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# Texas Register

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## Highlights

- ★ The Texas Animal Health Commission adopts on an emergency basis and simultaneously proposes for permanent adoption the repeal of existing rules and new rules concerning the eradication of brucellosis in cattle; effective date - July 11.....pages 2667, 2678
- ★ The Texas Water Development Board adopts on an emergency basis amendments to a section concerning the water loan assistance fund; effective date - July 12..... page 2676
- ★ The Texas Youth Commission proposes the repeal of existing sections and simultaneously proposes the adoption of new sections concerning residential contract service; earliest possible date of adoption - August 19.....page 2684

# How To Use the Texas Register

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1983 with the exception of January 25, March 8, April 26, and November 29, by the Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475 7886.

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**Information Available:** The nine sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor appointments, executive orders, and proclamations
- Secretary of State summaries of opinions based on election laws
- Attorney General summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules rules adopted by state agencies on an emergency basis
- Proposed Rules rules proposed for adoption
- Withdrawn Rules rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date
- Adopted Rules rules adopted following a 30-day public comment period
- Legislature -- Bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- Open Meetings -- notices of open meetings
- In Addition -- miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, quarterly, and annual indexes to aid in researching material published.

**How To Cite:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which

that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: page 2 in the lower left-hand corner of this page is written, "8 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 8 TexReg 3."

**How To Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code* (explained below), rule number, or TRD number.

## Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules currently being published by Shepard's/McGraw-Hill, in cooperation with this office.

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

1 indicates the title under which the agency appears in the *Texas Administrative Code* (a listing of all the titles appears below);

TAC stands for the *Texas Administrative Code*;

§27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 10, December 1982

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John W. Fainter, Jr.  
Secretary of State

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# The Attorney General

Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure.

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

## Requests for Opinions

**RQ-154.** Request from Harold R. Schmidt, Mason County attorney, Mason, concerning whether a county may contribute funds to a privately owned hospital.  
TRD-835189

**RQ-155.** Request from Henry Wade, Dallas County district attorney, Dallas, concerning the effective date of Texas Civil Statutes, Article 2372p-3, relating to regulation of bail bondsmen.  
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**RQ-156.** Request from Oscar Mauzy, state senator, Austin, concerning whether the manufacture and sale of "private label" malt beverage products are prohibited in this state.  
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**RQ-159.** Request from Dr. Fred Wendorf, chairman, Texas Antiquities Committee, Austin, concerning the effect of designation as a state archeological landmark.  
TRD-835194

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whether a commissioners court may contract with an attorney who is the husband of a commissioner.  
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TRD-835196

**RQ-162.** Request from Kenneth H. Ashworth, Coordinating Board, Texas College and University System, Austin, concerning whether a board of trustees of a junior college district may remove an officer.  
TRD-835197

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing for no more than 120 days. The emergency action is renewable once for no more than 60 days.

An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

Symbology in amended rules. New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

# Emergency Rules

## TITLE 4. AGRICULTURE Part II. Texas Animal Health Commission Chapter 35. Brucellosis Subchapter A. Eradication of Brucellosis in Cattle

### 4 TAC §§35.1-35.6

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the offices of the Texas Animal Health Commission, 210 Barton Springs Road, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Animal Health Commission adopts on an emergency basis the repeal of §35.1, concerning definitions; §35.2, concerning general requirements; §35.3, concerning requirements for certified brucellosis-free herd of cattle; §35.4, concerning Class "B" area; §35.5, concerning Class "C" area; and §35.6, concerning indemnity rates of the Texas bovine brucellosis regulations.

These rules are repealed because of the Texas Legislature's recently adopted amendments to the statutes (contained in House Bill 1) during the first called session of the 68th Legislature. House Bill 1 was signed by the governor on June 27, 1983, and became effective immediately. These repeals are proposed simultaneously for permanent adoption.

These rules are repealed on an emergency basis because new rules will be adopted on an emergency basis.

The repeals are adopted on an emergency basis pursuant to the authority cited in the Texas Agriculture Code, Chapters 161 and 163.

- §35.1. *Definitions.*
- §35.2. *General Requirements.*
- §35.3. *Requirements for Certified Brucellosis-Free Herd of Cattle.*
- §35.4. *Class "B" Area.*
- §35.5. *Class "C" Area.*
- §35.6. *Indemnity Rates.*

Issued in Austin, Texas, on July 8, 1983.

TRD-835180      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Effective date: July 11, 1983  
Expiration date: November 8, 1983  
For further information, please call (512) 475-4111.

The Texas Animal Health Commission adopts on an emergency basis new §35.1, concerning definitions; §35.2, concerning general requirements; §35.3, concerning requirements for certified brucellosis-free herd of cattle; §35.4, concerning Class "B" area; §35.5, concerning Class "C" area; and §35.6, concerning indemnity rates.

These rules are promulgated because of the Texas Legislature's recently adopted amendments to the statutes during the first called session of the 68th Legislature. The amendments are found in House Bill 1. House Bill 1, was signed by the governor on June 27, 1983, and became effective immediately.

This rule-making action is necessary because of recent amendments to the Texas Agriculture Code.

The new rules are adopted on an emergency basis under authority of the Texas Agriculture Code, Chapter 163.

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

**Adjacent herds**—A herd located on a premise contiguous to a premise with affected cattle.

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

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

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

**Auction**—A public sale of cattle.

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

**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*.

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

**Class "free" area**—An area of two or more contiguous counties which has remained free from field strain *Brucella abortus* infection for 12 months or longer. A 12-months adjusted MCI reactor prevalence rate not to exceed one reactor per 2,000 cattle tested (0.050%) must be maintained.

**Class "A" area**—An area of two or more contiguous counties which has an accumulated 12-months herd infection rate due to field strain *Brucella abortus* that does not exceed 0.250% or 2.5 herds per 1,000 cattle tested and must maintain a 12-months adjusted MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.100%).

**Class "B" area**—An area of two or more contiguous counties which has an accumulated 12-months herd infection rate due to field strain *Brucella abortus* that does not exceed 1.5% or 15 herds per 1,000. A 12-months adjusted MCI reactor prevalence rate not to exceed three reactors per 1,000 cattle tested (0.30%) must be maintained.

**Class "C" area**—An area of two or more contiguous counties which has an accumulated 12-months herd infection rate due to field strain *Brucella abortus* which exceeds 1.5% or 16 herds per 1,000 and has a 12-months adjusted MCI reactor prevalence rate exceeding three reactors per 1,000 cattle tested (0.30%).

**Commission**—Texas Animal Health Commission.

**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.

**Commuter herd**—A herd of a permanent nature routinely pastured in two or more states on land owned or leased on a long-term basis by the herd owner and which requires movement of cattle from one state to

another as part of a normal grazing management program. In order to receive this designation, the entire herd located in all states involved must have received a complete negative herd test of all cattle required to be tested (test-eligible cattle to be determined by states involved) within 30 days prior to the initial movement. Documentation of this negative test must accompany the application for "commuter herd" status in each state. Approval of this status shall be contingent on advice from the area director. In order to maintain this status, the herd must be kept separate from all other herds, retested negative every 10-14 months from first negative test using identification shown on first herd test, and test all herd additions within 30 days prior to entry into the herd, isolate and retest 45-120 days before becoming a part of the herd.

**Dealer**

(A) 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

(B) Any person engaged in the business of buying or selling cattle in commerce on a commission basis.

(C) 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.

**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.

**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 parturient or postparturient.

**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.

**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.

**Herd**—A herd is all cattle that are in one premise, or more than one premise and that have had an interchange or contact of cattle by usual management practices during a 12-month period.

**High risk herd**—A herd that is epidemiologically judged to have a high probability of developing brucellosis.

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

**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.

**Official eartag**—A metal identification eartag conforming to the nine character, alphanumeric National

Uniform Eartagging System, using a color (e.g., orange for vaccination) which provides unique identification for each individual animal.

Official vaccinate--

(A) Calftood vaccinate: female cattle of a dairy breed vaccinated between 120 and 365 days of age with an approved *Brucella* vaccine. Female cattle of a beef breed vaccinated between 120 and 365 days of age with an approved *Brucella* vaccine

(B) 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 subparagraph (A) of this paragraph with an approved dose of *Brucella* vaccine as part of a whole herd vaccination plan.

Parturient - Visibly prepared to give birth or with in two weeks of giving birth.

Permit—A document adopted by the commission with specified conditions relative to movement and testing of cattle which is required to accompany cattle entering, leaving, or moving within the State of Texas

(A) "I" 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 "I" permit shall state the conditions under which movement may be made and restrictions and test requirements after arrival

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

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

Postparturient—Having already given birth.

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

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.

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.

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.

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.

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

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. 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, however, test-eligible cattle may be moved based upon the card test results.

(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. Results of the card test may be used with other test results conducted in the state-federal laboratory to aid in the classification of cattle as reactors. 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 based on the following standards:

(A) Interpretation for all nonvaccinated test-eligible cattle:

(i) 50% fixation (2 plus) in a dilution of 1:20 or higher—reactor.

(ii) 50% fixation (2 plus) in a dilution of 1:10 but less than 50% fixation (2 plus) in a dilution of 1:20—suspect.

(iii) less than 50% fixation (2 plus) in a dilution of 1:10—negative.

(B) Interpretation for all test-eligible vaccinated cattle including adult vaccinated animals beginning two months postvaccination:

(i) 25% fixation (1 plus) in a dilution of 1:40 or higher—reactor.

(ii) 50% fixation (2 plus) in a dilution of 1:10 but less than 25% fixation (1 plus) in a dilution of 1:40—suspect.

(iii) less than 50% fixation (2 plus) in a dilution of 1:10—negative

(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. Complete agglutination at dilutions of 1:25 or more may be classified as a reactor to the rivanol test. Less than complete agglutination at 1:25 may be classified as negative to the rivanol test

(4) Brucellosis ring test (BRT). The brucellosis ring test, conducted by methods approved by the National Veterinary Services Laboratory, is a test that may be used to classify herds or cattle as suspected of being infected with brucellosis.

(5) Buffered acidified plate antigen test. Buffered acidified plate antigen tests may be used to classify cattle as negative on MCI samples collected at slaughter and at livestock markets. This test 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 negative in state-federal laboratories.

(7) New tests under research. Laboratory tests approved by the executive director are authorized to be used in conjunction with tests listed in this subsection 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 *Brucella 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) Requirements of a market test or "S" brand. All nonexempt cattle 18 months of age and older (age determined by the loss of the central pair of temporary incisors) in each consignment to the market shall be tested unless all such cattle are "S" branded. Such tested animals shall be identified by eartag and/or backtag, except that cattle going back to the country shall be identified by an official metal eartag, or other permanent identification. All cattle from the same herd shall be considered as one consignment.

(f) Requirements of a slaughter test. All cattle 18 months of age or older (age determined by the loss of the central pair of temporary incisors) except cattle from quarantined feedlots, finished fed heifers up to 24 months of age, cattle from certified free herds, cattle tested within 30 days, and steers and spayed heifers destined for slaughter to be slaughtered in Texas plants operating under provisions of the state or federal meat inspection act, shall be tested prior to slaughter by approved personnel by collecting their blood and submitting the samples to a state-federal laboratory. The identification of the cattle shall be maintained so as to allow tracing of reactors or suspects to their herd of origin, including, but not limited to, packer's lot number, seller's name and address, and number of animals. Slaughter plants will be exempt from the requirement of testing cattle prior to slaughter if they choose to sign an agreement with the Texas Animal Health Commission agreeing to the following provisions:

(1) Identify all test eligible cattle to the person or firm from whom they were secured. (Complete name and address.)

(2) Arrange for blood collection from carcasses of all cows and bulls 18 months of age or older, (except feedlot fed heifers up to 24 months of age)

(3) See that all man-made identification, such as backtags, eartags, and bangle tags are put with blood samples and promptly submitted to the appropriate state-federal laboratory for brucellosis tests

(4) Submit daily kill sheets and the USDA Brucellosis Test Record, Market Cattle Testing Program Form (VS 4-54) to the laboratory with identification of each animal to the person or firm from which the cattle were secured. (Full name and address.)

