered by the facility training coordinator or by the appropriate and competent person named to carry out or assist in carrying out the training program. The administrator of the inventory list must be closely familiar with the actual training each individual taking the training inventory list has undergone.

(B) New employees shall receive orientation and job-specific training of content and scope as specified herein and as approved by the licensing agency. This training must be verified by administration of the training inventory list upon completion of training.

(C) Both new and present employees must receive continuing in-service education of content and scope, as it relates to the job category involved and as approved by the training coordinator.

(3) Employees involved.

(A) Employees included are those having responsibility for any part of the care given to residents and who have any contact with residents. Licensed and degreed personnel will not be required to be included in Sections II through VI (job-specific training) of the basic training outline of the licensing agency for these training programs, but will be included in training required for all employees found in Section I, Orientation, and in continuing education.

(B) Orientation is required for all employees, except the administrator. The employee categories requiring job-specific training and continuing in-service education to their respective jobs are: nursing, dietary, janitor/housekeeper, activity-social service, and medical records. Medical records, however, is not included in continuing in-service education.

(C) For the purposes of this rule, a medication aide is considered a nurse aide and must receive the same training as the nurse aides in orientation, job-specific training, and continuing in-service education. The continuing in-service education requirement for nurse aides in this rule may not be used for renewal as a medication aide.

(D) Administrators licensed by the Texas Board of Licensure for Nursing Home Administrators and administra-

tors-in-training under the auspices of that board are not included. Consultants and subcontract personnel who are not employees of the facility are not included.

(E) A person who is employed as a food service supervisor and enrolls in an approved food service supervisors course within 90 calendar days after the date of employment is not required to receive the dietary job-specific training.

(F) Activity directors who meet the requirements for activity directors under the intermediate care facility standards for participation of the Texas Department of Human Resources are excluded from the job-specific training.

(G) A person who is employed as the activity director and enrolls in an activity directors course that is approved by the Texas Department of Human Resources is exempt from the activities director training, provided the 80-hour activity director course is begun within 90 calendar days after the date of employment.

(H) The administrator shall be responsible for determining that employees who come from outside placement resources have been adequately trained to perform the job which they will occupy in the home. Outside placement resources would include contract personnel, registry personnel, agency pools, and temporary help placement agencies. Orientation programs for such individuals may be conducted at the discretion of each facility. Facility administrators shall request outside placement resources to provide documented evidence that their personnel has successfully completed the required training.

(4) Facility training coordinator.

(A) The administrator of the nursing home or custodial care home shall designate in writing a facility training coordinator to organize, oversee, and coordinate the facility's program of orientation, job-specific training, and continuing in-service education. The training coordinator shall engage the services of appropriate and competent persons to carry out or assist in carrying out the programs. The coordinator, on recommendation of the instructors or trainers involved or based on his own instruction, shall determine the status of all employees, new and present, with respect to training programs, training needs, and competencies. The coordinator will be held responsible for checking or causing to be checked the credentials of persons being trained.

(B) A training coordinator may serve more than one facility as long as the training program requirements are met. As the training coordinator will be responsible for the training of all employee categories, that person shall be professionally or vocationally licensed person in health care or shall hold a bachelors degree from an accredited college or university. Ideally, the training coordinator will have had training or experience in adult education and in the general areas of health care.

(C) To assure the overall quality of service provided by the facility is not lessened, the facility administrator and director of nurses are not to serve as the training coordinator.

(5) Methods acceptable.

(A) It is the intent of the licensing agency to accept various methods by which a facility may accomplish its training and in-service education programs as long as the employees receive the training and education necessary to achieve the competencies and proficiencies outlined in the

training inventory list within the required total time frames. Programs may be conducted in the facility, in a school or college, or elsewhere. Instructors may be consultants, qualified facility employees including the training coordinator, persons from outside the facility, or representatives of schools or other organizations, as engaged or approved by the training coordinator. Facility employees with other duties may be used in training programs, as long as their other required duties are not adversely affected.

(B) A facility consultant may teach the continuing in-service education required in this program and count that as part of the time spent in consultation. The time a consultant may use teaching in orientation (Section I) or job-specific training (Sections II through VI) may not be counted as time spent in consultation.

(C) Any generally recognized training technique may be used, including, when appropriate, demonstration and learning-by-doing while actually on the job. In teaching technical and nursing care of the elderly and other residents of the facilities, consideration shall be given in all such subjects to the psychological and social needs of the residents.

(D) If the facility chooses to purchase training from a college or school, or other institution, to meet these requirements, the course must be approved. For a college, school, or other institution to acquire approval, it must submit a letter of intent or training outline it will use to the licensing agency for approval. If the college, school, or other institution uses the material suggested by the licensing agency, it may submit a letter of intent to the licensing agency. In either case, it is the facility's responsibility to determine that the college, school, or other institution has a current approval from the licensing agency. The licensing agency will maintain a current list of approved training institutions. Health care facilities shall have open access to that list.

(6) Examinations. The training coordinator is to assure himself or herself that the employee being trained is in fact receiving the knowledge and attaining the skills in accordance with the intent of the program. The licensing agency will provide samples of the required standardized training inventory list. The training coordinator may develop examinations or other tests of skills or knowledge, but such tests may not be used in lieu of the required standardized training inventory list.

(7) Records.

(A) Each facility shall keep appropriate records on each employee who must be involved in training and education programs. The records shall show the status and progress of each employee with reference to his or her required training and shall denote completion and show the date of completion of the appropriate training. An employee is not eligible to receive a record of completion of job-specific training until the required course work is completed and the training coordinator is satisfied appropriate skill levels are attained. Thus, the awarding of a completion record may take as long as 120 calendar days for an employee.

(B) Copies of all records and training inventory lists will be maintained in employee files. However, when the training is provided by a school, college, or other educational institution approved by the licensing agency, those records and training inventory lists need only be maintained by the training institution. Training inventory lists and records pertaining to orientation will in all cases be maintained by the health care facility. A record or report from an educa-

tional institution attesting that a student has successfully completed a training course will be acceptable to the licensing agency, but such record or report must be available in the health care facility involved for review by the licensing agency. Records of a student or graduate of an educational institution will be made available to the student or graduate on his or her request in accordance with policies of the institution. When an employee terminates employment in a health care facility, on that employee's request, the facility shall provide that employee with a copy of his or her training inventory list and/or other documentation showing his or her status with respect to required training; such records shall be shared with another facility on request of the employee. All records shall be made available to representatives of the licensing agency. The facility shall also have a record showing the designation of the training coordinator by the administrator and a resume or curriculum vitae of the coordinator.

(8) Programs teaching outline.

(A) New employee training. New employee orientation and job-specific training shall meet the requirements specified in "Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes, Revised, Texas Department of Health." The training for an employee shall include information not less than that specified for the category or subcategory applicable to the employee in the basic teaching outlines included as a part of these rules and regulations.

(B) If a facility has a policy prohibiting a skill to be performed, that facility may exclude the training for that skill. Similarly, if a facility has no patients requiring a certain skill, that facility may exclude the training for that skill. In both cases, documentation to this effect shall be made on the individual's training inventory list.

(C) Each facility shall submit a letter of intent which shall include an outline of the subject matter (if different from the one suggested by the licensing agency), the date of implementation of the training, the name and curriculum vitae of the designated training coordinator. The substituted teaching outline is subject to approval by the licensing agency. A copy of the licensing agency's basic teaching outline and suggested plan for implementing the training program will be furnished to each facility; additional copies may be reproduced by the facility. The minimum subject requirements of training for each category are shown in the licensing agency's basic teaching outline, and it is expected that each individual subject in each category will receive an appropriate amount of time. Appropriate learning-by-doing, when supervised by the training coordinator, or the person designated by the training coordinator, may count toward job-specific training. Such training may be subject to monitoring and approval by the licensing agency.

(B) Continuing in-service education. Continuing in-service education subjects shall relate to the job category involved and be as approved by the training coordinator.

(9) Schedule of training and continuing in-service education.

(A) New employee training. Full orientation shall be provided within 10 working days of employment. The remainder of the training required on the outline for each of the respective job categories shall be completed within 120 calendar days following the 10 working day orientation.

(B) Continuing in-service education.

(i) Each new and present employee shall secure or receive the numbers of hours of continuing in-service

education per year as appropriate to his or her specific job, but not less than the following: licensed nursing personnel and nurse aides—two hours per quarter; food service supervisors, cooks and helpers, dietary aides—two hours per quarter; housekeepers, janitors, laundry workers—one hour per quarter; activity staff—one hour per quarter; social services staff—one hour per quarter. When related to the employee's respective job, attendance at outside meetings or seminars may be used to satisfy the continuing in-service education requirement for a maximum of four quarters.

(ii) The facility shall keep records of the total number of hours of in-service education for all employees in the home as well as records of attendance of each individual employee.

(C) Present employees. Documentation that present employees meet the same requirements for new employees shall be recorded on the same training inventory list and other report forms, as used for new employees.

(10) Employees already trained or partly trained when employed.

(A) Any new employee who has already met all the training requirements or has had similar training, or six months previous employment in a health care facility, and presents verification of previous experience, need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility. To receive credit for all or any completed portion of past training, the employee must be able to offer documented evidence in the form of copies of records of subjects completed in the facility of former employment or demonstrate skill competency to the training coordinator. In either instance, the training inventory list will be used as the record for documenting credit.

Any new employee that has had at least six months previous experience in a health care facility may demonstrate competency to the training coordinator. The required training inventory list will be administered by the facility training coordinator or by the appropriate and competent person to determine if more training is needed, and if so, in what areas. The employee's previous service dates are to be verified by the former employer, and this documentation included in the employee's training record.

(B) Job interruption for any reason, including leave of absence, will cause a suspension of the minimum training time. The training time restarts immediately upon the renewal of active employment.

(C) Part-time employees.

(i) Part-time employees shall be included in orientation and their respective job-specific training and continuing in-service education.

(ii) Additional time may be allowed for the completion of both the orientation and job-specific training for part-time employees. The number of hours worked will determine the time allowed for completion of training. Orientation must be completed within 80 hours worked and job-specific within 960 hours worked.

(11) Employees changing positions within the facility. An employee changing position within a facility will be considered as a new employee with respect to the new position, and will be subject to being provided with any additional training that would be required for the category or subcategory of the new position within the total minimum training time for that job category or subcategory.

(12) Monitoring and assistance by the licensing agency. Each facility shall maintain not less than a 30-day

advance schedule of training classes. This shall not apply for classes being taught by a college, school, or other institution, where the advance scheduling becomes the responsibility of that institution. The licensing agency may monitor any training or education session. The licensing agency will offer assistance in organizing and maintaining training programs, or in orienting training coordinators, to the extent licensing agency staff and funds permit.

(13) Change of ownership.

(A) When a facility undergoes a change in ownership, the administrator shall submit a letter to the licensing agency to report the status of the training program. If the training programs remain unchanged, the letter shall so state. Changes of training coordinator or the method by which the facility accomplishes its training should be reported in writing.

(B) The change of ownership letter must be submitted within 30 days of the change. Pending approval from the licensing agency, the facility should begin the training program so as to have it fully operational within 60 days following the change of ownership.

Doc. No. 801661

## Minimum Licensing Standards for Custodial Care Homes 301.54.03

These amendments are being adopted pursuant to Article 4442c, Texas Civil Statutes.

### .006. Personnel.

(a)-(d) (No change.)

(e) Staff development.

(1) Each facility shall implement and maintain programs of orientation, training, and continuing in-service education of all employees who have any contact with the residents. The programs shall meet the requirements described below. However, these specified programs of orientation, training, and continuing in-service education do not apply to licensed facilities or sections thereof participating in the ICF-MR-V and VI categories under Title XIX of the Social Security Act.

(2) General description of orientation, training, and continuing in-service education programs. The following orientation, training, and continuing in-service education programs shall be provided by the facility for its employees as further defined:

(A) Present employees shall demonstrate and/or submit evidence to the facility training coordinator that they have competency in the skills and have knowledge meeting the requirements of orientation and job-specific training, the same as required for new employees, or shall receive part or all orientation or training as necessary to have such required competency and knowledge. Documentation of attainment of competency and receipt of knowledge shall be on the same report forms as for new employees, those forms being derived from a standard training inventory list prepared by and supplied only in sample form by the licensing agency. The facility shall make all necessary copies. The form shall not be modified in any way. The standard training inventory list, hereinafter referred to as the training inventory list, will be the document used to accomplish the following:

(i) To serve as an inventory for determining if more training is needed for present employees, and if so, in what areas.