(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 inches 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 inches 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 Suspects will be moved the same as exposed cattle, except a vaccinated suspect(s) at a livestock market in a consignment of otherwise negative cattle (where the suspect is card positive on the presumptive test and negative to the CF or rivanol test(s) may move as follows. In a single consignment of cattle, which are from a producer's herd of origin, the owner shall either return the vaccinated suspect(s) under quarantine to the herd of origin until the suspect(s) is negative to the card test, declared a stabilized suspect by an epidemiologist after subsequent test(s) conducted in not less than 30 days, or classified as a reactor on a subsequent test, or sell the suspect(s) to a quarantined feedlot, quarantined pasture, or to slaughter, identified with an "S" brand. Card negative cattle in this consignment may return to the herd of origin or move to another premise within the state or move interstate. Consignments containing a card positive but CF or rivanol negative non-vaccinated suspect(s) shall be identified and moved as exposed cattle or returned to the premises of origin under quarantine.

(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 no limited to, the minimum requirements of these regulations.

(2) Any person who desires a meeting for the purpose of protesting the entering into of a herd 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 within 15 days of his receipt of the herd 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 the chairman will set a date for a hearing

and 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, Texas Civil Statutes, Article 6252-13a. The commission shall also consider controverting affidavits and statements. 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 infected 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; however, officially vaccinated calves under 12 months of age and steers of any age in a herd known to be affected, but which is following an approved individual herd plan, may move from any area into any area until January 1, 1984.

(A) 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.

(B) The provisions that all female cattle between 120 and 365 days of age that are part of the herd shall be officially calfhood-vaccinated.

(C) 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.

(D) 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.

(E) 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.

(F) For all affected beef and dairy herds an additional herd test not less than 10 months nor more than 16 months from removal of the last reactor will be included in the test provision.

(I) Requirements following adult vaccination of cattle in noninfected herds. Place a hold order only on those cattle in the herd which have been adult vaccinated. All eligible calves shall also be calfhood vaccinated and identified. Such herds shall receive a test following the initial whole-herd vaccination. Card test negative animals from herds may move provided they meet other requirements

set out in these regulations. The herd will be eligible for release from hold order with a negative test 120 days or more following vaccination. Official vaccinates positive on the card test or having a titer between  $\pm 2$  at 1:10 and  $\pm 4$  at 1:20 on the CF test in AV herds on the otherwise negative second test shall be classified as suspect and be held as an individual herd until they are card negative and less than  $\pm 2$  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 vaccinations will be conducted by approved personnel only.

(2) Calftood-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 infected herds.

(1) The status of infected 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 means of an educational letter delivered by personal contact or by mail.

(2) Notification to the Texas Department of Health. The Texas Department of Health will be notified within 15 days of the classification of an infected 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 and 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 moved 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 10 months. All exposed cattle must vacate the premise on or before the expiration of approval.

(q) Market cattle identification. All cattle 18 months 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 of 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 committees. There shall be a committee of cattle owners in each of the 15 TAHC-designated areas of the state. The committees shall be composed of not more than 12 cattle owners appointed by the commission from a list proposed by cattle owners in

each area. The area committees shall be informed regularly of the general plans for surveillance, vaccination, and testing of cattle, and the progress or lack of progress of the program within each area. Members of the committees shall serve six-year staggered terms of two-year intervals to be determined by lot from the first 12 appointed.

(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.

**§35.3. 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.

(1) Officially vaccinated females are subject to test requirements if they are parturient or postparturient or exceed the following ages (as evidenced by the presence of the first pair of permanent incisor teeth):

(A) dairy—20 months of age,

(B) beef—24 months of age

(2) Nonvaccinated animals, except steers and spayed heifers, are subject to test requirements at 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 four 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.

(3) Purchase of a certified free herd.

(A) A negative herd blood test is not required when the cattle remain on the premises. A new certificate will be issued in the owner's name. The anniversary date and the herd number will remain the same.

(B) All or part of a certified free herd purchased and moved directly to premises without other cattle may qualify without a test. A new certification number

will be issued. The anniversary date of the new herd is established by the test date of the herd of origin or by a new herd test of the purchased cattle

(e) Qualifying standards

(1) Herd infection rates. The individual herd must disclose no evidence of infection at the time of initial certification or recertification. (A negative blood test and a complete epidemiological investigation may be used to resolve a suspicious BRT in qualifying a dairy herd.)

(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 subsection (d)(1) of this section have been met. Herd retests for quarantine release, and to fulfill the provisions required under subsection (d)(1) of this section, may be conducted concurrently.

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

(A) From certified brucellosis-free herds or class "free" states or areas. No test requirements on breeding or dairy cattle originating from certified brucellosis-free herds or class "free" states or 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 Class "A," "B," or "C" states or areas. Cattle required to be tested from herds not under quarantine must meet all interstate and intrastate movement requirements 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 and have been included in an anniversary herd test.

(f) Proof of qualifying as a certified brucellosis herd.

(1) Initially a certificate will be issued.

(2) Recertification will be done by renewal certificate showing only the certified free herd number, number of animals, and owner.

**§35.4. Class "B" Area.**

(a) General provisions. The purpose of a Class "B" area is to use all feasible methods of finding and eliminating brucellosis in an area so that the area will become an area of higher classification at a later date. The commission on its own motion or in response to a petition to the commission may add counties to this area. A county to be considered for inclusion in the Class "B"

area shall be contiguous to a county that is part of the "B" area. The herd infection rate for the county shall not exceed an accumulated 12-months herd infection rate due to field strain *Brucella abortus* of 1.5% or 15 herds per 1,000, and a 12 months adjusted MCF reactor prevalence rate not to exceed three reactors per 1,000 cattle tested (0.30%) must be maintained at the time of filing the petition. Once the commission has approved the transfer, the county will be included in the next submission of the application for brucellosis classification or reclassification to USDA, Animal Plant Health Inspection Service, Veterinary Services. Upon approval of this application, the county will become a part of the "B" area. Petitions are available from the central office. The provisions in §35.1 of this title (relating to Definitions), §35.2 of this title (relating to General Requirements), and §35.3 of this title (relating to Requirements for Certified Brucellosis-Free Herd of Cattle) shall apply in addition to the following requirements. When in conflict, the provisions of this section will prevail.

(b) Class "B" area. Area to include the following counties: Andrews, Archer, Armstrong, Bailey, Bandera, Baylor, Bell, Blanco, Borden, Bosque, Brewster, Briscoe, Brown, Burnet, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Ector, Edwards, El Paso, Erath, Fisher, Floyd, Foard, Gaines, Garza, Gillespie, Glasscock, Gray, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kendall, Kent, Kerr, Kimble, Kinney, King, Knox, Lamb, Lampasas, Lipscomb, Llano, Loving, Lubbock, Lynn, McCulloch, Martin, Mason, Maverick, Mead, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochilree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Sterling, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Upton, Uvalde, Val Verde, Ward, Wheeler, Wichita, Wilbarger, Williamson, Winkler, Wise, Yoakum, Young, and Zavala.

(c) Requirements for cattle entering the Class "B" area.

(1) Vaccination. All female cattle born after January 1, 1983, and four months of age and older entering, shall be officially vaccinated prior to entry. Exceptions to these vaccination requirements.

(A) Female cattle originating from a certified free herd.

(B) Female cattle entering for purposes of shows, fairs, and exhibitions.

(C) Female cattle moving within commuter herds.

(D) Spayed heifers.

(E) Female cattle which are individually identified with an "S" brand, a backtag, or other recognized identification either prior to entry or at a livestock market and consigned to slaughter or quarantined feedlot.

(F) Female cattle, originating in Texas and permitted to an approved veterinarian for vaccination at owner's expense within 10 days of permit date.

(2) Testing. All bulls and nonvaccinated female cattle over 18 months of age (age determined by the loss of the central pair of temporary incisors), and all vaccinated female cattle of dairy breeds over 20 months of age, and all vaccinated female cattle of beef breeds over 24 months of age, and all parturient or postparturient vaccinated female cattle, entering the area shall be moved directly from.

(A) a class free state or area; or

(B) a certified free herd, or

(C) a commuter herd as defined in these rules;

or

(D) shall be "S" branded and moved directly to a quarantined feedlot or to slaughter, accompanied with an "S" permit, or moved directly to a livestock market to be "S" branded and moved directly to a quarantined feedlot or to slaughter accompanied with an "S" permit, or

(E) shall be spayed if female; or

(F) shall be tested negative one or more times as described in this subparagraph:

(i) Cattle from a Class "A" or "B" state or area shall:

(I) be tested negative within 30 days prior to entry, accompanied with an "E" permit and held under quarantine for a negative retest 45-120 days at a farm, ranch, or feedlot; or

(II) be moved directly to a livestock market for a negative test and held under quarantine for a negative retest 45-120 days after sale to a farm, ranch, or feedlot.

(ii) Cattle from a Class "C" state or area shall:

(I) be official vaccinates and tested negative within 30 days prior to entry and be accompanied with an "E" permit, or be consigned directly to a market for testing. Cattle will be held under quarantine after movement or sale for a negative retest 45-120 days at a farm, ranch, or feedlot.

(II) be nonvaccinates and be tested negative within 30 days prior to movement, and either

(-a-) be from a herd in which all test-eligible cattle have been together for at least 120 days and have been subjected to one negative test as a herd within the previous 365 days; or

(-b-) be from a nonquarantined herd and have been subjected to a negative test not less than 60, nor more than 365, days before the test for movement.

(III) The cattle must be accompanied with an "E" permit or be consigned to a livestock market. The second test, if required, can be conducted after arrival at the livestock market. Cattle will be held under quarantine after movement or sale for a negative retest 45-120 days at a farm, ranch, or feedlot.

(d) Change of ownership within the Class "B" area.

(1) Vaccination. It is recommended that all female cattle born after January 1, 1983, four months of age and older, and purchased or sold for use in graz-

ing, breeding, dairying operations, or confinement in a dry lot not under quarantine be officially vaccinated.

(2) Testing All nonexempt cattle over 18 months of age (age determined by the loss of the central pair of temporary incisors) changing ownership within the Class "B" area shall

- (A) originate from a certified free herd; or
- (B) be tested negative within 30 days prior to sale; or
- (C) consigned to a livestock market and tested negative prior to sale; or
- (D) consigned to a slaughter establishment for testing or blood collection.

**§35.5. Class "C" Area.**

(a) General provisions. The purpose of a Class "C" area is to use all feasible methods of finding and eliminating brucellosis in an area so that this area or parts of this area may qualify for inclusion in an area of higher classification at a later date. The 12-months herd infection rate due to field strain *Brucella abortus* exceeds 1.5% of 16 herds per 1,000 and has a 12-months' adjusted MCI reactor prevalence rate exceeding three reactors per 1,000 cattle tested (0.30%).

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

(c) Requirements for cattle entering the Class "C" area.

(1) Vaccination. All female cattle born after January 1, 1983, and four months of age and older entering shall be officially vaccinated prior to entry. Exceptions to these vaccination requirements:

- (A) female cattle originating from a certified free herd.
- (B) female cattle entering for purposes of shows, fairs, and exhibitions.
- (C) female cattle moving within commuter herds.
- (D) spayed heifers.

(E) female cattle which are individually identified with an "S" brand, cartag, or other recognized identification either prior to entry or at a livestock market and consigned to slaughter or quarantined feedlot.

(F) female cattle, originating in Texas and permitted to an approved veterinarian for vaccination at owner's expense within 10 days of permit date

(2) Testing All bulls and nonvaccinated female cattle over 18 months of age (age determined by the loss of the central pair of temporary incisors), and all vaccinated female cattle of dairy breeds over 20 months of age, and all vaccinated female cattle of beef breeds over 24 months of age, and all parturient or postparturient vaccinated female cattle entering the area shall be moved directly from:

- (A) a class free state or area; or
- (B) a certified free herd, or
- (C) a commuter herd as defined in these rules;

or

(D) shall be "S" branded and moved directly to a quarantined feedlot or to slaughter, accompanied with an "S" permit, or moved directly to a livestock market to be "S" branded and moved directly to a quarantined feedlot or to slaughter accompanied with an "S" permit; or

(E) shall be spayed if female; or

(F) shall be tested negative one or more times as described in this subparagraph:

(i) Cattle from a class "A" or "B" state or area shall:

(1) be tested negative within 30 days prior to entry, accompanied with an "E" permit and held under quarantine for a negative retest 45-120 days at a farm, ranch, or feedlot; or

(II) be moved directly to a livestock market for a negative test and held under quarantine for a negative retest 45-120 days after sale to a farm, ranch, or feedlot.

(ii) Cattle from a Class "C" state or area shall:

(I) be official vaccinates and tested negative within 30 days prior to entry and be accompanied with an "E" permit or be consigned directly to a market for testing. Cattle will be held under quarantine after movement or sale for a negative retest 45-120 days at a farm, ranch, or feedlot.

(II) be nonvaccinates and be tested negative within 30 days prior to movement; and either

(-a-) be from a herd in which all test-eligible cattle have been together for at least 120 days and have been subjected to one negative test as a herd within the previous 365 days; or

(-b-) be from a nonquarantined herd and have been subjected to a negative test not less than 60, nor more than 365, days before the test for movement.

(III) The cattle must be accompanied with an "E" permit or be consigned to a livestock market. The second test, if required, can be conducted after arrival at a livestock market. Cattle will be held under quarantine after movement or sale for a negative retest 45-120 days at a farm, ranch, or feedlot.

(d) Change of ownership within the Class "C" area.

(1) Vaccination. All female cattle born after January 1, 1983, 18 months of age and older, except cattle from certified free herds, which are purchased or sold for use in grazing, breeding, dairying operations, or con-

finement in a dry lot not under quarantine, shall be officially vaccinated or meet the testing requirements in paragraph (2)(B) of this subsection

(2) Testing

(A) All nonexempt cattle born prior to January 1, 1983, over 18 months of age (age determined by the loss of the central pair of temporary incisors) which are changing ownership within the Class "C" area shall originate directly from:

- (i) a certified free herd; or
- (ii) shall be tested negative within 30 days prior to sale; or
- (iii) consigned to a livestock market and tested negative unless "S" branded prior to sale; or
- (iv) consigned to a slaughter establishment for testing or blood collection; or
- (v) consigned to a quarantined feedlot or quarantined pasture.

(B) All nonvaccinated female cattle born after January 1, 1983, and over 18 months of age changing ownership within the Class "C" area shall originate directly from:

- (i) a certified free herd; or
- (ii) be tested negative within 30 days prior to change of ownership; and either:

(I) be from a herd in which all test-eligible cattle have been together for at least 120 days and have been subjected to one negative test as a herd within the previous 365 days; or

(II) be from a nonquarantined herd accompanied by proof of two negative tests not less than 60, nor more than 365, days apart (the second test when required may be conducted at a livestock market); or

- (iii) shall be "S" branded and consigned directly to slaughter, quarantined feedlot, or quarantined pasture, or consigned to a livestock market and "S" branded and consigned directly to slaughter, quarantined feedlot, or quarantined pasture.

(C) All bulls over 18 months of age and officially vaccinated female cattle of dairy breeds over 20 months of age and beef breeds over 24 months of age or official vaccinates under those ages and which are parturient or postparturient, and born after January 1, 1983, which are changing ownership within the Class "C" area shall originate directly from:

- (i) a certified free herd; or
- (ii) shall be tested negative within 30 days prior to sale; or
- (iii) consigned to a livestock market and tested negative unless "S" branded prior to sale; or
- (iv) consigned to a slaughter establishment for testing or blood collection; or
- (v) consigned to a quarantined feedlot or quarantined pasture.

**§35.6. Indemnity Rates.**

(a) Purpose. The purpose of this rule is to establish a statewide maximum brucellosis indemnity rate which will be paid for brucellosis reactors. (Reactor cattle shall be immediately slaughtered and removed from the premises within 15 days of the date of identification. For further information concerning slaughter of reactors, refer to §35.2(j) of this title (relating to General Requirements) of the Texas bovine brucellosis regulations.)

Indemnity is paid by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, when funds are available.

(b) Rates.

- (1) Grade beef—\$50
- (2) Grade dairy—\$250.
- (3) Purebred—\$500.

Issued in Austin, Texas, on July 8, 1983.

TRD-835182      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Effective date: July 11, 1983  
Expiration date: November 8, 1983  
For further information, please call (512) 476-4111.

**TITLE 31. NATURAL RESOURCES  
AND CONSERVATION**

**Part X. Texas Water Development  
Board**

**Chapter 355. Water Loan Assistance  
Fund**

**Introductory Provisions**

**31 TAC §355.2**

The Texas Water Development Board adopts on an emergency basis amendments to §355.2, concerning the definition of the term "lending rate" as applied to financial assistance extended from the water loan assistance fund. This rule will provide the Texas Water Development Board with the authority to make loans for debt service payment owed by political subdivisions. A city was on the very edge of being unable to meet its July 1983 debt service payments to the board and would have defaulted on July 10, 1983. The emergency status is necessary to enable the board to loan money to the city to make its July 1983 debt service. If the city should default, the city would suffer greatly from, among other things, being unable to sell any more bonds for improvements to the public works of the city. The rule sets the interest which the political subdivisions will pay on such loans.

The amendment is adopted on an emergency basis under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to adopt any rules necessary to carry out its powers and responsibilities under the law.

**§355.2. Definition of Terms.** The following definitions of terms apply where used in this chapter of rules or in proceedings related to the subject of this chapter of rules unless otherwise specifically indicated.

**Lending rate**—The annual rate of interest which is the lower of 12% or the lowest point of the Bond Buyer [Buying] Index (of 11 Municipal Bonds) during the six months immediately preceding the month in which the board extends a loan commitment to an applicant, other

than contracts; for the payment of debt service provided, however, that such rate shall, if necessary, be rounded to the next lowest multiple of 0.05%. This amended definition shall be applied retroactively to all loan commitments made prior to its effective date provided that the bonds purchased by the board under any such commitment bear interest [coupon] rates which are identical to the lending rate, as amended. In the situation in which the board contracts to pay principal of or interest on, or both principal of and interest on, outstanding debt of a political subdivision, the lending rate will correspond to

that lending rate of the water development fund which corresponds to the type of project being constructed.

Issued in Austin, Texas, on July 12, 1983.

TRD-835208

Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Effective date: July 12, 1983

Expiration date: November 9, 1983

For further information, please call (512) 475-7845.

# Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

The proposal, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal statement indicating effect on state or local government; a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule; a request for public comments; a statement of statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority); the text of the proposed action; and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

Symbology in amended rules. New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.



## TITLE 4. AGRICULTURE Part II. Texas Animal Health Commission Chapter 35. Brucellosis Subchapter A. Eradication of Brucellosis in Cattle

### 4 TAC §§35.1-35.6

*(Editor's note: The Texas Animal Health Commission proposes for permanent adoption the repeals it adopts on an emergency basis in this issue. The text of the rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Animal Health Commission, 210 Barton Springs Road, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Animal Health Commission proposes the repeal of §35.1, concerning definitions; §35.2, concerning general requirements; §35.3, concerning requirements for certified brucellosis-free herd of cattle; §35.4, concerning Class "B" area; §35.5, concerning Class "C" area; and §35.6, concerning indemnity rates, of the Texas bovine brucellosis regulations.

These rules are proposed for repeal because the legislature recently adopted amendments to the statutes, contained in House Bill 1, during the first called session of the 68th Legislature. House Bill 1 was signed by the governor on June 27, 1983, and became effective immediately.

Ken Welch, administration director, has determined that for the first five-year period the repeals will be in effect there will be no fiscal implications to state or local government as a result of the repeals.

Mr. Welch also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeals will not be evident due to the fact that these regulations will be proposed for re-adoption under the amended statute.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711, (512) 475-4111.

These rules are proposed for repeal under the Agriculture Code, Chapters 161 and 163, which provides this



agency with the authority to adopt rules relating to the control and eradication of diseases in livestock.

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

Issued in Austin, Texas, on July 8, 1983.

TRD-835181      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Earliest possible date of adoption:  
August 19, 1983

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

*(Editor's note: The Texas Animal Health Commission proposes for permanent adoption the new rules it adopts on an emergency basis in this issue. The text of the rules is published in the Emergency Rules section of this issue.)*

The Texas Animal Health Commission proposes new §35.1, concerning definitions; §35.2, concerning general requirements; §35.3, concerning requirements for certified brucellosis-free herd of cattle; §35.4, concerning Class "B" area; §35.5, concerning Class "C" area; and §35.6, concerning indemnity rates.

These rules are promulgated because of the Texas Legislature's recently adopted amendments to the statutes during the first called session of the 68th Legislature. The purpose of these rules is to bring about the effective control of bovine brucellosis in accordance with the provisions of the Texas Agriculture Code, Chapter 163.

Ken Welch, administration director, has determined that for the first five-year period the rules will be in effect the fiscal implications as a result of enforcing or administering the rules will be the same as for the regulations adopted April 18, 1983, under the old statute. These increased costs estimated as follows are a direct result of anticipated increases in calfhood vaccination at state expense. The effect on state government will be an estimated additional cost of \$190,500 in 1983; \$889,000 in 1984 and 1985; and \$138,500 in 1986 and 1987. There is no anticipated effect on local government.

Mr. Welch also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be a reduction of brucellosis in the state, which will decrease the possibility of citizens of Texas contracting undulant fever; a reduction of the economic losses associated with brucellosis; greater freedom of movement for vaccinated heifers; the decreased possibility of importing disease from out of state; and the provision of semipermanent individual identification.

The anticipated economic cost to individuals who are required to comply with the rules as proposed for the

years 1983-1987 will be \$2.00 to \$3.00 per head tested that producers in the "C" area of the state who choose not to vaccinate their heifers will be required to pay to have an additional blood test performed on their animals to sell them for breeding purposes within the "C" area.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The rules are proposed under the Texas Agriculture Code, Chapter 163, which provides this agency with the authority to adopt rules relating to the control and eradication of the disease brucellosis.

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

Issued in Austin, Texas, on July 8, 1983.

TRD-835183      John W. Holcombe, DVM  
Executive Director  
Texas Animal Health Commission

Earliest possible date of adoption:  
August 19, 1983

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

## TITLE 7. BANKING AND SECURITIES

### Part VII. State Securities Board

#### Chapter 109. Transactions Exempt from Registration

#### Secondary Trading Exemptions

#### 7 TAC §109.7

The State Securities Board proposes amendments to §109.7, concerning transactions exempt from registration.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Latham also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the continuation of an exemption for secondary trading which would otherwise be unavailable pursuant to the Securities Act, as amended, which becomes effective September 1, 1983. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.



The commission is simultaneously proposing new §89.46.

Ron Resech, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal.

Mr. Resech also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be clarification of the language of the statute and avoidance of confusion. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Ron Resech, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

**§89.46. Itinerant Beauty Salons.**

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835220      Ron Resech  
   Executive Director  
   Texas Cosmetology Commission

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 475-3304.

The Texas Cosmetology Commission proposes new §89.46, concerning minimum requirements for both private and public beauty culture schools. The commission is simultaneously repealing existing §89.46.

Ron Resech, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Resech also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be to clarification of the language of the statute and avoidance of confusion. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Ron Resech, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

**§89.46. Minimum Requirements for Both Private and Public Beauty Culture Schools.**

(a) The following are the requirements for a private beauty culture school as authorized by the Texas Cosmetology Commission and approved on October 3, 1983.

(1) A building to house a beauty culture school must be fireproof and of permanent type construction, contain a minimum of 3,500 square feet of floor space, with separate rest rooms for male and female students. The building must be divided into three separate areas: one for instruction of theory, one for practice work of seniors, and one for practice work of juniors.

(2) The classroom must be separate and apart from the junior and senior work rooms, must have walls extending to the ceiling, and must include:

- (A) 25 student desks with tablet arms,
- (B) one mannequin table (minimum eight feet

long),

(C) one chalkboard (minimum three feet by six feet).

(3) The following equipment list is not designated to one particular part of the school, but could be used by all students:

- (A) eight shampoo bowls,
- (B) eight shampoo chairs,
- (C) one heat cap,
- (D) 24 dozen cold wave rods,
- (E) three electric irons or three marcel irons with stove (professional salon type),
- (F) one pair hair clippers (professional),
- (G) three hand dryers (professional),
- (H) one electric time clock,
- (I) four manicure hand bowls,
- (J) 12 mannequins,
- (K) one closed container for soiled towels,
- (L) one closed cabinet for clean towels,
- (M) visual aid equipment (projector and

screen),

(N) lockers for each student (minimum 25).