(ii) To determine the level of training success for each employee.

(iii) To point out employees who fail to adequately complete training and who must receive all or part of the orientation or training again as necessary to gain required competency and knowledge.

(iv) The orientation section of the training inventory list will be the same for all employees. Each job-specific area will be covered by the training inventory list. The inventory list will be administered by the facility training coordinator or by the appropriate and competent person named to carry out or assist in carrying out the training program. The administrator of the inventory list must be closely familiar with the actual training each individual taking the training inventory list has undergone.

(B) New employees shall receive orientation and job-specific training of content and scope as specified herein and as approved by the licensing agency. This training must be verified by administration of the training inventory list upon completion of training.

(C) Both new and present employees must receive continuing in-service education of content and scope, as it relates to the job category involved and as approved by the training coordinator.

(3) Employees involved.

(A) Employees included are those having responsibility for any part of the care given to residents and who have any contact with residents. Licensed and degreed personnel will not be required to be included in Sections II through VI (job-specific training) of the basic training outline of the licensing agency for these training programs, but will be included in training required for all employees found in Section I, Orientation, and in continuing education.

(B) Orientation is required for all employees, except the administrator. The employee categories requiring job-specific training and continuing in-service education to their respective jobs are: nursing, dietary, janitor/housekeeper, activity-social service, and medical records. Medical records, however, is not included in continuing in-service education.

(C) For the purposes of this rule, a medication aide is considered a nurse aide and must receive the same training as the nurse aides in orientation, job-specific training, and continuing in-service education. The continuing in-service education requirement for nurse aides in this rule may not be used for renewal as a medication aide.

(D) Administrators licensed by the Texas Board of Licensure for Nursing Home Administrators and administrators-in-training under the auspices of that board are not included. Consultants and subcontract personnel who are not employees of the facility are not included.

(E) A person who is employed as a food service supervisor and enrolls in an approved food service supervisors course within 90 calendar days after the date of employment is not required to receive the dietary job-specific training.

(F) Activity directors who meet the requirements for activity directors under the intermediate care facility standards for participation of the Texas Department of Human Resources are excluded from the job-specific training.



(G) A person who is employed as the activity director and enrolls in an activity directors course that is approved by the Texas Department of Human Resources is exempt from the activities director training, provided the 80-hour activity director course is begun within 90 calendar days after the date of employment.

(H) The administrator shall be responsible for determining that employees who come from outside placement resources have been adequately trained to perform the job which they will occupy in the home. Outside placement resources would include contract personnel, registry personnel, agency pools, and temporary help placement agencies. Orientation programs for such individuals may be conducted at the discretion of each facility. Facility administrators shall request outside placement resources to provide documented evidence that their personnel has successfully completed the required training.

(4) Facility training coordinator.

(A) The administrator of the nursing home or custodial care home shall designate in writing a facility training coordinator to organize, oversee, and coordinate the facility's program of orientation, job-specific training, and continuing in-service education. The training coordinator shall engage the services of appropriate and competent persons to carry out or assist in carrying out the programs. The coordinator, on recommendation of the instructors or trainers involved, or based on his own instruction, shall determine the status of all employees, new and present, with respect to training programs, training needs, and competencies. The coordinator will be held responsible for checking or causing to be checked the credentials of persons being trained.

(B) A training coordinator may serve more than one facility as long as the training program requirements are met. As the training coordinator will be responsible for the training of all employee categories, that person shall be professionally or vocationally licensed person in health care or shall hold a bachelors degree from an accredited college or university. Ideally, the training coordinator will have had training or experience in adult education and in the general areas of health care.

(C) To assure the overall quality of service provided by the facility is not lessened, the facility administrator and director of nurses are not to serve as the training coordinator.

(5) Methods acceptable.

(A) It is the intent of the licensing agency to accept various methods by which a facility may accomplish its training and in-service education programs as long as the employees receive the training and education necessary to achieve the competencies and proficiencies outlined in the training inventory list within the required total time frames. Programs may be conducted in the facility, in a school or college, or elsewhere. Instructors may be consultants, qualified facility employees including the training coordinator, persons from outside the facility, or representatives of schools or other organizations, as engaged or approved by the training coordinator. Facility employees with other duties may be used in training programs, as long as their other required duties are not adversely affected.

(B) A facility consultant may teach the continuing in-service education required in this program and count that as part of the time spent in consultation. The time a consultant may use teaching in orientation (Section I) or job-

specific training (Sections II through VI) may not be counted as time spent in consultation.

(C) Any generally recognized training technique may be used, including, when appropriate, demonstration and learning-by-doing while actually on the job. In teaching technical and nursing care of the elderly and other residents of the facilities, consideration shall be given in all such subjects to the psychological and social needs of the residents.

(D) If the facility chooses to purchase training from a college or school, or other institution, to meet these requirements, the course must be approved. For a college, school, or other institution to acquire approval, it must submit a letter of intent or training outline it will use to the licensing agency for approval. If the college, school, or other institution uses the material suggested by the licensing agency, it may submit a letter of intent to the licensing agency. In either case, it is the facility's responsibility to determine that the college, school, or other institution has a current approval from the licensing agency. The licensing agency will maintain a current list of approved training institutions. Health care facilities shall have open access to that list.

(6) Examinations. The training coordinator is to assure himself or herself that the employee being trained is in fact receiving the knowledge and attaining the skills in accordance with the intent of the program. The licensing agency will provide samples of the required standardized training inventory list. The training coordinator may develop examinations or other tests of skills or knowledge, but such tests may not be used in lieu of the required standardized training inventory list.

(7) Records.

(A) Each facility shall keep appropriate records on each employee who must be involved in training and education programs. The records shall show the status and progress of each employee with reference to his or her required training and shall denote completion and show the date of completion of the appropriate training. An employee is not eligible to receive a record of completion of job-specific training until the required course work is completed and the training coordinator is satisfied appropriate skill levels are attained. Thus, the awarding of a completion record may take as long as 120 calendar days for an employee.

(B) Copies of all records and training inventory lists will be maintained in employee files. However, when the training is provided by a school, college, or other educational institution approved by the licensing agency, those records and training inventory lists need only be maintained by the training institution. Training inventory lists and records pertaining to orientation will in all cases be maintained by the health care facility. A record or report from an educational institution attesting that a student has successfully completed a training course will be acceptable to the licensing agency, but such record or report must be available in the health care facility involved for review by the licensing agency. Records of a student or graduate of an educational institution will be made available to the student or graduate on his or her request in accordance with policies of the institution. When an employee terminates employment in a health care facility, on that employee's request, the facility shall provide that employee with a copy of his or her training inventory list and/or other documentation showing his or her status with respect to required training; such records shall be shared with another facility on request of the employee. All

records shall be made available to representatives of the licensing agency. The facility shall also have a record showing the designation of the training coordinator by the administrator and a resume or curriculum vitae of the coordinator.

(8) Programs teaching outline.

(A) New employee training. New employee orientation and job-specific training shall meet the requirements specified in "Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes, Revised, Texas Department of Health." The training for an employee shall include information not less than that specified for the category or subcategory applicable to the employee in the basic teaching outlines included as a part of these rules and regulations.

(B) If a facility has a policy prohibiting a skill to be performed, that facility may exclude the training for that skill. Similarly, if a facility has no patients requiring a certain skill, that facility may exclude the training for that skill. In both cases, documentation to this effect shall be made on the individual's training inventory list.

(C) Each facility shall submit a letter of intent which shall include an outline of the subject matter (if different from the one suggested by the licensing agency), the date of implementation of the training, the name and curriculum vitae of the designated training coordinator. The substituted teaching outline is subject to approval by the licensing agency. A copy of the licensing agency's basic teaching outline and suggested plan for implementing the training program will be furnished to each facility; additional copies may be reproduced by the facility. The minimum subject requirements of training for each category are shown in the licensing agency's basic teaching outline, and it is expected that each individual subject in each category will receive an appropriate amount of time. Appropriate learning by doing, when supervised by the training coordinator, or the person designated by the training coordinator, may count toward job-specific training. Such training may be subject to monitoring and approval by the licensing agency.

(B) Continuing in-service education. Continuing in-service education subjects shall relate to the job category involved and be as approved by the training coordinator.

(9) Schedule of training and continuing in service education.

(A) New employee training. Full orientation shall be provided within 10 working days of employment. The remainder of the training required on the outline for each of the respective job categories shall be completed within 120 calendar days following the 10-working day orientation.

(B) Continuing in-service education.

(i) Each new and present employee shall secure or receive the numbers of hours of continuing in-service education per year as appropriate to his or her specific job, but not less than the following: licensed nursing personnel and nurse aides—two hours per quarter; food service supervisors, cooks and helpers, dietary aides—two hours per quarter; housekeepers, janitors, laundry workers—one hour per quarter; activity staff—one hour per quarter; social services staff—one hour per quarter. When related to the employee's respective job, attendance at outside meetings or seminars may be used to satisfy the continuing in-service education requirement for a maximum of four quarters.

(ii) The facility shall keep records of the total number of hours of in-service education for all employees in

the home as well as records of attendance of each individual employee.

(C) Present employees. Documentation that present employees meet the same requirements for new employees shall be recorded on the same training inventory list and other report forms, as used for new employees.

(10) Employees already trained or partly trained when employed.

(A) Any new employee who has already met all the training requirements or has had similar training, or six months previous employment in a health care facility, and presents verification of previous experience, need undergo only that part of training which would relate to orientation and/or specific training peculiar to the facility. To receive credit for all or any completed portion of past training, the employee must be able to offer documented evidence in the form of copies of records of subjects completed in the facility of former employment or demonstrate skill competency to the training coordinator. In either instance, the training inventory list will be used as the record for documenting credit.

Any new employee that has had at least six months previous experience in a health care facility may demonstrate competency to the training coordinator. The required training inventory list will be administered by the facility training coordinator or by the appropriate and competent person to determine if more training is needed, and if so, in what areas. The employee's previous service dates are to be verified by the former employer, and this documentation included in the employee's training record.

(B) Job interruption for any reason, including leave of absence, will cause a suspension of the minimum training time. The training time restarts immediately upon the renewal of active employment.

(C) Part-time employees.

(i) Part-time employees shall be included in orientation and their respective job-specific training and continuing in-service education.

(ii) Additional time may be allowed for the completion of both the orientation and job-specific training for part-time employees. The number of hours worked will determine the time allowed for completion of training. Orientation must be completed within 80 hours worked and job-specific within 960 hours worked.

(11) Employees changing positions within the facility. An employee changing position within a facility will be considered as a new employee with respect to the new position, and will be subject to being provided with any additional training that would be required for the category or subcategory of the new position within the total minimum training time for that job category or subcategory.

(12) Monitoring and assistance by the licensing agency. Each facility shall maintain not less than a 30-day advance schedule of training classes. This shall not apply for classes being taught by a college, school, or other institution, where the advance scheduling becomes the responsibility of that institution. The licensing agency may monitor any training or education session. The licensing agency will offer assistance in organizing and maintaining training programs, or in orienting training coordinators, to the extent licensing agency staff and funds permit.

(13) Change of ownership.

(A) When a facility undergoes a change in ownership, the administrator shall submit a letter to the licensing

agency to report the status of the training program. If the training programs remain unchanged, the letter shall so state. Changes of training coordinator or the method by which the facility accomplishes its training should be reported in writing.

(B) The change of ownership letter must be submitted within 30 days of the change. Pending approval from the licensing agency, the facility should begin the training program so as to have it fully operational within 60 days following the change of ownership.

Doc. No. 801662

### Employee Orientation and Training in Nursing Homes and Custodial Care Homes 301.54.09

The Texas Department of Health has adopted by reference the subject proposed rule published in the December 11, 1979, issue of the *Texas Register* (4 TexReg 4468). The rule is adopted by reference as proposed except for a few changes to the teaching outline as a result of written comments submitted to the department and testimony received at a public hearing. The major comments and the department's responses to them are as follows:

(1) It is unrealistic to assume that attainment of skills called for in the teaching outline could be accomplished within the indicated time periods. This comment has prompted the department to include an introduction which describes the level of difficulty of training expected.