(4) The junior department must contain the following:

- (A) 10 all-purpose chairs (swivel or hydraulic),
- (B) 10 styling stations with mirrors (28 inches by 28 inches minimum),
- (C) one mannequin table (size to accommodate minimum of 10 students),
- (D) two hair dryers with chairs (chairs specifically made for professional salon type hair dryers),
- (E) two manicure tables,
- (F) two manicure stools,
- (G) four covered trash cans,
- (H) one wet sterilizer.

(5) The senior department must contain the following:

- (A) 25 hair styling stations with mirrors (28 inches by 28 inches minimum),
- (B) 25 styling chairs (swivel or hydraulic),
- (C) 10 hair dryers with chairs (chairs specifically made for professional salon type hair dryers),
- (D) two manicure tables,
- (E) two manicure stools,
- (F) six covered trash cans,
- (G) 12 hand mirrors,

(H) one facial area (semi-private) with two facial chairs,

(I) sufficient wet sterilizers.

(6) The dispensary must contain adequate space (minimum 50 square feet) with a double sink with hot and cold running water and space for storage and dispensing of supplies and some school equipment.

(7) The school shall have one dry sterilizer (large enough to accommodate junior and senior departments).

(8) All top surfaces such as hairdressing stations, dispensary shelves, etc., must be covered with formica or a similar material. All buildings approved for schools must be adequately heated and air conditioned.

(9) The equipment in a beauty culture school shall not be changed after approval without notifying the Texas Cosmetology Commission.

(10) Owners of private beauty culture schools must maintain a surety bond in the amount of \$5,000.

(11) All equipment in a beauty culture school shall be of professional type in new or excellent condition.

(12) Original license fee for a private beauty culture school is \$500, renewal fees \$200

(13) All facilities must be inspected and approved prior to a student's hours being accepted for credit.

(14) A textbook for each student enrolled must be furnished.

(15) As enrollment increases, required equipment is subject to increase.

(b) The following are the requirements for a public school cosmetology program.

(1) A vocational cosmetology department is required to have an area of not less than 2,200 square feet, including office, dispensary, locker room, rest rooms, and with an adjacent classroom. At least 1,200 square feet shall be laboratory space.

(2) The classroom must be separated from the laboratory area and equipped with the following:

(A) chalkboard,

(B) minimum of 25 arm rest chairs,

(C) textbook for each student enrolled,

(D) charts covering bones, muscles, nerves, skin, and nails,

(E) medical dictionary.

(3) The dispensary must be equipped with large wet and dry sterilizers and a double sink. Dispensary shelves must be covered with formica or similar material.

(4) Lockers and dressing rooms are to be provided.

(5) The school equipment list shall contain:

(A) six shampoo bowls and six shampoo chairs,

(B) eight hairdryers with chairs,

(C) two steam caps,

(D) therapeutic light,

(E) eight dozen cold wave rods,

(F) three electric irons, or three marcel stoves and irons,

(G) 16 styling stations covered with formica or similar material with mirror at least 28 inches by 28 inches,

(H) 16 styling chairs which are swivel or hydraulic,

(I) 12 mannequins with table or attached to styling stations (if table is used it should be a minimum of four feet by eight feet),

(J) eight canvas head blocks,

(K) one electric time clock,

(L) 12 hand mirrors,

(M) one pair of professional hand clippers,

(N) three professional hand-held hair dryers,

(O) four manicure tables and four stools,

(P) closed cabinet for towels,

(Q) sufficient covered trash cans in all departments.

(6) As enrollment increases, required equipment is subject to increase; all equipment must be new or in excellent condition.

(7) No student may receive credit hours prior to approval by the Texas Cosmetology Commission.

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835221

Ron Resech

Executive Director

Texas Cosmetology Commission

Proposed date of adoption:

September 1, 1983

For further information please call (512) 475-3304.

## 22 TAC 589.52

The Texas Cosmetology Commission proposes amendments to §89.52, concerning definition of an hour.

Ron Resech, executive director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Resech also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be clarification of the language of the statute and avoidance of confusion. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Ron Resech, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

**§89.52. Definition of an Hour.** An hour of creditable time is defined as 55 minutes of actual educational experience time. Actual education time is defined as classroom instruction or laboratory (floor) experience [or field trips under the supervision of a licensed instructor]. Break

times should be on a scheduled basis for lunch, coffee, etc., and should not be counted as creditable time. Creditable time shall not be accumulative. [Note: The creditable time permitted when the (floor) facility is closed will be classroom instruction or field trips under the supervision of a licensed instructor, in conjunction with a class project, and when directly relating to cosmetology training. Instructors must bear in mind that no more than eight hours can be accrued in one day nor more than 48 hours in one week.]

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835222 Ron Resech  
Executive Director  
Texas Cosmetology Commission

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 475-3304.

The amendment is proposed under Texas Civil Statutes, Article 4542a-1, §20, which provide the Texas State Board of Pharmacy with the authority to specify qualifications for registration in a board approved internship.

§283.8. *Texas Colleges of Pharmacy Internship Programs.*

(a)-(f) (No change.)

(g) Any individual having completed an internship program may no longer be designated a pharmacist-intern, **except as provided in §283.10 of this title (relating to Extended Internship Program).**

(h)-(i) (No change.)

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

Issued in Austin, Texas, on July 11, 1983.

TRD-835214 Fred S. Brinkley, Jr., R.Ph.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 478-9827.

## Part XV. Texas State Board of Pharmacy Chapter 283. Licensing Requirements for Pharmacists

### 22 TAC §283.8

The Texas State Board of Pharmacy proposes an amendment to §283.8, concerning the licensing requirements specified under the Texas colleges of pharmacy internship programs. This proposed amendment makes this rule consistent with Texas Civil Statutes, Article 4542a-1, §20. The proposed amendment states that any individual having completed an internship program may no longer be designated a pharmacist-intern, **except as provided in §283.10, of this title relating to the Extended Internship Program.**

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Brinkley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be assurance of the competency of those graduates of Texas colleges of pharmacy who wish to register with the board as pharmacist-interns, or who wish to extend their internship.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

### 22 TAC §307.1

*(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas State Board of Pharmacy, Suite 1121, 211 East Seventh Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Pharmacy proposes the repeal of §307.1, concerning board expenses.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal.

Mr. Brinkley, Jr. also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be allowance of sufficient compensation for expenses and services rendered to board members acting in their official capacity as members of the Texas State Board of Pharmacy, by enforcement of this Act and all laws pertaining to the practice of pharmacy for the protection of the health and welfare of the public. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The repeal is proposed under the General Appropriations Act, Senate Bill 179, Article 5, §4, which provides the Texas State Board of Pharmacy with the au-

thority to entitle each member of the board the per diem as set by the legislative appropriation prescribed in this General Appropriations Act.

**§307. Board Expenses.**

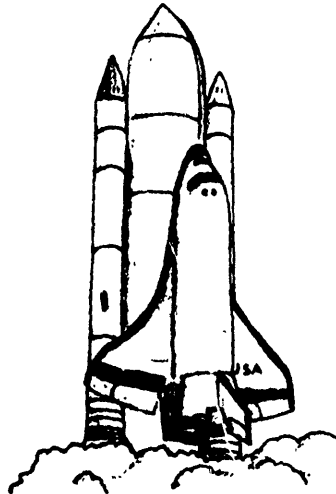
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 11, 1983.

TRD-835215      Fred S. Brinkley, Jr., R.Ph.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 478-9827.



**TITLE 37. PUBLIC SAFETY AND  
CORRECTIONS  
Part III. Texas Youth Commission  
Chapter 95. Residential Contract  
Service**

*(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Youth Commission, 8900 Shoal Creek Boulevard, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Youth Commission proposes the repeal of §95.12, concerning contract halfway houses; §95.13, concerning group homes; §95.64, concerning orientation; in-service training; §95.65, concerning progress reports; §95.81, concerning acceptance of a student into residential contract program; §95.84, concerning explanation to student and family; §95.85, concerning participation of student; §95.86, concerning goals; §95.87, concerning review of student ad-

justment; §95.88, concerning individualized treatment; §95.89, concerning program content; §95.92, concerning explanation of rights and responsibilities; §95.93, concerning ramifications of placement; §95.94, concerning discharge; §95.95, concerning prerelease report; §95.96, concerning statement of facility regulations; §95.97, concerning plan of orientation; §95.111, concerning facility records on resident; §95.112, concerning confidentiality of records; §95.113, concerning log of progress; §95.114, concerning reporting changes; §95.115, concerning notification of emergency situations; §95.116, concerning discharge planning; §95.151, concerning responsibility; §95.152, concerning medical and dental care; §95.154, concerning meals; §95.155, concerning snacks; §95.159, concerning clothing; §95.160, concerning money; §95.161, concerning physical restraint; §95.163, concerning discipline; §95.171, concerning written acknowledgment of rights; §95.172, concerning program goals and planning; §95.173, concerning legal and civil rights; §95.174, concerning privacy; §95.175, concerning family involvement; §95.176, concerning participation of student and family in planning; §95.177, concerning confidentiality; §95.178, concerning visitors, mail, telephone calls; and §95.179, concerning discipline.

These rules concern standards for the agency's certified placement facilities. These will be replaced by new agency home standards being simultaneously proposed in §§95.201-95.281.

Joseph Martinez, Parole/Residential Contract Program administrator, has determined that for the first five-year period the repeals are in effect, there will be no fiscal implications to state or local government as a result of the repeals.

Mr. Martinez also has determined that for each year of the first five years the repeals are in effect the public benefits anticipated as a result of the repeals will be a clear set of requirements for the services contract programs must provide TYC students placed in their care. This will ensure that only programs that maintain quality care will receive or keep TYC students in these placements.

There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Martha K. McCann, Manuals System Coordinator, P.O. Box 9999 Austin, Texas 787665.

**Program Classification According to  
Characteristics**

**37 TAC §95.12, §95.13**

The repeals are proposed under the Human Resources Code, §61.037, which provides the Texas Youth Commission with the authority to enter into agreements with appropriate public or private agencies for the separate care and treatment of persons subject to the control of the commission.

**§95.12. Contract Halfway Houses.**

**§95.13. Group Homes**

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835251 Ron Jackson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 452-8111.

**§95.89. Program Content.**

**§95.92. Explanation of Rights and Responsibilities.**

**§95.93. Ramifications of Placement.**

**§95.94. Discharge.**

**§95.95. Prerelease Report.**

**§95.96. Statement of Facility Regulations.**

**§95.97. Plan of Orientation.**

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835233 Ron Jackson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 452-8111.

## Standards for Personnel and Staffing

**37 TAC §95.64, §95.65**

The repeals are proposed under the Human Resources Code, §61.037, which provides the Texas Youth Commission with the authority to enter into agreements with appropriate public and private agencies for the separate care and treatment of persons subject to the control of the commission.

**§95.64. Orientation; In-Service Training.**

**§95.65. Progress Reports.**

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835232 Ron Jackson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption:  
August 19, 1983

For further information, please call 452-8111.

## Standards Relating to Records and Reporting

**37 TAC §§95.111-95.116**

The repeals are proposed under the Human Resources Code, §61.037, which provides the Texas Youth Commission with the authority to enter into agreements with appropriate public and private agencies for the separate care and treatment of persons subject to the control of the commission.

**§95.111. Facility Records on Resident.**

**§95.112. Confidentiality of Records.**

**§95.113. Log of Progress.**

**§95.114. Reporting Changes.**

**§95.115. Notification of Emergency Situations.**

**§95.116. Discharge Planning.**

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835234 Ron Jackson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 452-8111.

## Standards Related to Treatment Programs

**37 TAC §§95.81, 95.84-95.89, 95.92-95.97**

The repeals are proposed under the Human Resources Code, §61.037, which provides the Texas Youth Commission with the authority to enter into agreements with appropriate public and private agencies for the separate care and treatment of persons subject to the control of the commission.

**§95.81. Acceptance of a Student into Residential Contract Program.**

**§95.84. Explanation to Student and Family.**

**§95.85. Participation of Student.**

**§95.86. Goals.**

**§95.87. Review of Student Adjustment.**

**§95.88. Individualized Treatment.**

## Standards on Physical Care

**37 TAC §§95.151, 95.152, 95.154, 95.155  
95.159-95.161, 95.163**

The repeals are proposed under the Human Resources Code, §61.037, which provides the Texas Youth Commission with the authority to enter into agreements with appropriate public and private agencies for the separate care and treatment of persons subject to the control of the commission.