(2) Do not exclude the laundry worker from job-specific training. The department does not accept this suggestion in the interest of controlling the cost of training as required by the Texas Legislature.

(3) Do not exclude medical records and dishwashing personnel from the continuing education. The department does not accept this comment in the interest of controlling the cost of training as required by the Texas Legislature.

(4) Move the training on drug theft and diversion from the orientation section to the nurse aide section. The department does not accept this suggestion since department staff believes all employees should have orientation or general training on this subject.

(5) Move the maintaining airway (or prevention of choking) from the nurse aide section to the orientation section. The department accepts this suggestion which would then give all employees some orientation or general training on this subject.

(6) The subject on death and dying is repetitious as it appears in both the orientation and the nurse aide sections. The department believes clarification of the intent or level of training is needed and has named the subject "care of the terminally ill" in the orientation section and "care after death" in the nurse aide section.

Other minor changes in wording and content have been made as a result of suggestions received.

The effective date of this amendment and the modifications in the teaching outline is March 31, 1980.

The amendment and modifications in the teaching outline are being adopted pursuant to Article 4442c, Texas Civil Statutes.

.001. *Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes Revised.* The Texas Department of Health adopts by reference the department's pamphlet entitled "Basic Teaching Outline for Employee Orientation and Training in Nursing Homes and Custodial Care Homes, Revised," as amended in 1980. Copies of this pamphlet are available on request and also may be inspected in the office of the department's Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on March 3, 1980.

Doc. No. 801663

A. M. Donnell, Jr., M.D.  
Deputy Commissioner of Health  
Texas Department of Health

Effective Date: March 31, 1980

Proposal Publication Date: December 11, 1979

For further information, please call (512) 458-7706.



### Texas Department of Human Resources

#### Medicaid Eligibility

The Department of Human Resources adopts the amendments to various rules in its Medicaid eligibility rules, as proposed in the November 6, 1979, issue of the *Texas Register* (4 TexReg 4034). The amendments are procedural in nature and do not modify eligibility criteria.

No comments were received on the amendments; therefore, they are adopted without changes to the proposed text.

#### Resources for Individuals Related to the SSI Program 326.25.33

The following amendment is adopted under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

.014. *Resources Necessary To Fulfill an Approved Plan for Achieving Self-Support (Blind or Disabled Only).* In determining the resources of a blind or disabled individual, resources specified in an approved plan for achieving self-support are excluded for as long as the plan remains in effect. Such a plan for achieving self-support must be submitted to the director, Medicaid Eligibility Section, State Office, for approval.

Doc. No. 801665

## Income for Individuals Related to the SSI Program 326.25.34

The following amendment is adopted under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

*.019. Income Needed to Fulfill a Plan for Self-Support (Blind or Disabled—Nonvendor Situations Only).*

(a) (No change.)

(b) The plan must be submitted to the director, Medicaid Eligibility Section, State Office, for approval and must designate the objectives of the plan and time limit for achieving the objectives. Each plan must contain the income limits which can be excluded in the case in addition to the previous income exclusions.

Doc. No. 801666

## Procedures for Applications for Medical Assistance 326.25.53

The following amendments are adopted under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

*.001. SSI Applications.*

(a) (No change.)

(b) Upon receipt of an SDX tape indicating that an individual is eligible for SSI, the State Office sends the recipient:

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

(3) an explanation of Title XIX benefits, and

(4) a notice of his or her potential eligibility for retroactive Medicaid coverage if the individual had unpaid medical expenses during the three months prior to SSI application. This notice requests the individual to contact the local DHR office if he or she wishes to have his or her eligibility determined.

(c) (No change.)

*.002. Manual Certification Procedure.*

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

(c) The social security district offices are responsible for initiating the manual certification procedure. Where applicable, the social security district office completes a manual certification form and mails it to the DHR Data Control Section, Financial Services Branch, State Office. These cases are certified under Type Program 12, and are sent a medical care identification card, etc., by the State Office. They remain under Type Program 12 until the individual's name appears on the SDX tape or until SSA submits a manual request to deny the case. Cases certified under Type Program 12 must be manually updated by the social security district office. When a manually certified case is closed, the DHR Data Control Section sends a letter to the social security district office reflecting the denial.

(d) If an SSI recipient contacts a social security office requesting assistance in obtaining a Medicaid card, his or her current Medicaid status must be determined before a manual certification form is initiated. DHR staff should furnish information regarding current Medicaid status to the social security representative. However, if Medicaid status cannot be determined locally, the social security representative will

submit a manual certification form on the assumption that the SSI recipient is not certified for Medicaid. (If the SSI recipient is currently certified as a Medicaid eligible, the form will reject and be returned with an explanation to the social security office.)

(e) (No change.)

(f) If the SSI recipient is certified for Medicaid and the worker is aware of a change in circumstances which may have caused the nonreceipt of a Medicaid card, the worker refers the recipient to the social security district office. If no change in circumstances is indicated, the worker addresses a memorandum outlining the problem to the DHR Data Control Section in State Office. The DHR Data Control Section will attempt to resolve the problem and will inform the worker by memorandum of the action taken. Workers should notify the social security district office by the supplemental security income referral of any change in circumstances reported by SSI recipients.

*.006. SSI-Related Medical Assistance Only (Type Program 14).*

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

(c) When an individual is denied SSI on the basis of excess income because of entry into a long-term care facility, a reapplication for Medicaid must be taken if the individual is to continue receiving Medicaid benefits and vendor payments. As this type of reapplication is, in essence, a program transfer, the department assumes the responsibility for initiating application services. The worker will be notified of the need to take an application in one or more of the following ways:

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

(3) Contact from the patient or responsible party, the facility administrator, or the long-term care unit (LTCU) social services worker.

(d)-(k) (No change.)

Doc. No. 801667

## Determination of Blindness or Disability 326.25.54

The following amendment is adopted under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

*.003. SSI-Related MAO Applicants (Type Program 14).*

(a) (No change.)

(b) During the application process, if the applicant is in a Title XIX nursing facility, the worker submits a notice of application to the State Office and promptly follows this with a disability determination socio-economic report. If the applicant is already in a Title XIX nursing facility, the nursing facility is responsible for submitting a medical-nursing care evaluation to the long-term care unit. Medical services determines whether the individual meets SSI's definition of disability or blindness. This determination also includes disability or blindness during any retroactive months. A disability determination socio-economic report is required even if SSA has previously determined disability or blindness for cash assistance purpose.

(c)-(d) (No change.)

(e) The state school is responsible for submitting the medical-nursing care evaluation, and if appropriate, a disability determination report to the long-term care unit.

(f)-(g) (No change.)

Doc. No. 801668

### Vendor Payments in Title XIX Long-Term Care Facilities 326.25.55

The following amendment is adopted under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

.003. *Level of Care.*

(a)-(c) (No change.)

(d) The local long-term care unit is responsible for determining the level of care for patients in Title XIX nursing facilities and for ICF-MR patients in state schools.

(e) The LTCU level of care decision in Title XIX nursing facilities is based on receipt of a medical-nursing care evaluation plus a home care assessment or a social evaluation of need for nursing facility care. The worker will receive a letter from the LTCU stating the level of care. If the level of care is approved, the worker will also receive a copy of the patient status and payment plan notice.

(f) In state schools, the LTCU decision is based on receipt of a medical-nursing care evaluation and an alternate care considerations, social, and rehabilitative assessment. The state school is responsible for completing the medical-nursing care evaluation for all patients for whom payment is being requested. In cases of disability determination, only one medical-nursing care evaluation is necessary. The LTCU will send the worker a memorandum assigning a level of care.

(g) (No change.)

Issued in Austin, Texas, on March 4, 1980.

Doc. No. 801669      Jerome Chapman  
                                 Commissioner  
                                 Texas Department of Human Resources

Effective Date: March 25, 1980

Proposal Publication Date: November 6, 1979

For further information, please call (512) 475-4601.

### Intermediate Care II Facility

#### Personnel Policies 326.30.07

The Department of Human Resources adopts the repeal of Rule 326.30.07.002 about the working hour requirement for employees in nursing facilities in its intermediate care II facility rules, as proposed in the November 30, 1979, issue of the *Texas Register* (4 TexReg 4311). The department proposed the repeal of this rule in response to numerous requests received to eliminate the requirement from the rules and the standards for participation.

Numerous comments were received during the comment period; these comments were strongly supportive of the repeal.

Rule .002 is repealed under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

Issued in Austin, Texas, on March 4, 1980.

Doc. No. 801670      Jerome Chapman  
                                 Commissioner  
                                 Texas Department of Human Resources

Effective Date: March 25, 1980

Proposal Publication Date: November 30, 1979

For further information, please call (512) 475-4601.

### Intermediate Care III Facility

#### Personnel Policies 326.31.07

The Department of Human Resources adopts the repeal of Rule 326.31.07.002 about the working hour requirement for employees in nursing facilities in its intermediate care III facility rules, as proposed in the January 22, 1980, issue of the *Texas Register* (5 TexReg 223). The department proposed the repeal of this rule in response to numerous requests received to eliminate the requirement from the rules and the standards for participation.

Numerous comments were received during the comment period; these comments were strongly supportive of the repeal.

Rule .002 is repealed under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

Doc. No. 801671

### Skilled Nursing Facility

#### Personnel Policies 326.32.09

The Department of Human Resources adopts the repeal of Rule 326.32.09.004 about the working hour requirement for employees in nursing facilities in its skilled nursing facility rules, as proposed in the January 22, 1980, issue of the *Texas Register* (5 TexReg 223). The department proposed the repeal of this rule in response to numerous requests received to eliminate the requirement from the rules and the standards for participation.

Numerous comments were received during the comment period; these comments were strongly supportive of the repeal.

Rule .004 is repealed under the authority of the Human Resources Code, Chapter 32, with the approval of the Texas Board of Human Resources.

Issued in Austin, Texas, on March 4, 1980.

Doc. No. 801672      Jerome Chapman  
                                 Commissioner  
                                 Texas Department of Human Resources

Effective Date: March 25, 1980

Proposal Publication Date: January 22, 1980

For further information, please call (512) 475-4601.

## Civil Rights

The Department of Human Resources adopts the amendments to various rules about hearing procedures in its legal services and civil rights rules, as proposed in the November 6, 1979, issue of the *Texas Register* (4 TexReg 4036). The amendments were proposed because of revised food stamp policy, with emphasis on extending time periods for records retention in appealed cases.

Comments received were supportive of the amendments. One comment suggested a minor change in wording in Rule 326.79.13.010(a), and that suggestion has been incorporated. Also, reference to "Medical Services Division or Long-Term Care Division" was changed to "Special Medical Services Division." Several comments suggested that additional changes be made, and those will be given further study.

## Administrative Fraud Disqualification Hearings 326.74.41

The following amendments are adopted under the authority of the Human Resources Code, Chapters 22 and 31, with the approval of the Texas Board of Human Resources.

### .007. *Alternate Hearing Officer.*

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

(c) If an alternate hearing officer cannot be selected from within the same region, the regional administrator states the reason for this in a memorandum to the administrator of the Systems Control Division and requests that an alternate be designated.

(d) (No change.)

.008. *Hearing Officers' Powers and Duties.* The hearing official will:

(1)-(4) (No change.)

(5) Order, when relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the department.

(6) (No change.)

.009. *Initiating the Administrative Fraud Disqualification Process.*

(a) (No change.)

(b) The investigator will assemble and send from the case record copies of all documents necessary to support his or her recommendations of disqualification together with a brief statement of the allegations against the household member and a summary of the evidence. This material must be sent to the hearing officer at the time the Recommendation of Food Stamp Disqualification form is sent, if possible.

(c) (No change.)

.011. *Advance Notice of Hearing.* The notice of administrative fraud hearing serves as notice of the hearing for the household member. This is sent to the household member at least 30 days in advance of the hearing date by the hearing officer. The notice will be mailed by certified mail—return receipt requested. The hearing officer will include with the notice a copy of:

(1) (No change.)

(2) a request for another appointment for Administrative Fraud Hearing form;

(3) an envelope bearing the hearing officer's address;

(4) a Recommendation of Food Stamp Disqualification form which specifies the charges against the household

member and a summary of the evidence (including how and where it can be examined);

(5) procedures for Administrative Fraud Hearing form.

Doc. No. 801673

## Hearing Procedure 326.74.42

The following amendments are adopted under the authority of the Human Resources Code, Chapters 22 and 31, with the approval of the Texas Board of Human Resources.

### .001. *Conduct of Hearing.*

(a) (No change.)

(b) The hearing is recorded either by mechanical equipment or by a stenographer. The recording or stenographer's notes will be kept on file for three years after the hearing.

(c) (No change.)

### .011. *Notification of Hearing Decision.*

(a) (No change.)

(b) If the hearing officer finds that the household member committed fraud, he or she will send the Decision of Administrative Fraud Hearing form to the worker currently assigned to the household's food stamp case. The worker must complete the part of the notice that advises the household member of the date disqualification will take effect as well as the part that advises the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. After completing the appropriate sections of the Decision of Administrative Fraud Hearing form, the worker will send it to the household member with copies to the hearing officer and investigator. If the hearing was held without the household member or his or her representative in attendance, the worker will retain the department's copies of the form for 10 days in case the household member presents reasons indicating good cause for failure to appear.

Issued in Austin, Texas, on March 4, 1980.

Doc. No. 801674

Jerome Chapman

Commissioner

Texas Department of Human Resources

Effective Date: March 25, 1980

Proposal Publication Date: November 6, 1980

For further information, please call (512) 475-4601.

## Legal Services

The Department of Human Resources adopts the amendments to various rules about hearing procedures in its legal services and civil rights rules, as proposed in the November 6, 1979, issue of the *Texas Register* (4 TexReg 4036). The amendments were proposed because of revised policy in the Food Stamp Program, with emphasis on extending time periods for records retention in appealed cases.

Comments received were supportive of the amendments. One comment suggested a minor change in wording in Rule 326.79.13.010(a), and that suggestion has been incorporated.

Also, reference to "Medical Service Division or Long-Term Care Division" was changed to "Special Medical Services Division." Several comments suggested that additional changes be made, and those will be given further study.

### Appeals Process 326.79.13

The following amendments are adopted under the authority of the Human Resources Code, Chapters 22 and 31, with the approval of the Texas Board of Human Resources.

#### .008. *Food Stamp Participation Prior to and Pending Fair Hearings.*

(a) Households requesting a fair hearing during the 10-day advance notice period will continue to participate on the basis authorized immediately prior to the notice of adverse action unless the certification period has expired, or the household specifically waives this service.

(b) If the household establishes that its failure to request a hearing and continuation of benefits during the 10-day advance notice period was for good cause, benefits will be reinstated on the prior basis. If benefits are reduced or terminated as a result of a mass change, benefits will be reinstated upon request of the household only if the issue being appealed is improper determination of eligibility or level of benefits or that federal law or regulation was misapplied or misinterpreted.

(c) If a household requests a hearing and continuation of benefits as a result of a normal expiration of the certification period, benefits will not be reinstated or continued.

(d) When food stamp benefits have been continued during an appeal and the department's action is upheld by the hearing decision, a claim against the household shall be established by the worker in accordance with Food Stamp Program rules for all overissuances.

(e) Once benefits are continued or reinstated during the appeal period, they cannot be reduced or terminated prior to receipt of the official hearing decision except in the following circumstances. If the certification period expires, the household may reapply and, if eligible, be certified at the appropriate benefit level. If during the appeal hearing, a DHR hearing officer determines that the only issue being appealed is one of federal law or regulation, and that the household's claim of improper computation or misapplied law is invalid, the hearing officer must direct that the household's basis of issuance be reduced or terminated. If another change adversely affecting the household occurs while the hearing decision is pending and the household does not appeal the adjustment for the subsequent change, benefits will be reduced only as proposed in the subsequent Notice of Benefit Denial or Reduction form. Finally, if a mass change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending, the benefits are adjusted accordingly.

#### .010. *Hearing Request—Time.*

(a) Generally, the appellant has a right to file an appeal within a reasonable time (60 days) from the effective date of the decision. However, 90 days is deemed a reasonable time in which to appeal either the food stamp or AFDC decision.

(b) When more than 90 days have elapsed between the effective date of action and date of indicated dissatisfaction with the action, the worker will offer to process a reapplication or to review the case situation. If this is acceptable to the appellant, the worker will take the indicated action. At any

time within a certification period, a food stamp household may request a fair hearing to dispute its current level of benefits.

(c)-(d) (No change.)

#### .011. *Petition for Fair Hearing.*

(a) When the applicant or recipient clearly expresses a desire to appeal in writing or orally to a department representative, appropriate staff will complete a petition for fair hearing and send it to the hearing officer.

(b)-(d) (No change.)

#### .012. *Notification of Hearing Officer.*

(a) (No change.)

(b) Immediately upon receiving notice of an appeal, the worker, contract unit staff, or technician in whose job assignment the appeal occurs (or the supervisor, in the event there has been an interim vacancy) will assemble and send from the case record the originals of all necessary eligibility documents to be used by the hearing officer except the Record of Case Action and Notice of Case Action forms. The original of the turnaround form is retained in the case folder and a copy is routed to the hearing officer. This material must be sent to the hearing officer within five days of notice that an applicant or recipient wishes to appeal.

(c) All necessary eligibility documents include the following:

(1)-(4) (No change.)

(5) If the point at issue is WIN or food stamps, include the appropriate eligibility document. Include copies of food stamp computer input forms, and client-completed applications, food stamp work sheet, or self-employment form if appropriate, and any other food stamp eligibility documents which bear on the point at issue.

(6) (No change.)

(d) (No change.)

#### .013. *Setting the Appeal Hearing.*

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

(c) The hearing will be held at a reasonable place and time. This may mean the local office in the vicinity of the residence or in the home of the appellant. The physical condition of the appellant and availability of transportation are some of the factors which the hearing officer should consider in setting the place of the hearing. Qualified sign language interpreters will be made available for deaf persons requiring them.

#### .014. *Notice of Hearing.*

(a) (No change.)

(b) The acknowledgment and notice of the hearing must be mailed to the appellant no later than five days after receipt of the petition and at least 10 days before the day set for the hearing unless the appellant requests an earlier date.

Doc. No. 801648

### Hearing Procedure 326.79.14

The following amendments are adopted under the authority of the Human Resources Code, Chapters 22 and 31, with the approval of the Texas Board of Human Resources.

#### .001. *Conduct of Hearing.*

(a)-(c) (No change.)

(d) The hearing is recorded either by mechanical equipment or by a stenographer. The recording or stenographer's notes will be kept on file for 90 days (three years in food stamp appeals) after the hearing. The hearing officer will prepare a summary of what transpired at the hearing which will be the official record of the appeal.

#### .002. *Hearing Proceedings.*

(a)-(f) (No change.)

(g) In food stamp hearings, the hearing will always be attended by a representative of the department who may be the worker who made the decision. At the request of the appellant or the appellant's representative, or whenever the hearing officer determines it necessary, the worker, technician, contract manager, or contract agency staff who made the decision must be present at the hearing. If the worker is attending the hearing at the request of the appellant, another department representative is not required. If it becomes apparent during the hearing that the presence of the worker, technician, or contract staff is necessary, the hearing officer may recess the hearing and call in that person.

(h) If a change of circumstances indicating that current eligibility or a change in assistance has come about subsequent to the decision complained of, the hearing officer may direct the local worker to make any indicated adjustments, to be effective at the earliest possible date without awaiting the decision. If it is determined that the appellant is due restored benefits, this action will be directed by the hearing officer to the worker.

At any time subsequent to the request for a hearing, the worker or hearing officer may reconsider the action of the local office and immediately make any indicated change establishing eligibility or adjusting the grant if any error is discovered. Any retroactive payments will be directed by the hearing officer to the worker.

This action should not delay or modify the right of the appellant to proceed with the hearing. The appropriate change in assistance may be made while an appeal is still pending. If the grant, food stamp, or social services benefits should be adjusted prior to the hearing, the department may provide retroactive payments or food stamp or social services benefits back to the date the incorrect action was taken. Such adjustments may be made immediately by the worker at the direction of the hearing officer. In this event the appeal would normally be withdrawn. However, the appellant may continue with the appeal for retroactive payments or food stamp benefits if desired. In this case, no immediate adjustment will be requested. Reimbursement in social services will be made when payment for services was actually made by the recipient.

(i) (No change.)

(j) The hearing officer is responsible for authorizing the worker to process any corrected payments or food stamp benefits being restored to the effective date incorrect action was taken, or to the date action should have been taken. The hearing officer is also responsible for authorizing the food stamp certification worker to credit the restored benefit entitlement to any unpaid overissuance. In all cases except food stamps, retroactive corrective payment will be made only for the 12 months preceding the month in which the underpayment is discovered.

#### .004. *Furnishing Medical Information.*

(a) (No change.)

(b) In addition, when an appellant or the appellant's legal counsel wishes to submit written interrogatories or request a prehearing conference to obtain additional information from the Special Medical Services Division, this request will be granted, subject to the following conditions:

(1) (No change.)

(2) When the Special Medical Services Division receives its copy of the written interrogatories, answers will be prepared and sent with the medical record to the Legal Division. Legal Division will review and transmit the official response to the interrogatories, based upon the information supplied by the Special Medical Services Division and appropriate consultation with the medical staff. Those questions which are relevant to the case and which are in proper form will be answered. Sufficient explanatory information may be added to each answer in order to clarify the department's position in the matter.

(3) (No change.)

(c)-(d) (No change.)

#### .006. *Action by Hearing Officer.*

(a) Postponement. In food stamp cases, the household may request and is entitled to receive a postponement not to exceed 30 days. The time limit for action on the decision may be extended by as many days as the hearing is postponed. Other appeal hearings may be postponed by the hearing officer if there appears to be a reasonable cause. If possible the appellant should file a written request for postponement of the hearing at least two days before it is scheduled to occur, unless extenuating circumstances exist. The hearing officer will then reset the hearing.

The hearing officer is responsible for determining whether or not a valid reason for postponement exists or, in a food stamp appeal, if the appellant is entitled to a postponement. Examples of the reasons to be considered are requests by the appellant or the appellant's representative for a reasonable delay to obtain necessary documentation to prepare for the hearing or illness of the recipient or a member of the recipient's immediate family. If reasonable doubt exists as to whether or not the recipient or a member of the immediate family is actually too ill to appear, then the hearing officer may request the recipient to furnish a statement from a physician to this effect.

When a hearing officer makes a determination that a postponement which has been requested cannot be granted, either because the appellant is not entitled to it in a food stamp appeal or because of a finding that there is not reasonable cause, the hearing officer must document the basis for his or her determination in writing, either by letter or on the official Record of Fair Hearing form.

(b) Dismissal. If the appellant fails to appear for the hearing without a reason, the hearing officer sends an inquiry to the appellant as to whether the appellant wishes any further action on the request for a hearing. If within 10 days after mailing of the inquiry, no reply is received, the hearing officer summarizes the pertinent facts, records them, and dismisses the appeal on the basis that the request for hearing has been abandoned by the appellant. If the appeal is dismissed, the hearing officer records the decision as the official action. A letter will be directed to the appellant advising of the dismissal.



In 10-day appeals, the appeal is considered abandoned if the appellant or representative does not appear and has not requested a postponement for sufficient cause. He will notify the recipient that the worker's recommended action will become effective. If the hearing officer notes error(s) which would affect the recommended decision of the worker, the hearing officer will notify the recipient and the worker so that appropriate action may be taken to correct the error(s). The recipient retains the right to request a regular hearing without continued assistance if not more than 90 days have passed since the recipient was notified of the department action which is being appealed.

(c) **Withdrawn appeal.** Once an appeal is filed, only the appellant or the authorized agent can withdraw the request. If the appellant wishes, the petition to appeal may be withdrawn. The withdrawal must be in writing to the hearing officer or local office and must give the reason for the withdrawal. If the appellant fails to give a reason, it will be the responsibility of the hearing officer to make every reasonable attempt to determine the reason for the withdrawal and make the report.