- §95.151. *Responsibility.*
- §95.152. *Medical and Dental Care.*
- §95.154. *Meals.*
- §95.155. *Snacks.*
- §95.159. *Clothing.*
- §95.160. *Money.*
- §95.161. *Physical Restraint.*
- §95.163. *Discipline.*

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835235            Ron Jackson  
                                 Executive Director  
                                 Texas Youth Commission

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 452-8111.

### **Resident's Rights**

#### **37 TAC §§95.171-95.179**

The repeals are proposed under the Human Resources Code, §61.037, which provides the Texas Youth Commission with the authority to enter into agreements with appropriate public and private agencies for the separate care and treatment of persons subject to the control of the commission.

- §95.171. *Written Acknowledgement of Rights.*
- §95.172. *Program Goals and Planning.*
- §95.173. *Legal and Civil Rights.*
- §95.174. *Privacy.*
- §95.175. *Family Involvement.*
- §95.176. *Participation of Student and Family in Planning.*
- §95.177. *Confidentiality.*
- §95.178. *Visitors, Mail, Telephone Calls.*
- §95.179. *Discipline.*

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835236            Ron Jackson  
                                 Executive Director  
                                 Texas Youth Commission

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 452-8111.

### **Agency Home Standards**

#### **37 TAC §§95.201, 95.211, 95.221, 95.231, 95.241, 95.251, 95.261, 95.271, 95.281**

The Texas Youth Commission (TYC) proposes new §§95.201, 95.211, 95.221, 95.231, 95.241, 95.251, 95.261, 95.270, 95.271, and 95.281, con-

cerning agency homes standards. The new rules are the requirements for the care of TYC students placed in certified residential contract programs. The changes will upgrade the quality of care but will not significantly impact the services now provided to students placed in these programs.

Joseph Martinez, Parole/Residential Contract Program administrator, has determined that for the first five-year period the rules are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Martinez also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be a clear set of requirements for the services the contract programs must provide. This will ensure that only programs that maintain quality care will receive or keep TYC students in these placements. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Martha K. McCann, Manuals System Coordinator, P.O. Box 9999, Austin, Texas 78766.

The new rules are proposed under the Human Resources Code, §61.037, which provides the Texas Youth Commission with the authority to enter into agreements with appropriate public and private agencies for the separate care and treatment of persons subject to the control of the commission.

#### **§95.201. Referrals.**

(a) Standard. The Residential Contract Program (RCP) requires service agents to review a student's case before accepting him for placement.

(b) Program requirements.

(1) Read the referral packet and talk to the community resource specialist (CRS) if you need further information. (Person responsible: service agents.)

(2) Call the CRS if you want the student to make a preplacement visit before you decide. (Person responsible: service agents.)

(3) Decide whether to accept the student for placement based on your admissions policy. (Person responsible: service agents.)

(4) Call the CRS within seven days of receipt with your decision. (Person responsible: service agents.)

(5) If you do not accept the referral, return the referral packet to the CRS. (Person responsible: service agents.)

#### **§95.211. Orientation.**

(a) Standard. The Residential Contract Program requires service agents to provide an orientation conference with each new student.

(b) Program requirements.

(1) Hold the orientation conference within 24 hours of placement. (Person responsible: service agents.)

(2) Include discussion of (Person responsible: service agents.):

(A) house rules including policies for visits, gifts, room searches, mail, and telephone calls;



- (B) TYC student handbook;
- (C) the program's written rules of conduct and consequences;
- (D) daily schedule including work assignments;
- (E) plans and goals for the student; and
- (F) questions and feelings the student has about the placement.

(3) Document the orientation conference in your file on the student. (Person responsible: service agents.)

**§95.221. Student Rights.**

(a) Standard. The Residential Contract Program (RCP) requires service agents to protect the basic rights that the Texas Youth Commission accords its students.

(b) References. See General Operating Policies and Procedures Manual (GOPP) 90.41.010 (§81.11 of this title (relating to Student Rights)), or the TYC student handbook for a copy of these rights.

(c) Program requirements.

(1) Your program must meet all the requirements listed in GOPP 90.41.010 (§81.11 of this title (relating to Student Rights)). (Person responsible: service agents.)

(2) In addition, your program must (Person responsible: service agents.):

- (A) record any discipline and restrictions given in your file on the student;
- (B) allow only adult staff members to administer discipline;
- (C) ensure physical restraint is not used by persons who lack documented training in its use; and
- (D) not use mechanical restraint at any time.

**§95.231. Incident Reporting.**

(a) Standard. When service agents believe a serious incident, as defined in General Operating Policies and Procedures Manual (GOPP) 90.52.010 (§81.221 of this title (relating to Incident Reporting)), has occurred, they report it to the community resource specialist or the contract parole officer as soon as possible, but no later than the next working day.

(b) Program requirements.

(1) Serious incidents.

(A) Read the definitions in GOPP 90.52.010, "What to Report" (§81.221 of this title (relating to Incident Reporting)). (Person responsible: service agents.)

(B) Notify the contract parole officer or community resource specialist to coordinate the notifications needed. (Person responsible: service agents.)

(2) Medical emergencies. Seek professional assistance. See GOPP 45.60.251(b)(9) (§95.251 of this title (relating to Daily Care)). (Person responsible: service agents.)

(3) Other emergencies. Report emergencies that require evacuation of the facility to the community resource specialist within 24 hours. (Person responsible: service agents.)

**§95.241. Student Grievance Procedure.**

(a) Standard. The Texas Youth Commission Student Grievance and Appeals System provides students with a procedure to correct problems they have. Agency homes are required to give their students access to the grievance process.

(b) Cross references.

(1) For general information about the Student Grievance and Appeals System, see General Operating Policies and Procedures Manual (GOPP) 90.45.010.

(2) For information about reporting and investigating suspected mistreatment, see GOPP 90.45.020.

(3) For information about appeals to the executive director, see GOPP 90.45.050 (§§83.1-83.101 of this title (relating to Appeals to the Executive Director)).

(c) Grievance structure. The contract parole officer (CPO) is the grievance coordinator for students in agency homes.

(d) Program requirements.

(1) Filing the grievance.

(A) Tell the service agents or any TYC staff member if you want to file a grievance. (Person responsible: student grievant.)

(B) Call the CPO and report the request. (Person responsible: service agents.)

(C) Attempt to resolve the problem informally by conferring with the student, the service agents, and others requested by you or the student. If this resolves the problem, document it on CCS-038. (Person responsible: CPO.)

(D) If this does not resolve the problem, give the student a numbered grievance form, L/S-001. Help him fill it out if he requests assistance. (Person responsible: CPO.)

(E) Fill out the form, telling what the problem is and what would correct it. (Person responsible: student grievant.)

(F) Give the completed form to your CPO. Keep the yellow copy as a record until the grievance is resolved. (Person responsible: student grievant.)

(2) Sorting the grievances.

(A) Write the grievant's name, the form number, and the date in the parole office grievance log. (Person responsible: CPO.)

(B) If the grievance is about a placement decision send the form (L/S-001) to the CRS. See paragraph (3) of this subsection. (Person responsible: CPO.)

(C) If the grievance is about suspected mistreatment, send the form (L/S-001) to the area supervisor. See paragraph (4) of this subsection. (Person responsible: CPO.)

(D) If the grievance is about staff, other students, or rules, policies, programs, or procedures, follow paragraph (5) of this subsection. (Person responsible: CPO.)

(3) Resolving the placement grievance.

(A) Complete Form CCS-038, Statement of Grievance and Resolution. In the section marked "Proposed Resolution," write, "Grievance sent to the community resource specialist on (date) for appeal to the executive director." (Person responsible: CPO.)

(B) Contact the student within 24 hours after you receive the Form L/S-001 to discuss and write the appeal. (Person responsible: community resource specialist (CRS.))

(C) Complete Form CCS-040, "Appeal to the Executive Director." Have the area supervisor initial the form. Send it to the appeals coordinator in central office within 48 hours of the date on the Form L/S-001.

See Child Care Information System (CCIS) Manual 20.27.040 for instructions. (Person responsible: CRS.)

(4) Resolving the suspected mistreatment grievance.

(A) Tell the grievant that the area supervisor will resolve the complaint. (Person responsible: CPO.)

(B) Complete Form CCS-038, Statement of Grievance and Resolution. In the section marked "Proposed Resolution," write, "Grievance sent to Area Supervisor on (date) for compliance with suspected mistreatment procedures." (Person responsible: CPO.)

(C) Resolve the complaint following GOPP 90.45.020, "Suspected Mistreatment." (Person responsible: area supervisor.)

(5) Resolving other grievances.

(A) Contact the grievant and service agents within five working days of the date on the L/S-001 form to resolve the grievance. (Person responsible: CPO.)

(B) Contact other students, service agency staff, the CRS, or others as needed for information. (Person responsible: CPO.)

(C) Complete Form CCS-038, "Statement of Grievance and Resolution." See CCIS Manual 20.27.038 for instructions. (Person responsible: CPO.)

(D) Inform the grievant of the resolution and of the right to appeal to the area supervisor. (Person responsible: CPO.)

(E) If the grievant appeals, send the CCS-038 and the L/S001 forms to the area supervisor and make appropriate log entries. (Person responsible: CPO.)

(F) If the grievant does not appeal, place the CCS-038 and the L/S-001 forms in the student grievance file and make appropriate log entries. (Person responsible: CPO.)

(6) Appeal to the area supervisor.

(A) Contact the grievant within five working days following the decision to appeal to resolve the grievance. (Person responsible: area supervisor.)

(B) Complete Form CCS-038, "Statement of Grievance and Resolution." See CCIS Manual 20.27.038 for instructions. (Person responsible: area supervisor.)

(C) Inform the grievant of the resolution and of the right to appeal to the executive director. (Person responsible: area supervisor.)

(D) If the grievant appeals, send the CCS-038 and the L/S-001 forms to the CRS for appeal to the executive director. Make appropriate log entries. (Person responsible: area supervisor.)

(E) If the grievant does not appeal place the CCS-038 and the L/S-001 forms in the student grievance file and make appropriate log entries. (Person responsible: area supervisor.)

(7) Appeal to the executive director.

(A) Complete Form CCS-040, "Appeal to the Executive Director Form." See CCIS Manual 20.27.040 for instructions. (Person responsible: CRS.)

(B) Attach CCS-038 and L/S-001 forms to the CCS-040 form. Have the area supervisor initial the form to show approval. (Person responsible: CRS.)

(C) Forward the completed appeal to the appeals coordinator in central office within two working days following the decision to appeal. (Person responsible: CRS.)

**§95.251. Daily Care.**

(a) Standard. The service agents are responsible for providing basic child care.

(b) Program requirements.

(1) Nutrition.

(A) Provide three well-balanced meals daily. (Person responsible: service agents.)

(B) Provide evening snacks daily. (Person responsible: service agents.)

(C) Make sure there are no more than 14 hours between the evening meal and breakfast. (Person responsible: service agents.)

(D) Do not use regularly scheduled meals and snacks as a reward or punishment. (Person responsible: service agents.)

(2) Recreation.

(A) Make indoor and outdoor recreation and equipment available regularly. (Person responsible: service agents.)

(B) Encourage students to participate in recreational activities offered by the schools and the community. (Person responsible: service agents.)

(C) Allow students to make friends outside the placement. (Person responsible: service agents.)

(3) Transportation. Provide transportation as needed for daily activities. (Person responsible: service agents.)

(4) Student money.

(A) If you choose to give allowances, make sure the amount is appropriate to the students' ages. (Person responsible: service agents.)

(B) Provide a secure way for the student to keep his own money, i.e., allowances, earnings, and gifts. (Person responsible: service agents.)

(C) Set limits on the amount of cash students may have on hand. (Person responsible: service agents.)

(D) Arrange banking services so the student may deposit money over the amount he may have on hand in an account of his own and withdraw money as you approve to meet his personal needs. (Person responsible: service agents.)

(5) Student work.

(A) Provide any of the following kinds of work for students in your placement (Person responsible: service agents.):

(i) You may require students to work unpaid at tasks for the maintenance of their own living areas.

(ii) You must pay a student to work at tasks not shared equally by all students unless the tasks benefit him directly. A task that teaches a student a vocational skill is an example of one which benefits him directly.

(B) Ensure that work does not interfere with adequate recreation and leisure time. (Person responsible: service agents.)

(6) 24-hour supervision.