If the withdrawal request is received by the local office or the hearing officer, it is the responsibility of the hearing officer to record the reason for withdrawal. If the hearing officer accepts the withdrawal, he or she will send a letter to the appellant stating that the withdrawal has been accepted. There may be instances in which the hearing officer considers that the appellant was improperly induced or influenced to withdraw the request for a hearing, and in those instances the hearing officer will direct that the appellant be given another opportunity to proceed with the hearing.

(d) **Recessed hearings.**

(1) (No change.)

(2) If a decision cannot be made on the basis of the information, the hearing officer may recess the appeal and advise the appellant of the reason for the recess and the nature of the additional information that is required. The hearing will be reconvened for a discussion of the additional information. This hearing will be recorded as in the initial hearing. The recording need not be transcribed, but it should be retained for a period of 90 days (three years in food stamp cases) after the decision is made.

(3)-(5) (No change.)

#### .007. *Decisions by Hearing Officer.*

(a) (No change.)

(b) **Reverse.**

(1)-(4) (No change.)

(5) The letter from the hearing officer to the appellant, with the official record attached explaining the basis for the decision, shows that the action of the local office is reversed. The letter also indicates the appellant's eligibility for retroactive or supplemental assistance or social services (if other eligibility factors are met) when applicable. The hearing officer will indicate the total restored benefits which are due the household. Months for which the appellant was eligible for retroactive assistance or benefits are to be shown.

(6) If the point at issue was need, the amount of the grant or food stamps, or denial of benefits, the worker must submit the authorization document indicating the new amount of assistance within 10 working days following receipt of the letter from the hearing officer. A Disposition of Benefits form will also be completed and submitted by the

worker authorizing retroactive payments for any months directed by the hearing officer.

(7) Immediately after receiving a copy of the hearing officer's reversed decision and if the point at issue was a factor other than need, the worker will initiate another investigation to clear all eligibility requirements. When a decision is made on these factors, an office memorandum and a copy of the authorizing document must be forwarded to the hearing officer within 10 working days of the receipt of the decision. The appellant has the right to appeal any decision of the worker on an issue other than the one involved in the original decision.

(8)-(9) (No change.)

(10) Upon receipt of the memorandum from the worker indicating that the appellant meets all eligibility factors, the hearing officer, in accordance with the appeal decision, will authorize the worker to make retroactive or supplemental payment and submit the documents to the regional data entry site for processing.

(c) **Sustain.**

(1) (No change.)

(2) The hearing officer will send a letter to the appellant stating that the action of the department is sustained and include a copy of the official record which explains the basis for the decision.

(3) (No change.)

(4) If the point at issue was any aspect of need or the amount or denial of assistance, the decision of the hearing officer will give the indicated amount of grant, services, or basis of food stamp issuance for which the appellant was eligible at the time of decision. The hearing officer will also state the amount for which the appellant currently is eligible, including any changes in relation to need brought out in original or reconvened hearings which have occurred subsequent to the decision which the appellant appealed.

(5) (No change.)

(6) If the recoupment decision is sustained, the worker will change the beginning effective date of recoupment, extending the time frame in which recoupment can be collected. This will allow the department the full 12 months authorized under recoupment policy to recover the overpayments. If the hearing officer determines that the total amount of the overpayments was more or less than the worker's decision, the beginning date of recoupment and the total amount of overpayments are changed. The hearing officer also is to include in his or her decision the actual months the overpayments were made.

(7)-(8) (No change.)

(9) A control will be maintained by the hearing officer so that reapplications or adjustments in the amount of grant or allotment are processed as soon as possible and in no event later than 10 working days from receipt of the hearing officer's letter by the worker.

(10) (No change.)

(d) (No change.)

#### .011. *Retroactive Payments or Restored Benefits.*

(a) When the hearing officer finds that the decision which was appealed was erroneous, the hearing officer will, under the following conditions, authorize the worker to process retroactive or supplemental assistance or services to the appellant in order to make the appropriate adjustments in the case.

(b) If eligible for any retroactive assistance or reimbursement for social services, the appellant is also eligi-

ble for additional retroactive assistance for months elapsing between the date of the filing of the appeal and the final action of the hearing officer and the initiation of the appellant's assistance or adjustment in assistance if benefits were not continued during this period. The months of entitlement must be specified by the hearing officer. Department rules about food stamp restoration of lost benefits contain the procedures for authorizing retroactive benefits in that program.

**.013. Procedure for Restored Payments.**

(a) When the hearing officer reverses a financial assistance decision, the local office is directed to authorize any adjustment needed in the payments.

(b) (No change.)

**.015. Additional Time Restrictions when Formal Hearing Is Held.**

(a) Reversed cases. The worker or contract manager has 10 working days from receipt of the hearing officer's decision to submit the documents necessary to issue applicable retroactive benefits.

(b) Acknowledgment. A memorandum acknowledging receipt of and compliance with the decision is sent to the hearing officer within 10 working days.

(c) (No change.)

(d) Issuance of restored food stamp benefits. A supplemental ATP will be used to restore lost benefits to the food stamp household. Time frames for providing restored benefits are stated in the Food Stamp Program rules.

(e) (No change.)

Issued in Austin, Texas, on March 3, 1980.

Doc. No. 801649 Jerome Chapman  
Commissioner  
Texas Department of Human Resources

Effective Date: March 25, 1980

Proposal Publication Date: November 6, 1979

For further information, please call (512) 475-4601.

## Texas State Board of Medical Examiners

### Licensure by Examination 386.02.00

The Texas State Board of Medical Examiners has adopted an amendment to Rule 386.02.00.003(a), concerning licensure by examination from the text as contained in the proposed rule. After consideration of all information received and following public hearing, the rule was changed by addition of a date to clarify the time the rule change could be implemented. This date was felt to be advisable because of necessary administrative transitions and also to adequately advise all examination applicants of new requirements which may pertain to them.

Under the authority of Articles 4496 and 4509, Texas Civil Statutes, the Texas State Board of Medical Examiners has adopted Rule .003(a), to read as follows:

**.003. Time, Place, and Scope of Examination.**

(a) Examinations for licensure shall be conducted in writing, in the English language, and given twice each year—in June and in November or December at a place or places

designated by the board. At the discretion of the board, each examination session shall cover a period of three days, a schedule of each examination session to be furnished each examinee. Additionally, effective September 1, 1980, the medical jurisprudence examination may be administered in the board offices at such times as the secretary of the board may designate. If an examinee fails the medical jurisprudence examination on three occasions, the examinee shall not be allowed to sit again for the medical jurisprudence examination except by special permission of the board. An examination applicant repeating the jurisprudence examination may not retake such examination earlier than 30 days from the time at which he or she last sat for the jurisprudence examination.

(b)-(p) (No change.)

Doc. No. 801682

### Licensure by Endorsement or Reciprocity 386.03.00

Under the authority of Articles 4496 and 4509, Texas Civil Statutes, the Texas State Board of Medical Examiners has adopted amendments to Rule 386.03.00.001, to read as follows:

**.001. Eligibility.**

(a) This board at its discretion, upon payment by the applicant of a \$200 fee, may grant a license to any reputable physician or surgeon who is either a graduate of a reputable medical college or school and has qualified by examination for a commission in the United States Army or Navy; or who is a graduate of a reputable medical college or school and is a licentiate of a state or territory having requirements for medical registration equal to those established by this state. An applicant for licensure by reciprocity based on examination from another state or Canadian province will not be accepted unless such license was granted upon successful passage of the FLEX examination if such examination was administered after January 1, 1978.

(b) A certificate issued in another state on the basis of reciprocity is not acceptable for reciprocity registry in Texas.

(c) An applicant who has failed in an examination for a license conducted by the Texas State Board of Medical Examiners shall not be eligible for a license by reciprocal endorsement, unless the applicant was licensed on the basis of the FLEX examination and has passed the jurisprudence examination administered by the Texas board.

(d) The applicant shall have taken and passed an examination in medical jurisprudence administered by this board.

(1) Effective with all applications for licensure by reciprocity which are filed in the board office on or after August 1, 1980, the board shall require successful passage of the medical jurisprudence examination as a requirement for licensure by reciprocity.

(2) The applicant shall be eligible to sit for the medical jurisprudence examination when his or her application is complete, with the exceptions of the applicant's personal appearance in the board office, inspection of the applicant's original documents required, and receipt of any lacking FBI fingerprint card reports.

(3) The medical jurisprudence examination shall be administered each official State of Texas business day, except that it shall not be administered for a period of one week preceding a board meeting nor during the week of the board meeting.

(4) The applicant for licensure by reciprocity who fails to pass the medical jurisprudence examination will be eligible to retake such examination, on a date specified by the board office, but not earlier than 30 days from the time in which the applicant last sat for the medical jurisprudence examination.

(5) The applicant for licensure by reciprocity shall not be allowed to sit for the medical jurisprudence examination more than three times, except by special permission of the board.

(e) There will be a \$200 fee for reconsideration of an application which has been rejected.

Doc. No. 801683

### Temporary Licensure 386.05.00

Under the authority of Articles 4496 and 4509, Texas Civil Statutes, the Texas State Board of Medical Examiners has adopted amendments to Rule 386.05.00.001, to read as follows:

#### .001. Temporary Licenses.

(a) Temporary licenses may be issued to applicants who hold a valid license in the United States or Canada, and have passed the medical jurisprudence examination administered by this board, or who have passed the FLEX and medical jurisprudence examinations, and whose completed applications have been filed with the board office, processed, and found to be in order.

(b) The Texas State Board of Medical Examiners shall, at its discretion, have the authority to extend the expiration date of a temporary license for a period not to exceed one year if such extension of expiration date is, in the opinion of the board, in the best interest of the public, as provided in Article 4511(c), Revised Civil Statutes of Texas.

Doc. No. 801684

### Schedule of Fees 386.08.00

Under the authority of Articles 4496 and 4509, Texas Civil Statutes, the Texas State Board of Medical Examiners has adopted amendments to Rule 386.08.00.001, to read as follows:

#### .001. Fees. The board shall charge the following fees:

Annual registration .....	\$15
Institutional permits per year (interns and residents).....	\$25
Licensure by examination:	
FLEX—full:.....	\$150
first day only—repeat.....	\$30
second day only—repeat.....	\$35
third day only—repeat.....	\$85
jurisprudence only—repeat.....	\$25
Licensure by reciprocity.....	\$200
Jurisprudence only—repeat.....	\$25
Temporary license.....	\$25
Duplicate license.....	\$35
Endorsement.....	\$25
Reinstatement after lapse or cancellation.....	\$100
Certification to other boards of grades in basic science examination.....	\$25
Verification of basic science grades for licensure.....	\$50

Issued in Austin, Texas, on March 3, 1980.

Doc. No. 801685      A. Bryan Spires, Jr., M.D.  
 Secretary-Treasurer  
 Texas State Board of Medical  
 Examiners

Effective Date: March 25, 1980

Proposal Publication Date: February 1, 1980

For further information, please call (512) 475-0741.

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

## Texas Adult Probation Commission

**Friday, March 14, 1980, 9 a.m.** The Texas Adult Probation Commission will meet in Suite 400, 812 San Antonio, Austin. According to the agenda, the commission will consider supplemental funding requests, (Cook, Gonzales, Cameron); review of standards; request to divide departments; code of ethics; request for waiver of experience; review of attorney general's opinion on misdemeanor law; review of letter and resolution from governor; budget adjustment, Moore County; financial statements; audit review committee report (Ector, Lamar, Fannin, Val Verde, Hidalgo, Travis Counties); report on surplus funds; report on direct supervision worksheets; workload reports; information network options; felony disposition trends; statistical profiles on probation trends.

Additional information may be obtained from Sharon Schunn, 812 San Antonio, Suite 400, Austin, Texas 78701, telephone (512) 475-1374.

Filed: March 3, 1980, 3:04 p.m.  
Doc. No. 801651

## State Board of Canvassers

**Tuesday, March 4, 1980, 11:40 a.m.** The State Board of Canvassers met in emergency session in the secretary of state's office, Capitol Building, Austin, to canvass returns for a special election for state representative, District 87.

Additional information may be obtained from Milton Malloy, 915 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-3091.