(A) Maintain a one-to-eight staff:student ratio during waking hours. Count all children living in the home including the foster students, the foster parent's own children, and employee's children who may be living in the home. (Person responsible: service agents.)

(B) Make sure at least one adult is present when students are sleeping. (Person responsible: service agents.)

(C) Make sure that while students are at school, work, or activities outside the home they know how to reach at least one adult. (Person responsible: service agents.)

**(7) Education.**

(A) Provide school supplies needed by the student. (Person responsible: service agents.)

(B) Communicate with school officials and act as parents as needed for school activities, conferences, and meetings. (Person responsible: service agents.)

(C) Serve as the surrogate parent as required for special education programs. (Person responsible: service agents.)

**(8) Clothing.**

(A) Inventory the student's clothing when he arrives for placement. If he does not have everything on the TYC minimum clothing list, notify the community resource specialist (CRS) to provide the items needed. (Person responsible: service agents.)

(B) Maintain at least the minimum supply by helping the student select clothing and purchasing it for him. (Person responsible: service agents.)

(C) See that clothing is in good repair, fits well, and is comparable to that worn by other students in the community. (Person responsible: service agents.)

(D) Document clothing you purchase by noting the date and amounts in your files. (Person responsible: service agents.)

(E) Minimum clothing list. (Person responsible: service agents.)

*(i) Boys.*

Item	Quantity
Pants (jeans or casual)	3 each
Shirts (knit or sports shirt)	3 each
Shoes, school	1 pair
Shoes, tennis	1 pair
Briefs	5 pair
Socks	5 pair
T-shirts	5 each
Jacket/Sweater (seasonal)	1 each
Robe	1 each

*(ii) Girls.*

Item	Quantity
Pants or Pantsuits (jeans are acceptable)	3 each
Blouses	3 each
Dress outfit (dress or nice pantsuit)	1 each
Shoes, school	1 pair
Shoes, tennis	1 pair
Panties	5 pair
Bras	3 each
Hose, panty	2 pair
Socks, knee-high or athletic footlet	4 pair
Pajamas/gown	1 each
Robe	1 each
Jacket/Sweater (seasonal)	1 each

**(9) Medical care.**

(A) Have each student examined by a physician and dentist within 30 days of commitment to TYC. (Person responsible: CPO.)

(B) Thereafter, have each student examined annually by a physician and dentist. (Person responsible: service agents.)

(C) Take the student to a doctor as quickly as possible if the student (Person responsible: service agents.):

(i) is bleeding severely and the bleeding cannot be stopped with pressure applied over the cut for five minutes;

(ii) has a temperature of 104° which persists for more than 24 hours and the fever does not respond to the administration of aspirin or Tylenol;

(iii) suffers a painful injury to his extremities which results in severe bruising, swelling, or redness;

(iv) suffers any injury to the head which causes dizziness, nausea, unconsciousness, or seizures;

(v) suffers a burn which covers an area larger than a square inch; and

(vi) is wounded, and the wound becomes red, inflamed, or drains pus-like excretions.

(D) Consult the contract parole officer (CPO) when a student complains of illness or injury not described in subparagraph (C) of this paragraph; take the student to a doctor or dentist if the CPO agrees. (Person responsible: service agents.)

(E) Report emergencies as required in **GOPP 45.60.231** (§95.231 of this title (relating to Incident Reporting)). (Person responsible: service agents.)

(F) Administer medication according to the physician's instructions. Record medication administration as required in **GOPP 45.60.270** (§95.270 of this title relating to Records)). (Person responsible: service agents.)

**§95.261. Service Agents' Training.**

(a) Policy. The Texas Youth Commission requires each employee of an agency home to participate in 15 hours of training annually.

**(b) Procedure.**

(1) Attend basic child care overview provided by TYC. (Person responsible: service agents and employees.)

(2) Read announcements of local training sessions sent by TYC. (Person responsible: service agents and employees.)

(3) Attend child care training based on need and problem areas identified in TYC's monitoring visits. (Person responsible: service agents and employees.)

(4) Notify the contract parole officer of child care training attended. (Person responsible: service agents and employees.)

**§95.270. Records.**

(a) Standard. The Texas Youth Commission requires service agents to maintain records and make them available for TYC monitoring visits by area parole office staff.

**(b) Program requirements.**

(1) Keep your certificate in your file. (Person responsible: service agents.)

(2) Keep these records (Person responsible: service agents.):

**(A) Student file:**

*(i)* TYC referral packet;

*(ii)* chronological log including:

(I) admission date;  
(II) orientation conference data;  
(III) significant occurrences with student;  
(IV) a list of each night the student spends away from home, the place he went and the reason he was gone;

(iii) IPP review;  
(iv) money log—showing how student money was spent and saved;  
(v) medication log—show when student received medication on CCS-033;  
(vi) current medical and dental information including:

(I) emergency treatment;  
(II) doctor and dentist visits and treatment received;  
(III) updated medical and dental exam;  
(vii) progress reports from agency home and school;

(viii) incident reports;  
(ix) list of persons and phone number in case of emergency;  
(x) medical consent form;  
(xi) clothing receipts signed by student.

(B) Personnel file:  
(i) application;  
(ii) references;  
(iii) TB tine test;  
(iv) attendance log (when on duty and absent);

(v) chronological log (PF-003) including:  
(I) significant accomplishments;  
(II) orientation to daily schedule;  
(III) discipline given;  
(vi) annual evaluation;  
(vii) training record.

(C) Agency file:  
(i) copy of certification study;  
(ii) policies and procedures;  
(I) house rules;  
(II) behavior expectations;  
(III) discipline rules;  
(IV) daily schedule;  
(V) 24-hour supervision record;  
(VI) medical and dental plans;  
(iii) TYC contract (current);  
(iv) TYC paid vouchers;  
(v) clothing expense log;  
(vi) medical expense log;  
(vii) training record for agency home.

**§95.271. Temporary Absences from the Program.**

(a) Standard. The Residential Contract Program (RCP) requires its service agents to cooperate in student furloughs, visits, and trips.

(b) Program requirements.

(1) Furloughs.

(A) Assist TYC staff in arranging a pre-parole furlough for each eligible student. In addition to the criteria listed in the TYC case management system for furloughs, **GOPP 90.43.070 (§81.118 of this title (relating to Furloughs.))**, a student must have been in RCP placement at least four months. (Person responsible: service agents.)

(B) The furlough may not exceed seven days. (Person responsible: service agents.)

(C) Assist the contract parole officer (CPO), if asked, to contact the student's family to set the dates and transportation arrangements. (Person responsible: service agents.)

(D) Send the youth home with the approved transportation, and call the CPO to confirm he left. (Person responsible: service agents.)

(E) Notify the CPO the day the student returns. (Person responsible: service agents.)

(F) If the furlough was unsuccessful, keep the student in placement a minimum of 30 more days. Repeat preparole furloughs until the student has a successful one. (Person responsible: service agents.)

(G) If the student does not return from furlough as scheduled notify the CPO immediately. (Person responsible: service agents.)

(2) Administrative and emergency furlough.

(A) Contact the CPO if you have reason to believe a death or other crisis in a student's family or a medical problem of the student suggests an emergency or administrative furlough may be warranted. (Person responsible: service agents.)

(B) The furlough may not exceed seven days, but may be extended. (Person responsible: service agents.)

(C) Assist the CPO, if asked, to contact the student's family to set the dates and transportation arrangements. (Person responsible: service agents.)

(D) Send the youth home with the approved transportation and call the CPO to confirm he left. (Person responsible: service agents.)

(E) Notify the CPO the day the student returns. (Person responsible: service agents.)

(F) If the student does not return from furlough as scheduled notify the CPO immediately. (Person responsible: service agents.)

(3) Home visits.

(A) A student is eligible for a home visit if (Person responsible: service agents.):

- (i) the student has an approved home; and
- (ii) he has been in this placement at least 30 days; and

(iii) he has met his IPP goals.

(B) A home visit may last no longer than six nights away from the placement. (Person responsible: service agents.)

(C) Assist the CPO, if asked, to contact the student's family to set the dates and transportation arrangements. (Person responsible: service agents.)

(D) Send the youth home with the approved transportation and call the CPO to confirm he left. (Person responsible: service agents.)

(E) Notify the CPO the day the student returns. (Person responsible: service agents.)

(F) If the student does not return from home visit as scheduled notify the CPO immediately. (Person responsible: service agents.)

(4) Trips.

(A) Plan trips away from the placement if you would like to do so as part of the student's treatment plan. (Person responsible: service agents.)

(B) Contact the CPO about (Person responsible: service agents.):

- (i) the purpose of the trip;
- (ii) which students are going;
- (iii) where they will go;
- (iv) dates leaving and returning;
- (v) how many staff will go (must be at least 1:8 ratio).

(C) If the CPO approves the trip, notify the students' families of the trip. (Person responsible: service agents.)

(D) Notify the CPO when the trip returns and report how the students did and any incidents that occurred. (Person responsible: service agents.)

**§95.281. Release.**

(a) Standard. The Residential Contract Program allows service agents to release a student from the program when the student has met treatment and parole release criteria or when the placement proves unsuccessful.

(b) Program requirements.

(1) Coordinate successful releases with the community resource specialist (CRS) and contract parole office (CPO) according to procedures in 45.60.490 (Person responsible: service agents.):

(A) When the CPO has determined a student should be released, prepare a parole release packet. Include:

- (i) release summary of adjustment;
- (ii) updated medical and dental exams;
- (iii) educational updates;
- (iv) release clothing inventory; and
- (v) other pertinent data.

(B) Provide any clothing the student needs to meet the minimum clothing list before he leaves placement.

(2) Call the CPO to arrange documentation of unsuccessful release (Person responsible: service agents.):

(A) Staff for release a child who escapes, disrupts program, commits a law violation or refuses to abide by program rules. (Person responsible: agency staff.)

(B) Provide TYC with information necessary for final release/behavior summary, 10-day letter, and release packet. (Person responsible: agency staff.)

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

Issued in Austin, Texas, on July 12, 1983.

TRD-835237      Ron Jackson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption:  
August 19, 1983

For further information, please call (512) 452-8111.

# Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule will function; contain comments received on the proposal; list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute under which the rule was adopted.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.



**TITLE 7. BANKING AND  
SECURITIES**  
**Part VII. State Securities Board**  
**Chapter 109. Public Solicitation or  
Advertisements**  
**Exempt Limited Offerings**  
**7 TAC §109.4**

The State Securities Board adopts amendments to §109.4, without changes to the proposed text published in the June 3, 1983, issue of the *Texas Register* (8 TexReg 1826).

The rule is adopted to clarify the filing requirements of the rule. The rule, as amended, provides for the filing of a notice when sales are made by issuers who are not registered securities dealers and who do not sell by or through registered securities dealers, and the sales are made in whole or in part to certain specified classes of accredited investors.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 581-28-1, which provide that the board may make or adopt rules governing registration statements, applications, notices, and reports, and in the adoption of rules may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 12, 1983.

TRD-835225

Richard D. Latham  
Securities Commissioner  
State Securities Board

Effective date: August 2, 1983

Proposal publication date: June 3, 1983

For further information, please call (512) 474-2233.

**Chapter 117. Real Estate Programs**  
**7 TAC §§117.1, 117.4, 117.5, 117.7**

The State Securities Board adopts amendments to §§117.1, 117.4, 117.5, and 117.7, without changes



**7 TAC §133.31**

The State Securities Board adopts by reference amendments to §133.31, without changes to the proposed text published in the June 3, 1983, issue of the *Texas Register* (8 TexReg 1833).

The rule is adopted to process securities registration applications more thoroughly and efficiently. The rule, as amended, provides for the cross-referencing of sections of the real estate guidelines to the page numbers of the prospectus and section numbers of the partnership agreement submitted with securities registration applications.

No comments were received regarding adoption of the proposed amendments.

The amendments are adopted under Texas Civil Statutes, Article 581-28-1, which provide that the board may make or adopt rules governing registration statements, applications, notices, and reports, and in the adoption of rules may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 12, 1983

TRD-835229 Richard D. Latham  
Securities Commissioner  
State Securities Board

Effective date: August 2, 1983  
Proposal publication date: June 3, 1983  
For further information, please call (512) 474-2233.

**Chapter 141. Administrative  
Guidelines for Registration of  
Equipment Programs**

**7 TAC §§141.1-141.9**

The State Securities Board adopts new §§141.1-141.9, without changes to the proposed text published in the June 3, 1983, issue of the *Texas Register* (8 TexReg 1833).

The rules are adopted to increase uniformity with other states in applying standards for the registration of public offerings of equipment programs in this state. The rule establish guidelines to be met for registered public offerings of equipment programs, setting forth the application of the guidelines, definitions of terms, requirements to be met by the sponsor of a program, investor suitability standards, compensation and expenses, parameters for conflicts of interest and investment restrictions, rules governing nonspecified programs, rights and obligations of participants and disclosure and marketing requirements.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 581-28-1, which provide that the board may make or adopt rules governing registration statements, applications, notices, and reports.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 12, 1983.

TRD-835230 Richard D. Latham  
Securities Commissioner  
State Securities Board

Effective date: August 2, 1983  
Proposal publication date: June 3, 1983  
For further information, please call (512) 474-2233.

**TITLE 16. ECONOMIC  
REGULATION  
Part I. Railroad Commission of  
Texas**

**Chapter 5. Transportation Division  
Subchapter M. Motor Bus Companies  
16 TAC §5.244**

The Railroad Commission of Texas adopts §5.244, with changes to the proposed text published in the February 18, 1983, issue of the *Texas Register* (8 TexReg 548).

This section contains special provisions for the regulation of motor bus companies transporting elderly, disabled, or handicapped persons, or persons traveling to or from medical facilities, or others where required by federal law, pursuant to federal, state, or local government-financed programs.

The rule, as adopted, contains no substantial changes from the proposed text. However, the title of the rule and the description of operations thereunder were modified to make clear that only services under government-subsidized programs, or services reimbursed at the state vehicle mileage reimbursement rate, will qualify for treatment under the rule. Minor changes were made in subsection (b) to insert language which was inadvertently included in subsection (a) but not in subsection (b) relating to persons traveling to or from medical facilities. The rule as adopted also contains restrictions on the scope of the rule, limiting exempt transportation to call-and-demand service, primarily consisting of door-to-door service, to transportation of target groups, and against the use of motor coaches of the type operated by regular route motor bus companies.

The public benefit anticipated as a result of enforcing the rule as adopted will be greater flexibility in responding to the public need for transportation of el-



derly, disabled, or handicapped persons, or persons traveling to or from medical facilities or others where required by federal law, pursuant to federal, state, or local government-financed programs.

The anticipated economic cost to individuals who are required to comply with the rule as adopted will be minimal since the procedures are streamlined. Also, the persons who would receive transportation service under the rule are not generally utilizing certificated common carriers at the present time and would not, therefore, be diverted from existing carriers.

The following comments in favor of the rule were received by the commission.

The proposed rule will allow more flexibility in meeting transportation needs of special groups such as rural area residents, elderly, etc.

The proposed rule will enable county governments to participate in coordination of transportation services for such special groups.

The proposed rule shows initiative on the part of the commission in addressing the special circumstances of rural areas, the elderly, etc.

The proposed rule will facilitate the efficient cost-effective use of government funds with minimal impact on existing carriers, since exempt carriers would not operate in competition with regular-route carriers.

The proposed rule will clarify the standing of companies providing bus transportation pursuant to government subsidy programs in relation to the Texas Motor Bus Act.

Rural transit services, which will be covered by the proposed rule, fill a need which is not being met by commercial motor bus companies because the traffic would not support commercial service. The only way rural residents will get service is from subsidized carriers.

Rural transit systems, which will be covered under the proposed rule, pick up passengers at their homes and return them to their homes.

Bus companies to which the proposed rule will apply should not be required to meet the burdensome standards applicable to major intercity bus companies. Removing these regulations will not affect the health and safety of passengers but will provide incentive for more companies to provide the needed service.

Restricting the proposed rule to call-and-demand service on irregular routes and schedules, to service consisting primarily of door-to-door transportation, against use of over-the-road motor coaches of the type operated by regular-route passenger carriers, and against transportation of the general public as presently being transported by regular-route passenger carriers, would not be unduly restrictive.

The following comments in opposition to the rule (as originally proposed in the October 1, 1982, issue of the *Texas Register* (7 TexReg 3528) and withdrawn in the February 18, 1983, issue (8 TexReg 553)) or,

if generally supporting the rule, suggesting modifications in the text of the rule, were received by the commission.

The commission should keep its insurance requirements high enough to protect the public.

Exempting only subsidized operations would cause a loss of service to rural elderly passengers since carriers presently handle both subsidized and unsubsidized passengers.

The requirement that a government subsidized motor bus carrier carry a copy of the contract or subsidy agreement in each vehicle would be unduly burdensome since numerous contracts may be involved due to the multiplicity of government funding sources.

The commission should insert, in subsection (b), between the words "persons" and "together," the following language: "or persons traveling to and/or from medical facilities or others where required by federal law."

The commission lacks statutory authority to adopt the proposed rule

The rule, if adopted, should contain the following restrictions: over irregular routes and on a call-and-demand basis over irregular schedules; in vehicles having a seating capacity of not more than 15 persons, including the driver, against the provision of charter coach service, to passenger service provided on a non-profit, or governmental, basis; to service consisting primarily of door-to-door transportation; against transportation in Department of Transportation qualified over-the-road motor coaches as operated by the regular-route passenger carriers; and against transportation of the general public as presently being transported by regular-route passenger carriers in direct competition with such carriers.

The foregoing comments were filed by the following persons. Those speaking for the proposal were the Texas Department of Human Resources; Gerald W. Birdwell, Parker County judge; Norman Porter, Palo Pinto County judge; the Heart of Texas Council of Governments, Transportation Enterprises, Inc.; George R. Crump, Somervell County judge; the Texas Department on Aging; Peter Canga; the Brazos Transit System; BVCAA, Inc.; and the Austin Resource Center for Independent Living. Those speaking against the proposal were the Texas Department of Human Resources; the Heart of Texas Council of Governments; Transportation Enterprises, Inc.; the Texas Department on Aging; Kerrville Bus Company, Inc.; and Painter Bus Lines, Inc.

The commission agrees with comments in favor of the proposed rule as originally proposed and makes the following replies to comments in opposition to the rule.

The rule will retain the current insurance requirements except for mileage-reimbursed bus operations under subsection (c), where only reimbursement of expenses at the state government mileage rate is given to the service provider. Insurance requirements which are appropriate for persons in the business of transporting

members of the public for hire would be inappropriate if applied to persons providing service infrequently, on a voluntary basis, who are not in business as motor bus companies, and who receive only reimbursement of expenses at the state government mileage rate.

The rule will allow transportation of unsubsidized passengers, in the same vehicle as subsidized passengers, as required by federal law.

The rule has been modified to remove the requirement that each vehicle carry a copy of the involved contract(s).

The commission agrees that subsection (b) should have included the language "or persons traveling to and/or from medical facilities or others when required by federal law." This omission was inadvertent and does not constitute a substantial change.

The statutory authority for the rules is Texas Civil Statutes, Article 911a, §7.

The commission agrees that service under a government subsidized motor bus certificate should be restricted against charter service, against use of qualified over-the-road motor coaches of the type used by the major intercity bus carriers, to nonprofit or government-subsidized transportation, to irregular route, irregular schedule, call-and-demand service, and to service which consists primarily of door-to-door transportation. The commission does not find that other restrictions suggested in the comments would promote the public convenience and necessity.

The following comments in favor of the rules as proposed were received by the commission.

Government subsidized motor bus transportation should be restricted against charter service, to service in vehicles with a rated seating capacity of 15 persons or less, including the driver, to irregular-route, irregular-schedule, call-and demand service, to service by nonprofit or government-subsidized carriers whose primary operations consist of door-to-door transportation, and against use of Department of Transportation qualified over-the-road motor coaches such as operated by regular-route passenger carriers.

The following comments in opposition of the rule as proposed in the February 18, 1983, issue of the *Texas Register* (8 TexReg 553), were received by the commission.

The rule, as proposed, is unduly restrictive.

Subsidized carriers use whatever equipment is available and need the flexibility to be able to do so.

Subsidized transportation should be restricted to service provided primarily in connection with the provision of medical and social services to passengers.

Subsidized transportation should be restricted against transportation of the general public as presently being transported by the regular-route passenger carriers, in direct competition with such carriers.

Subsidized carriers must have the flexibility to run regular routes and schedules, as well as irregular route, irregular schedule service.

The foregoing comments were filed by the following persons. Those speaking in favor of the proposal were the Texas Department of Human Resources; the Capital Area Rural Transportation System; Kerrville Bus Company, Inc., and Painter Bus Lines, Inc. Those speaking against the proposal were Kerrville Bus Company, Inc.; Painter Bus Lines, Inc.; and Peter Canga.

The commission agrees with comments in favor of the rule as repropoed and makes the following reply to comments in opposition to the rule as repropoed.

The restrictions incorporated into the rule, as repropoed, are not unduly restrictive.

Additional restrictions suggested in the comments would not promote the public convenience and necessity.

The type of service at which the rule is targeted is not regular-route, regular-schedule within the working definitions of these terms.

The commission adopts this new rule under authority of Texas Civil Statutes, Article 911a, §7, which provides the Railroad Commission of Texas with the authority to make special rules to meet special conditions in different localities and for such time as in its judgment may be deemed expedient and best for the public welfare.

**§5.244. Government Subsidized or Mileage-Reimbursed Motor Bus Operations.**

(a) Exemption of government contract or subsidized motor bus operations.

(1) Government subsidized motor bus certificates.

(A) Power to issue government subsidized motor bus certificates. The director may, upon receipt of a properly filed request, issue to a motor bus company a certificate authorizing the transportation of elderly, disabled, or handicapped persons, or persons traveling to and/or from medical facilities, or others where required by federal law, together with their baggage, where such transportation service is provided pursuant to:

(i) a contract between the motor bus company and a governmental body under which compensation for the transportation service is paid exclusively by the governmental body, or

(ii) a grant or other subsidy agreement between the motor bus company and a governmental body under which the governmental body provides a direct operating subsidy to the motor bus company equal to at least one-half of total compensation for the transportation service; or

(iii) a contract pursuant to the Texas Education Code, §16.204.

(B) Restrictions. Operations under a government subsidized motor bus certificate are restricted:

(i) to operations over irregular routes on a call-and-demand basis,

(ii) to service consisting primarily of door-to-door transportation in connection with the provision of medical and social services to passengers,

(iii) against transportation in Department of Transportation qualified over-the-road motor coaches as operated by regular route passenger carriers, and

(iv) against transportation of the general public as presently being transported by regular route passenger carriers in direct competition with such carriers.

(C) Exemption limited by underlying contract or agreement. A government subsidized motor bus certificate shall incorporate the underlying contract or subsidy agreement by reference and shall apply only to transportation service provided pursuant to the underlying contract or subsidy agreement.

(D) Copy of government subsidized motor bus certificate required in each vehicle. A copy of the government subsidized motor bus certificate must be carried in each vehicle operated under the certificate. Transportation service provided in a vehicle which does not carry a copy of the certificate is not authorized under the certificate or under the provisions of this section.

(E) Term of government subsidized motor bus certificate. A government subsidized motor bus certificate shall, unless revoked by the commission, remain effective throughout the duration of the underlying contract or subsidy agreement.

(F) Revocation of government subsidized motor bus certificate. The commission may, after notice and hearing, revoke a government subsidized motor bus certificate if it is determined that the holder violated the terms of its certificate, or the provisions of this subtitle or the Texas Motor Bus Act, in effect at the time the violation occurred.

(2) Scope of authority.

(A) Operating rights, schedules, and tariff not required. A motor bus company may, under a government subsidized motor bus certificate and notwithstanding any other provision of this subtitle, provide transportation service without:

(i) a certificate of public convenience and necessity,

(ii) commission-authorized routes or schedules, and

(iii) a tariff of commission-prescribed rates.