Filed: March 4, 1980, 9:32 a.m.  
Doc. No. 801675

## Texas County and District Retirement System

**Thursday, March 13, 1980, 9 a.m.** The Board of Trustees of the Texas County and District Retirement System will meet

at Green Oaks Inn, Fort Worth. According to the agenda summary, the board will consider applications for service retirement and disability retirement; review of financial statements; reports from the actuary, director, legal counsel, and investment counsel; adoption of mortality and other experience tables; fixing contribution rates of participating subdivisions; discussion of other business; set date for June meeting.

Additional information may be obtained from Texas County and District Retirement System, 802 Perry-Brooks Building, Austin, Texas, telephone (512) 476-6651.

Filed: March 4, 1980, 10:43 a.m.  
Doc. No. 801678

## State Depository Board

**Monday, March 17, 1980, 11 a.m.** The State Depository Board will meet in the office of the State Treasurer, LBJ Building, 111 East 17th Street, Austin. According to the agenda summary, the board will consider applications for designation of state depositories as made by the following banks: Arlington State Bank, Arlington, Peoples State Bank, Dallas, The Fort Worth National, Fort Worth, First City Bank-Westheimer, N.A., Houston, Mineola State Bank, Mineola, First National Bank, Sherman, Universal City Bank, N.A., Universal City, First State Bank, Hewett, Alief Alamo Bank, Houston; and any other applications received in this office prior to the meeting date. The interest rate to be charged on time account deposits will be reviewed.

Additional information may be obtained from Warren G. Harding, P.O. Box 12608, Austin, Texas 78711, telephone (512) 475-2591.

Filed: March 4, 1980, 1:17 p.m.  
Doc. No. 801695

## Texas Education Agency

**Thursday, March 13, 1980, 9 a.m.** The State Advisory Committee for Marketing and Distributive Education of the Texas Education Agency will meet in Towers 6 and 7, Astro Village Hotel, 2350 South Loop West, Houston. According to the agenda, the committee will consider approval of minutes; treasurer's report; approval of the bylaws; committee reports: Membership Development Ad Hoc Committee; Advisory Group Development Committee; Marketing and Distributive Educators Training Committee; Evaluation Committee; Public Relations and Public Affairs Committee; Marketing and Distributive Education Curriculum report; new committee chairperson; appointment of secretary; new chairperson report; and closing remarks by outgoing chairperson.

Additional information may be obtained from Norris Young, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-4494.

Filed: March 4, 1980, 2:12 p.m.  
Doc. No. 801693

**Friday, March 14, 1980, 9 a.m.** The Apprenticeship and Training Advisory Committee of the Texas Education Agency will meet in the board room, 150 East Riverside Drive, Austin, to consider approval of minutes—December 14, 1979; committee reports: Melvin Mauer, supervisor, Trades and Industrial Education, Del Mar College, William L. Raley, director, Apprenticeship and Skills Training Program, College of the Mainland; report by chief consultant: topics for discussion—apprenticeship conference and cost study; and election of officers.

Additional information may be obtained from Daniel C. Lowe, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-4591.

Filed: March 4, 1980, 2:13 p.m.  
Doc. No. 801694

## Employees Retirement System of Texas

**Tuesday, March 11, 1980, 9 a.m.** The Group Insurance Advisory Committee of the Employees Retirement System of Texas met in the board room, fourth floor, 18th and Brazos, Austin. According to the agenda summary, the committee considered review of current claims experience and discussion of premiums, plans, and benefit revisions.

Additional information may be obtained from Joseph N. Murphy, Jr., Box 13207, Austin, Texas 78711, telephone (512) 476-6431.

Filed: March 3, 1980, 4:49 p.m.  
Doc. No. 801664

**Monday, March 17, 1980, 9 a.m.** The Board of Trustees of the Employees Retirement System of Texas will meet at 18th and Brazos, Austin. According to the agenda summary, the board will consider the following: approval of minutes of December 17, 1979, meeting; proposal for decision consolidated appeals of Edna D. Irwin and Bonnie Bottone; report on members retiring since December 17, 1979; report on occupational deaths and Article 6228 beneficiaries; report on investment of funds; review actuarial valuation year ending August 31, 1979; governor's request to reduce personnel; audit of claims settlements by Metropolitan Life Insurance Company, September 1, 1978, through August 31, 1979; Metropolitan Life Insurance Company insurance rates for 1980-81; report of Group Insurance Advisory Committee; applications from HMO organizations for acceptance in the Uniform Group Insurance Program; and approval of procedure for election of Group Insurance Advisory Committee members. The board will also meet in executive session to discuss personnel matters and any other business.

Additional information may be obtained from Joseph N. Murphy, Jr., Box 13207, Austin, Texas 78711, telephone (512) 476-6431.

Filed: March 5, 1980, 4:40 p.m.  
Doc. No. 801740

## Finance Commission of Texas

**Thursday, March 20, 1980, 10 a.m.** The Savings and Loan Section of the Finance Commission of Texas will meet at 1004 Lavaca, Savings and Loan Commissioner's office, Austin. According to the agenda, the section will consider submission of regulations pertaining to mortgage loans, savings accounts, and methods of use of savings accounts for adoption.

Additional information may be obtained from L. Alvis Vandygriff, 1004 Lavaca Street, Austin, Texas, telephone (512) 475-7991.

Filed: March 5, 1980, 4:19 p.m.  
Doc. No. 801739

## Office of the Governor

**Monday, March 10, 1980, 9 a.m.** The Governor's Advisory Committee on Education of the Office of the Governor met in emergency session in Room 117, 14th and Brazos, Sam Houston Building, Austin. The agenda included ad hoc committee meetings; general meeting; approval of minutes; presentation; receipt of reports—Ad Hoc Committees for Student Motivation and Discipline; Curriculum, Teacher Education, certification and Recruitment; preliminary consideration of issues and recommendations—Ad Hoc Committee on Federal/State Relations; ad hoc committee meetings; public input. This is filed as emergency because the rules for filing state that the required certification must be by an authorized agency official and no authorized official was present.

Additional information may be obtained from Thomas E. Anderson, Jr., 112 Sam Houston Building, Austin, Texas 78711, telephone (512) 475-0386.

Filed: March 3, 1980, 1:37 p.m.  
Doc. No. 801652

## Texas Department of Health

**Friday, March 28, 1980, 9 a.m.** The Texas Department of Health will conduct a hearing at council chambers, City Hall, Graham. According to the agenda, the department will consider Application 1242 of Graham to locate a solid waste disposal site near Graham.

Additional information may be obtained from Jack C. Carmichael, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7271.

Filed: March 3, 1980, 4:13 p.m.  
Doc. No. 801660

## Texas Health Facilities Commission

**Thursday, March 13, 1980, 10 a.m.** The Texas Health Facilities Commission will meet in Suite 306 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

certificate of need  
Red River Valley Home Health Services, Inc., Sherman  
AS79-0823-026

exemption certificate  
Denton Dialysis Clinic, Denton  
AS80-0102-012

Additional information may be obtained from John R. Neel,  
P.O. Box 15023, Austin, Texas 78761, telephone (512)  
475-6940.

Filed: March 5, 1980, 11:54 a.m.  
Doc. No. 801721

## University of Houston

**Tuesday, March 11, 1980, 10:30 a.m.** The University Community Committee of the University of Houston System Board of Regents will meet in executive session in the office of the president, Houston United Bank Building, 4600 Gulf Freeway, Houston.

Additional information may be obtained from Deborah Selden, 911 Walker, Suite 765, Houston, Texas 77002, telephone (713) 749-3083.

Filed: March 5, 1980, 8:51 a.m.  
Doc. No. 801707

## State Board of Insurance

**Tuesday, March 11, 1980, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the hearing section will consider application to acquire control of Globe Life and Accident Insurance Company, Oklahoma City, Oklahoma, and thereby acquire control of American Life and Accident Insurance Company, Fort Worth—Docket 5941, Liberty National Life Insurance Company, Birmingham, Alabama.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 3, 1980, 3:59 p.m.  
Doc. No. 801653

**Wednesday, March 12, 1980, 9 a.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin. According to the agenda, the board will consider application of Equities International Life Insurance Company, for review of Commissioner's Orders 78-2030 and 78-2234—Docket 1147.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: March 3, 1980, 3:59 p.m.  
Doc. No. 801654

**Thursday, March 13, 1980, 9 a.m.** The State Board of Insurance will meet in the Highway Building hearing room, 11th and Brazos Streets, Austin. According to the agenda, the board will consider proposed credit life and accident and health rules—Docket 1149.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: March 3, 1980, 3:59 p.m.  
Doc. No. 801655

**Thursday, March 13, 1980, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the hearing section will conduct a hearing on request as a licensed foreign stock fire and casualty company authorized to do business of credit insurance in Texas be changed to Type 1, mortgage guaranty insurance as a new line of insurance—Docket 5958, American Mortgage Insurance Company, Raleigh, North Carolina.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 3, 1980, 3:59 p.m.  
Doc. No. 801656

**Thursday, March 13, 1980, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto Street, Austin, to consider Docket 5957, original incorporation of Ambassador Life Insurance Company, Houston.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 3, 1980, 4 p.m.  
Doc. No. 801657

**Wednesday, March 19, 1980, 10 a.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin. According to the agenda, the board will meet with Texas Market Assistance Program Committee for products liability insurance.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: March 4, 1980, 10:43 a.m.  
Doc. No. 801679

**Thursday, April 10, 1980, 9 a.m.** The State Board of Insurance will meet in the Highway Building hearing room, 11th and Brazos, Austin, to consider Docket 1148—rules for insurance advertising, certain trade practices, and solicitation.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: March 3, 1980, 4 p.m.  
Doc. No. 801658

## Texas Department of Labor and Standards

**Monday, April 7, 1980, 10 a.m.** The Licensing and Enforcement Division of the Texas Department of Labor and Standards will meet in Room 316 of the Sam Houston Building, 14th and San Jacinto Streets, Austin. According to the agenda, the division will determine whether the Texas Auctioneer License INS-100-0577 of Dean V. Kruse to auctioneer should be suspended or revoked.

Additional information may be obtained from the Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-6560.

Filed: March 6, 1980, 11:49 a.m.  
Doc. No. 801742

**Wednesday, April 16, 1980, 9 a.m.-noon, and 1:30-4 p.m.** The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 100B of the John H. Reagan Building, 14th and Congress, Austin. According to the agenda, the housing division will consider public comment relating to proposed amendments to existing rules and new proposed rules, including amendments and additions or changes to the proposed Texas Manufactured Housing Standards Modular Code. Interested parties wishing to speak at the hearing should notify the division in advance in writing covering the issue to be addressed.

Additional information may be obtained from John P. Steele, Box 12157, Austin, Texas 78711, telephone (512) 475-5712.

Filed: March 5, 1980, 11:55 a.m.  
Doc. No. 801733

## Texas Legislative Council

**Friday and Saturday, March 14 and 15, 1980, 10 a.m. daily.** The Election Code Study Committee of the Texas Legislative Council will meet in Room 301, Senate Finance Committee Room, Capitol Building, Austin. According to the agenda, the committee will consider staff reports on voter qualifications and registration as well as election recounts.

Additional information may be obtained from Walter Fisher, P.O. Box 12128, Austin, Texas 78711, telephone (512) 475-0722.

Filed: March 4, 1980, 4:28 p.m.  
Doc. No. 801698

## Board of Pardons and Paroles

**Monday-Friday, March 17-21, 1980, 9 a.m. daily.** The Board of Pardons and Paroles will meet in Room 711 of the Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: March 4, 1980, 8:37 a.m.  
Doc. No. 801676

**Wednesday, March 19, 1980, 9 a.m.** The Board of Pardons and Paroles will meet at the diagnostic unit, Texas Department of Corrections, Huntsville. According to the agenda, the parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: March 4, 1980, 8:37 a.m.  
Doc. No. 801677

## Texas State Board of Physical Therapy Examiners

**Tuesday, March 18, 1980, 1 p.m.** The Rules Committee of the Texas State Board of Physical Therapy Examiners will meet at Texas Woman's University in Room 203, 8194 Walnut Hill Lane, Dallas. According to the agenda, the committee will consider drafting of new rules proposed at the February 16, 1980, board meeting; final approval of rules-to-be proposed format will be approved at the April 12, 1980, board meeting.

Additional information may be obtained from Doris Porter, University of Texas, Allied Health Science Center, Dallas, Texas, telephone (214) 688-2850.

Filed: March 5, 1980, 9:33 a.m.  
Doc. No. 801714

**Tuesday, March 18, 1980, 2 p.m.** The Education Committee of the Texas State Board of Physical Therapy Examiners will meet at Texas Woman's University, Room 203, 8194 Walnut Hill Lane, Dallas. According to the agenda, the committee will consider education committee business.

Additional information may be obtained from Doris Porter, University of Texas, Allied Health Science Center, Dallas, Texas, telephone (214) 688-2850.

Filed: March 5, 1980, 9:33 a.m.  
Doc. No. 801715

## Public Utility Commission of Texas

**Friday, March 14, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearings division will consider application of Southwestern Public Service Company for authority to increase rates—Docket 3111.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 5, 1980, 9:32 a.m.  
Doc. No. 801711

**Wednesday, March 19, 1980, 8:30 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearings division will conduct a prehearing on the application of Navarro County Electric Cooperative, Inc., for a rate increase—Docket 3116.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 5, 1980, 3:48 p.m.  
Doc. No. 801734

**Wednesday, March 19, 1980, 1:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will consider Dockets 3042 and 3064, application of Rockett Water Supply Corporation to amend its certificate of convenience and necessity within Ellis County and application of the city of Waxahachie to amend its certificate of convenience and necessity within Ellis County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 4, 1980, 11:41 a.m.  
Doc. No. 801681

**Tuesday, March 25, 1980, 2 p.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearings division will consider application of Southwestern Bell Telephone Company for an interim order and for a determination of certain public interest issues—Docket 1634.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 5, 1980, 9:32 a.m.  
Doc. No. 801712

**Monday, March 31, 1980, 9:30 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard in Austin to conduct a hearing in Dockets 2882 and 2864, the petitions of Magic Valley Electric Cooperative, Inc., and Central Power and Light Company for review of Ordinance No. 977, passed by the City of Brownsville.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 4, 1980, 3:39 p.m.  
Doc. No. 801699

**Monday, April 7, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearings division will consider petition of Mountain States Telephone and Telegraph Company for authority to change rates—Docket 3040.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: March 4, 1980, 3:39 p.m.  
Doc. No. 801700

## Texas State Soil and Water Conservation Board

**Thursday, March 20, 1980, 8 a.m.** The Texas State Soil and Water Conservation Board will meet at 1006 First National Building, Temple. According to the agenda, the board will consider district director appointments; Resource Conservation Act, hearings and funding; Public Law 92-500, Section 208 non-point source pollution-agriculture; Public Law 83-566 watershed protection and flood prevention program; 1980 annual meeting; Great Plains program extension; governor's employment reduction resolution; budget estimates for 1982-83 biennium, and other related activities.

Additional information may be obtained from A. C. Spencer, 1002 First National Building, Temple, Texas 76501.

Filed: March 5, 1980, 8:52 a.m.  
Doc. No. 801708

## Texas Water Commission

**Friday, May 2, 1980, 10 a.m.** The Texas Water Commission will meet in Room 618, 1700 North Congress Avenue, Stephen F. Austin Building, Austin. According to the agenda summary, the commission will consider application of In-



gram Square Limited, Bexar County, for approval of preliminary plans for the construction of certain improvements on Leon and Huebner Creeks, tributaries of the San Antonio River in Bexar County (RE-0125).

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 3, 1980, 4 p.m.  
Doc. No. 801659

## Regional Agencies

### Meetings Filed March 4, 1980

*The Ark-Tex Council of Governments*, Executive Committee, will meet at Ricks Restaurant, Highway 271 North, Mt. Pleasant, on March 13, 1980, at 5 p.m. Further information may be obtained from James D. Goerke, P.O. Box 5307, Texarkana, Texas 75501, telephone (214) 794-3481.

*The Ark-Tex Council of Governments*, Executive Committee, will meet in the gold room, Titus County Civic Center, Mt. Pleasant, on March 13, 1980, at 7 p.m. Further information may be obtained from James D. Goerke, P.O. Box 5307, Texarkana, Texas 75501, telephone (214) 794-3481.

*The Central Texas Council of Governments*, Physical Resources Planning Division, will meet in the CTCOG Annex classroom, 302 East Central, Belton, on March 31, 1980, at 2 p.m. Further information may be obtained from Carol C. Neugent, P.O. Box 729, Belton, Texas 76513, telephone (817) 939-1801.

*The Tri-Region Health Systems Agency* will conduct a public hearing in the community room, First National Bank, 401 Cypress, Abilene, on March 14, 1980, at 6:30 p.m. Further information may be obtained from Vic Rhoads, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 801680

### Meetings Filed March 5, 1980

*The Alamo Area Council of Governments*, Bexar Senior Advisory Committee, will meet at 432 Three Americas Building, San Antonio, on March 14, 1980, at 10 a.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Alamo Area Council of Governments*, Alamo Senior Advisory Committee, will meet at 532 Three Americas Building, San Antonio, on March 14, 1980, at 2 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Alamo Area Council of Governments*, Regional Development and Review Committee, will meet at 532 Three Americas Building, San Antonio, on March 18, 1980, at 9 a.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Alamo Area Council of Governments*, Regional Drug Abuse Advisory Committee, will meet at 532 Three Americas Building, San Antonio, on March 18, 1980, at 3 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Alamo Area Council of Governments*, Criminal Justice Planning Division, will meet at 532 Three Americas Building, San Antonio, on March 19, 1980, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Alamo Area Council of Governments*, Human Resources Advisory Committee, will meet at 532 Three Americas Building, San Antonio, on March 20, 1980, at 1 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Alamo Area Council of Governments*, Area Judges of Alamo Consortium, will meet at 532 Three Americas Building, San Antonio, on March 26, 1980, at noon. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Alamo Area Council of Governments*, Executive Committee, will meet at 532 Three Americas Building, San Antonio, on March 26, 1980, at 1:30 p.m. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

*The Brazos Valley Development Council*, Board of Directors, will meet at the Ramada Inn, 410 South Texas Avenue, College Station, on March 13, 1980, at 7:30 p.m. Further information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77801, telephone (713) 822-7421.

*The Colorado River Municipal Water District*, Board of Directors, will meet at 400 East 24th Street, Big Spring, on March 13, 1980, at 10 a.m. Further information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, telephone (915) 267-6341.

*The East Texas Council of Governments*, Board of Directors, will meet at Marion County Courthouse Annex, Jefferson, on March 20, 1980, at 5:45 p.m. Further information may be obtained from Don R. Edmonds, Allied Citizens Bank Building, Kilgore, Texas 75662, telephone (214) 984-8641.

*The Education Service Center, Region XIV*, Board of Directors, will meet at 3001 North Third Street, Abilene, on March 13, 1980, at 3 p.m. Further information may be obtained from Dr. Thomas Lawrence, 3001 North Third Street, Abilene, Texas 79603, telephone (915) 677-2911.

*The Education Service Center, Region XVII*, Board of Directors, will meet in Room 606, Texas Commerce Bank Building, Lubbock, on April 1, 1980, at 10 a.m. Further information may be obtained from Ray Lanier, 700 Texas Commerce Bank Building, Lubbock, Texas, telephone (806) 763-4127.

*The Gulf Bend MH/MR Center*, Board of Trustees, will meet at 306 Broadway, Cuero, on March 12, 1980, at 12:30 p.m. Further information may be obtained from T. G. Kelliher, Jr.,

2105 Port Lavaca Drive, Victoria, Texas 77901, telephone (512) 578-5262.

**The North Texas Multi-Region Processing Center, Management Committee**, will meet in the board room, Region 10 Education Service Center, 400 East Spring Valley Road, Richardson, on March 13, 1980, at 10 a.m. Further information may be obtained from H. W. Goodgion, P.O. Box 1300, Richardson, Texas 75080, telephone (214) 231-6301.

**The Tri-Region Health Systems Agency, Nortex Subarea Advisory Council**, will meet in Rooms 106 and 107, Clark Student Center, Midwestern State University, 3400 Taft, Wichita Falls, on March 13, 1980, at 7 p.m. Further information may be obtained from Jammie Wolf, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 801709

### Meetings Filed March 6, 1980

**The Alabama-Coushatta Indian Tribal Council CETA Program, Administrative Unit**, will meet at Community Center, Alabama-Coushatta Indian Reservation, Livingston, on March 11, 1980, at 1:30 p.m. Further information may be obtained from Tony Byars, Alabama-Coushatta Indian Reservation, Livingston, Texas 77351, telephone (713) 563-4380.

**The Central Texas Manpower Consortium, Youth Advisory Council**, met at Hele Mai, River Forest, Belton, on March 10, 1980, at 7 p.m. Further information may be obtained from Billy Don Everett, P.O. Box 727, San Saba, Texas 76877, telephone (915) 372-5136.

**The Education Service Center, Region IX, Board of Directors**, met in emergency session at 301 Loop 11, Wichita Falls, on March 8, 1980, at 4 p.m. Further information may be obtained from H. M. Fullerton, 301 Loop 11, Wichita Falls, Texas 76305, telephone (817) 322-6928.

**The South Texas Development Council, Regional Manpower Policy Advisory Council**, will meet at the Zapata County judge's office, Zapata, on March 19, 1980, at 4 p.m. Further information may be obtained from Ernesto Garza-Gongora, P.O. Box 2187, Laredo, Texas 78040, telephone (512) 722-3995.

**The West Central Texas Council of Governments, Manpower Advisory Committee**, will meet at Starlite Inn, 3425 South 1st Street, Abilene, on March 13, 1980, at 11 a.m. Further information may be obtained from Brad E. Helbert, P.O. Box 3195, Abilene, Texas, telephone (915) 672-8544.

**The West Central Texas Council of Governments, Alcoholism/Drug Abuse Advisory Committee**, will meet at Starlight Inn, 3425 South 1st Street, Abilene, on March 18, 1980, at 11 a.m. Further information may be obtained from Sue Johnson, P.O. Box 3195, Abilene, Texas, telephone (915) 672-8544.

Doc. No. 801741

## Texas Air Control Board

### Notice of Contested Case Hearing

#### Re-Cycle Plastics, Inc.—Contested Case Hearing 141

Pursuant to the authority provided in Sections 3.15, 3.16, and 3.17 of the Texas Clean Air Act, Article 4477-5, Vernon's Annotated Texas Statutes, hereinafter referred to as the Act, and Rules 131.02.07.001 and 131.02.04.001 of the procedural rules of the Texas Air Control Board, an examiner for the Texas Air Control Board will conduct a hearing to consider an appeal of the executive director's decision to grant Construction Permit C-7925 which has been issued to Re-Cycle Plastics, Inc., hereinafter referred to as the company, for a fluidized bed furnace to be constructed at 4800 Johnny Palmer Road, Texas City, Texas.

Said company is directed to appear at the time and place shown below and demonstrate by preponderance of evidence why the Texas Air Control Board should affirm the action of the executive director in granting a construction permit for the proposed facility as authorized by Section 3.27 of the Act and Regulation VI of the rules and regulations of the Texas Air Control Board.

The record of this hearing will be used by the Texas Air Control Board in determining whether to affirm, modify, or reverse the decision of the executive director to grant the construction permit pursuant to Section 3.27 of the Act and Regulation VI of the Texas Air Control Board.

Information regarding the application for the permit and copies of the board's rules and regulations are available at the Regional Office of the agency located at 5555 West Loop, Suite 300, Bellaire, Texas 77401, the Central Office of the agency located at 6330 Highway 290 East, Austin, Texas 78723, and the office of the director of Environmental Control Services, Environmental Health Center, 1205 Oak Street, La Marque, Texas 77568.

The examiner has set the hearing to begin at 7 p.m. April 15, 1980, at the Environmental Health Center, 1205 Oak Street, La Marque, Texas 77568.

Parties to the hearing will be the Texas Air Control Board Staff, Re-Cycle Plastics, Inc., and James P. Parker, M.D. Any other persons desiring to be made a party may apply to Examiner Ramon Dasch, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No person will be admitted as a party unless the request is received at the address shown above with a postmark date no later than March 14, 1980. At the hearing, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. If an interested person desires to give testimony at the hearing but does not desire to be a party, he or she may call the Legal Division of the Texas Air Control Board at (512) 451-5711, extension 358, to determine the names and addresses of all admitted parties. These parties may then be contacted about the possibility of presenting testimony.

Pursuant to Rule 131.02.05.006 of the procedural rules of the Texas Air Control Board, the examiner has scheduled a prehearing conference on March 25, 1980, at 7 p.m. at the Environmental Health Center, 1205 Oak Street, La Marque,

Texas 77468. All persons admitted as parties must attend the conference and are required to submit a list of disputed issues for consideration at the hearing. At this conference, a specific date prior to April 15, 1980, will be established for the exchange of witness lists and evidence pursuant to Rule 131.02.05.006(2).

Interested members of the general public who plan to attend the hearing are encouraged to telephone the Regional Office of the Texas Air Control Board in Bellaire, Texas at (713) 666-4964 a day or two prior to the hearing date in order to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on February 27, 1980.

Doc. No. 801626      Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Filed: February 29, 1980, 2:17 p.m.

For further information, please call (512) 451-5711, ext. 354.

## Comptroller of Public Accounts

### Administrative Decision

#### Summary of Administrative Decision 10915

For copies of the following recent opinion selected and summarized by the administrative law judges, contact the administrative law judges, P.O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with our confidentiality statutes.

**Summary of Decision:** Under Texas Taxation—General Annotated, Article 20.01(T)(2), (Vernon 1969), in a "cost-plus" contract for the improvement of realty, a separately stated charge calculated as a percentage of the cost of the material is considered part of the "agreed price" of the materials and is therefore subject to the sales tax. Additionally, an increase in a deficiency determination, occurring after the deficiency determination had been placed in redetermination status pursuant to Article 1.032(C) but beyond four years from the date tax on the transaction was due, is not barred by the four-year statute of limitations contained in Article 20.06(D)(1). Because Article 20.08(C) allows the comptroller to increase the deficiency "at or before" the hearing, Article 1.045(E) must be read to toll the statute of limitations for all transactions in the audit period, not just those specific transactions upon which sales or use tax was assessed in the original deficiency determination.

Issued in Austin, Texas, on March 5, 1980.

Doc. No. 801720      Fred Conдор  
Chief Administrative Law Judge  
Comptroller of Public Accounts

Filed: March 5, 1980, 10:48 a.m.

For further information, please call (512) 475-1938.

## Texas Education Agency

### Consultant Proposal Request

**Description.** The Texas Education Agency is requesting proposals for the development of test items for reading, writing,

and mathematics at the third grade level, and for the provision of services for pilot-testing these items for use in the 1980-81 Texas assessment of basic skills mandated by Senate Bill 350, 66th Legislature, Regular Session. A contract is expected to be awarded no earlier than April 14, 1980. The last day on which proposals will be accepted for evaluation will be March 25, 1980. The right to reject any or all proposals is reserved.

**Procedures for Selecting Consultant.** The respondent deemed best qualified by previous experience, personnel qualifications, quality of management plan, quality of product, responsiveness of proposal to the request for proposals, and cost will be selected by an evaluation committee.

**Contact.** Further information and copies of the request for proposals may be obtained by writing or calling Keith Cruse, director of educational assessment, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-2066.

Issued in Austin, Texas, on March 5, 1980.

Doc. No. 801710      A. O. Bowen  
   Commissioner of Education

Filed: March 5, 1980, 9:13 a.m.

For further information, please call (512) 475-3272.

## Texas Health Facilities Commission Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of February 29, 1980, through March 4, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, 315.17.05.010-.030, 315.18.04.010-.030, and 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Bellaire General Hospital, Houston (3/4/80)  
AH80-0228-020

EC—Acquire an incinerator for the disposal of infectious and contaminated waste in order to correct LSC deficiencies

Abilene Regional MH/MR Center, Abilene (3/4/80)  
AA80-0229-015

EC—Acquire by lease 2,590 square feet of space located at 3909 South 7th Street, for the relocation of administrative offices from 620 Cedar

Flow Memorial Hospital, Denton (3/4/80)  
AH80-0229-021

EC—data acquisition and analysis system, for use in its existing radiology department

David Granberry Memorial Hospital Association,  
Inc., Naples (3/4/80)

AH75-0702-005A (02-29-80)

AMD/EC—Request to amend Exemption Certificate AH75-0702-005, which authorized renovation of the 1948 wing, to correct 1967 LSC deficiencies, in order to extend the completion deadline by one year to May 6, 1981

HCHD for Jefferson Davis Hospital, Houston  
(3/4/80)

AH78-1121-005A (01-30-80)

AMD/CN—Request to amend Certificate of Need AH78-1121-005, which authorized construction of a stair tower and two elevators for all 11 floors of the hospital and basement, in order to increase the cost limitation from \$974,800 to \$1,256,800

Doc. No. 801723

## Notice of Petition for Certificate of Need Reissuance

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for petitions of reissuance of certificate of need which have been filed with the commission.

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submit-

ted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Section 3.13 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.18.02.010-.040 and 315.19.02.012-.020.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

**Autumn Hills Convalescent Center, Inc., for Giddings Nursing Home, Giddings**  
AN79-0110-020R(02-29-80)

CN Reissuance—Request for reissuance of Certificate of Need AN79-0110-020 which authorized construction of a 55-bed addition, expand kitchen, dining facilities, living room areas, construct a laundry, and revise parking facilities

Issued in Austin, Texas, on March 5, 1980.

Doc. No. 801722      John R. Neel  
                            General Counsel  
                            Texas Health Facilities Commission

Filed: March 5, 1980, 11:52 a.m.

For further information, please call (512) 475-6940.

## Senate

### Special Committee on Delivery of Human Services in Texas

#### Subcommittee Meeting Notices

A meeting of the Subcommittee Studying Service Distribution Patterns will be held on Friday, March 14, 1980, beginning at 9:30 a.m. in the Senate Reception Room (No. 214), State Capitol, Austin. The subcommittee will consider recommendations regarding service distribution patterns in rural Texas; and consider proposed recommendations regarding improving a system of state agency accountability.

Doc. No. 801718

A meeting of the Subcommittee Studying Funding Patterns will be held on Friday, March 14, 1980, beginning at 9:30 a.m. in the Lieutenant Governor's Committee Room, State Capitol, Austin. The subcommittee will consider recommendations regarding federal funds control.

Issued in Austin, Texas, on February 27, 1980.

Doc. No. 801719      June Hyer  
                            Executive Director  
                            Special Committee on Delivery of  
                            Human Services in Texas

Filed: March 5, 1980, 10:45 a.m.

For further information, please call (512) 475-1284.

## Texas Water Commission

### Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of February 25-29, 1980.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed action; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

#### Week Ending February 29, 1980

Texas Department of Corrections (Goree Unit), Walker County; sewage treatment plant; southeast of Huntsville, east of IH 45; 10659-01; renewal

Henderson Clay Products, Inc., Henderson, Rusk County; face brick manufacturing plant; 250 feet southeast of the intersection of U.S. Highway 259 and State Highway 322; 01570; renewal

Liquid Energy Corporation, Wise County; oil refinery; two miles (via U.S. Highway 380) southwest of Bridgeport, new permit

City of Newcastle (Water Treatment Plant), Young County; water treatment plant; 1 1/2 miles southwest of Newcastle; 10647-02; renewal

City of Gilmer, Upshur County; sewage treatment plant; east of Gilmer on the north side of Sugar Creek; 10457-01; renewal

Victoria Consolidated ISD (Guadalupe Elementary School), Guadalupe, Victoria County; sewage treatment plant; 3,500 feet southwest of the intersection of Guadalupe Road with U.S. Highway 87; 11470-01; renewal

Ben Wheeler Water Supply Corporation, Van Zandt County; water treatment plant; behind the Ben Wheeler State Bank; 01939; renewal

City of San Angelo, Tom Green County; water treatment plant; at Avenue I and Metcalfe Street; 10641-01; renewal

Texas Department of Corrections (Ellis Unit), Walker County; sewage treatment plant; 12 miles northeast of Huntsville; 11180-01; renewal

Kerr-McGee Chemical Corporation, Texarkana, Bowie County; wood treating plant; 1,000 feet southwest of the intersection of U.S. Highway 59 and Buchanan Road; 01495; renewal

Browning-Ferris Industries, Inc., Brazoria County; waste disposal well; 3.5 miles northeast of the city limits of Clute, Texas; new permit

Rhone-Poulenc, Inc. (Freeport Plant—Chemicals Division), Brazoria County; rare earths production plant; on the north side of the Dow Chemical, Inc., Plant "A" Effluent Canal; 01822; amendment

Texas Department of Corrections—Darrington Unit, Brazoria County; sewage treatment plant; 3.2 miles north and two miles west of the intersection of State Highway 288 and FM Road 1462; 10743; renewal

Central Independent School District, Angelina County; sewage treatment plant; northwest of Lufkin; new permit

San Miguel Electric Cooperative, Inc., Jourdanton, Atascosa County; steam electric station; four miles east of State Highway 16; 02043; amendment

Ozarka Water Company of San Antonio, Bexar County; water distillation process plant; at 249 West La Chapelle Street; 01218; renewal

Capitol Aggregates, Inc., Capitol Cement Division, San Antonio, Bexar County; cement plant; on the west side of Nacogdoches Road; 01510; renewal

City of Bryan (Plant No. 2), Brazos County; sewage treatment plant; 1/8 mile northwest of the intersection of West State Highway 21 and Quality Park Lane; 10426-02; renewal

Continental Service Corporation, Harris County; sewage treatment plant; 150 feet west of the intersection of Kingfisher and Pheasant Run; 11905; amendment

Lynes, Inc., Harris County; sewage treatment plant; at 8787 Tallyho Street; 01900; renewal

Maple Investments Company, Inc., Harris County; sewage treatment plant; immediately northwest of the Gummert Road and Barker-Cypress Road intersection; new permit

Armco Steel Corporation/National Supply Company Division, Houston, Harris County; oil well equipment manufacturing plant; 6229 Navigation Boulevard; 01036; renewal

Weston Municipal Utility District, Katy, Harris County; sewage treatment plant; 0.6 mile east of Mason Road and 0.4 mile north of IH-10; 11632-01; renewal

State Department of Highways and Public Transportation (Baytown-La Porte Tunnel), Harris County; wastewater treatment plant; north end of the Baytown-La Porte Tunnel on SH 146; 01786; renewal

Harris County (Alexander Deussen Park), Harris County; wastewater treatment plant; in Alexander Deussen Park; new permit

Chemical Exchange Company, Inc., Baytown, Harris County; petrochemical manufacturing plant; 5501 Baker Road; 01914; renewal

Ronald L. Jordan Company, Inc., Harris County; wastewater treatment plant; 6115 Jetero Boulevard; 11069-01; renewal

GATX Terminals Corporation, Galena Park, Harris County; petroleum and petrochemical bulk storage and shipping terminal; 2,500 feet east of Main Street; 01586; renewal

Baroid Division, NL Industries, Inc., Harris County; oil field chemicals plant; 17402 Wallisville Road; 01198; renewal

Cargill, Inc., Channelview, Harris County; grain elevator; 14910 Market Street; 01247; renewal

Westway Utility District, Harris County; sewage treatment plant; 250 feet west of the intersection of Genard Road and Steffani Lane; 11330; renewal

City of Houston, Department of Public Works (Southwest Plant), Harris County; wastewater treatment plant; at the intersection of Beechnut and Newcastle Streets; 10495-37; amendment

City of Jacinto City, Harris County; sewage treatment plant; southeast of the Market Street bridge over Hunting Bayou; 10195; amendment

Reamer, Dyer and Claypool, Inc., and James C. Shindler, doing business as Greenspoint East Joint Venture, Harris County; sewage treatment plant; on the west side of Hardy Road; new permit

Issued in Austin, Texas, on March 3, 1980.

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Mary Ann Hefner

Chief Clerk

Texas Water Commission

Filed: March 4, 1980, 3:45 p.m.

For further information, please call (512) 475-1311.



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