(B) Certain motor transportation regulations not applicable. A motor bus company providing transportation service pursuant to this subsection shall not be subject to the following motor transportation regulations within this subchapter, or any other regulations within the motor transportation regulations to the extent such other regulations would prohibit the special services authorized in this section: §5.203 of this title (relating to Interior Lighting System), §5.205 of this title (relating to Cleaning, Disinfecting, and Deinfestation), §5.206 of this title (relating to Reserve Equipment), §5.208 of this title (relating to Sign Prohibiting Conversation with the Driver), §5.213 of this title (relating to Right of Transportation), §5.215 of this title (relating to Receiving and Discharging Passengers), §5.216 of this title (relating to Railroad Crossings), §5.218 of this title (relating to Systems of Accounts and Records), §5.219 of this title (relating to Stations and Terminals), §5.220 of this title (relating

to Station Facilities), §5.222 of this title (relating to Rest Stops), §5.223 of this title (relating to Posting of Schedules), §5.224 of this title (relating to Routing of Passengers), §5.225 of this title (relating to Baggage), §5.226 of this title (relating to Compliance with Schedules), §5.227 of this title (relating to Unauthorized Schedules; Call and Demand; Irregular Route Service), §5.228 of this title (relating to Interruption of Service), §5.229 of this title (relating to Deviation from Authorized Routes), §5.230 of this title (relating to Change or Discontinuance of Schedules or Charges), §5.231 of this title (relating to Connecting Line Agreement), §5.232 of this title (relating to Interline Bond), §5.233 of this title (relating to Charter Operation), §5.234 of this title (relating to Transportation of Mexican National Migratory Workers), §5.235 of this title (relating to Driver's Trip Report Required), §5.236 of this title (relating to Tariff Approved by the Commission), §5.237 of this title (relating to Required Information on Trip Tickets), §5.238 of this title (relating to Required Information on Continuous Passage Tickets), §5.239 of this title (relating to Credit Extended for Transportation), §5.240 of this title (relating to Lease or Rental of Motor Buses), §5.241 of this title (relating to Method of Keeping Records), §5.242 of this title (relating to Motor Bus Package Express—Uniform Bus Bill), and §5.243 of this title (relating to Through Bus Agreements).

(C) Other requirements retained. Motor bus companies operating pursuant to government subsidized motor bus certificates shall be subject to regulations of act to exempt a motor bus company from insurance, safety, or other requirements, except as provided in paragraphs (1) and (2) of this subsection.

(3) Requests for issuance of a government subsidized motor bus certificate. A motor bus company may request issuance of a government subsidized motor bus certificate under subsection (a)(1)(B) of this section by filing with the commission:

(A) proof of insurance as required by §5.217 of this title (relating to Insurance),

(B) an equipment report as required by §5.151 and §5.152 of this title (relating to Cab Cards and Current Cab Cards), and

(C) an executed copy of the involved grant or subsidy agreement or contract, showing the grant or agreement number,

(D) where applicable, an affidavit showing that the governmental body which is a party to the agreement is expected to provide direct operating subsidies to the motor bus company equal to at least one-half of total compensation for the transportation service, and

(E) a \$25 filing fee.

(b) Mileage-reimbursed motor bus operations. The transportation of elderly, disabled, or handicapped persons, or persons traveling to and/or from medical facilities, or other persons where required by federal law, together with their baggage, in the private automobile of a person not otherwise engaged in the business of providing motor bus service subject to the jurisdiction of the commission, shall not be subject to regulation by the commission where:

(1) the only compensation for the service is government reimbursement of expenses at the state government mileage rate, and

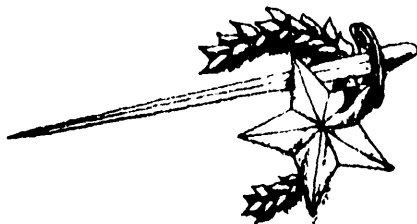
(2) adequate service from existing common carriers is not available.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on July 11, 1983

TRD-835204      Buddy Temple and Jim Nugent  
Commissioners  
Railroad Commission of Texas

Effective date, August 2, 1983  
Proposal publication date February 18, 1983  
For further information, please call (512) 445-1186



## TITLE 22. EXAMINING BOARDS Part XV. Texas State Board of Pharmacy Chapter 283. Licensing Requirements for Pharmacists

### 22 TAC §283.9

The Texas State Board of Pharmacy adopts amendments to §283.9, without changes to the proposed text published in the May 27, 1983, issue of the *Texas Register* (8 TexReg 1737).

These amendments will ensure that all applicants applying for licensure by examination meet the proper qualifications to practice pharmacy in this state.

These amendments provide that the hours credited for internship experience gained may be awarded, provided the internship experience is certified by the applicant's respective state board of pharmacy.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of Texas Civil Statutes, Article 4542a 1, §21, which provide the Texas State Board of Pharmacy with the authority to specify qualifications for licensing by examination.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1983

TRD-835216      Fred S. Brinkley, Jr., R.Ph.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Effective date: August 2, 1983  
Proposal publication date May 27, 1983  
For further information, please call (512) 478-9827.

## Chapter 303. Regulations Governing the Destruction of Dangerous Drugs and Controlled Substances

### 22 TAC §303.1

The Texas State Board of Pharmacy adopts amendments to §303.1, without changes to the proposed text published in the May 27, 1983, issue of the *Texas Register* (8 TexReg 1738).

These amendments outline the conditions under which the consultant pharmacist may destroy dangerous drugs and controlled substances in health care facilities or institutions.

These amendments allow the consultant pharmacist, if in good standing with the board, authorization to destroy dangerous drugs and controlled substances in health care facilities or institutions, under certain conditions, to protect the public health and welfare.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of Texas Civil Statutes, Article 4542a-1, §517(b)(1), (l), and (t), which provide the Texas State Board of Pharmacy with the authority to perform the duties and powers necessary to administer this Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1983.

TRD-835217      Fred S. Brinkley, Jr., R.Ph.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Effective date, August 2, 1983  
Proposal publication date: May 27, 1983  
For further information, please call (512) 478-9827.

## Part XVIII. Texas State Board of Podiatry Examiners Chapter 381. Anesthesia

### 22 TAC §381.1

The Texas State Board of Podiatry Examiners adopts new §381.1, without changes to the proposed text published in the April 12, 1983, issue of the *Texas Register* (8 TexReg 1203).

The attorney general's Opinion MW-435 has allowed the use of nitrous oxide for relative anesthesia in podiatry. This rule is for proper administering of nitrous oxide for licensees who practice podiatry.

The rule allows control by the board of examiners to assure safety in its application of nitrous oxide. It will assure that the practitioners using nitrous oxide are adequately trained in the Advanced Life Support Program. Also, all instructors will be subject to approval

by the Texas State Board of Podiatry Examiners (by unanimous vote).

James Cottingham, M.D., anesthesiologist, of Corpus Christi, basically stated the hazards and risk when administering nitrous oxide.

The agency feels that the rule that has been drawn up for podiatrists to follow when administering nitrous oxide is thorough enough to ensure the safety of the patients who receive it.

This rule is adopted under Texas Civil Statutes, Article 4568(j), which provide the State Board of Podiatry Examiners with the authority to adopt all reasonable or necessary rules not inconsistent with the law regulating the practice of podiatry, the laws of this state or of the United States to govern its proceedings and activities, the regulations of the practice of podiatry, and the enforcement of the law regulating the practice of podiatry.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 6, 1983.

TRD-835198 J. C. Littrell, D.P.M.  
Executive Director  
Texas State Board of Podiatry  
Examiners

Effective date: August 2, 1983  
Proposal publication date: April 12, 1983  
For further information, please call (512) 475-1770.



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources.

#### Chapter 3. AFDC Legal Requirements

#### 40 TAC §§3.2001-8.2003

The Texas Department of Human Resources adopts new rules and repeals governing the Aid to Families

with Dependent Children (AFDC) Program published in the May 24, 1983, issue of the *Texas Register* (8 TexReg 1687). The new rules are adopted with changes to the proposed text.

The rules clarify requirements for AFDC eligibility and are based on the final regulations received from the Department of Health and Human Services concerning the Omnibus Budget and Reconciliation Act of 1981.

Written comments were received from the North Central Texas Legal Services Foundation, Inc., the Gulf Coast Legal Foundation, and the Legal Aid Society of Central Texas. The commentators were in support of some of the rules as proposed, but had some specific concerns about a few of the rules.

All three commentators supported the proposal to exempt utility supplement payments as income. One commentator suggested a substitution to §3.3221(17) to specifically state that utility allowance payments are disregarded regardless of whether they are received in the form of vendor, in-kind, or direct cash payments. The department agrees to adopt this change.

One commentator strongly supported the rules restructuring the governing of income because they "clarify and logically arrange that text."

One commentator requested a change in §3.2002(c) to state that if the applicant does not provide documentation by the established deadline for any (one) of the children, the application (for that child only) is denied. The commentator recognized that this has been the department's policy. The department agrees that subsection (c) should be changed.

One commentator stated that §3.2002(a) is unduly restrictive and recommended revising subsection (a) to expand the list of documents that may be used to establish the date of birth and relationship of the child to the AFDC caretaker. The department does not agree that this change is necessary. Subsection (a) states that the documentation may be an official birth record or hospital or baptismal certificate, but does not restrict documentation to these sources.

One commentator stated the \$1,500 equity value in an automobile in §3.3109 is too low. The commentator recognized the department has little authority to raise this amount, but stated that the regulation is not supported by statute. The department must adhere to 45 Code of Federal Regulations §233.20(a)(3)/(B)(2) and retain the \$1,500 equity value limit.

One commentator requested a clarification in §3.2001 about the definition of a "dependent child". The department does not agree with the recommended language provided by the commentator, but will modify the fourth sentence to: "The child must be expected to graduate from high school (or technical or vocational training) before or during the month of his 19th birthday." The commentator also asked if there are any differences for children in special education, or with marginal handicaps. 45 Code of Federal Regulations

§3.39(b)(1)(iii) provides no exceptions to the age requirements for an AFDC child.

One commentor stated that §3.2002 provides for no reverification, and strongly supported this rule.

One commentor suggested changing §3.3005 by adding a new subsection (e) to state that if an AFDC recipient becomes eligible for Supplemental Security Income (SSI), any SSI retroactive determination is based on a prorated amount of the AFDC grant. Also, if the AFDC caretaker is the eligible SSI individual, the AFDC amount received by the caretaker is not intended to be spent only on the caretaker's needs. In subsection (e), any caretaker who does not spend the caretaker's allowance on the basic needs of the children and the household would be liable for an overpayment, fraud, and a child welfare investigation. The department agrees with this concept, but does not have the authority to change or stipulate the way SSI retroactive determinations are made. Department rules stipulate the way the AFDC grant should be spent.

One commentor stated that §§3.3003(A), 3.3010, and 3.3011 do not provide for a caretaker's temporary absence from the home, as allowed by 45 Code of Federal Regulations §233.90(c)(v)(B). This situation is addressed in current §3.2102 and has not been changed.

A commentor stated that §3.8518 and §3.8520 imply that individuals no longer certified for AFDC are responsible for repaying any overpayments received, but are not eligible to receive corrective payments for any underpayments. 45 Code of Federal Regulations §233.20(a)(13)(iii) states that the State Plan will specify uniform statewide policies for prompt correction of any underpayments to current recipients and those who would be a current recipient if the error causing the underpayment had not occurred. The department interprets this to mean that corrective payments will not be made to an underpaid recipient who is no longer certified for AFDC.

One commentor stated that the equity value of an automobile (§3.3109) above the \$1,500 limit should be applied to the family's \$1,000 resources limit. The department agrees with this comment and modifies the second sentence to: "If the equity exceeds \$1,500, the excess is counted as a resource subject to the \$1000 limit for resources."

The department has made several changes to the language of the rules for clarity and consistency.

The new rules are adopted under the authority of the Human Resources Code, Title 2, Chapters 22 and 31, which authorize the department to administer public assistance programs.

**§3.2001. Age.** To receive assistance, a "dependent child" must be less than 18 years old. The child's grant is continued through the month the child becomes 18. An 18-year-old child is eligible if the child is a full-time student (as defined by the school) in high school or is regularly attending vocational or technical training as an equivalent to high school attendance. The child must be

expected to graduate from high school (or technical or vocational training) before or during the month of his 19th birthday. If the child graduates before the month of his 19th birthday, the child's grant continues only through the graduation month. The child's grant is continued through the month the child becomes 19 if the child graduates in that month.

**§3.2002. Establishing Age.**

(a) The applicant is required to show documentation establishing the date of birth and relationship of the child to the AFDC caretaker. This may be an official birth record or hospital or baptismal certificate. The applicant must use a document that fully establishes age and relationship of the child for whom assistance is requested.

(b) The applicant is entitled to assistance in obtaining the documentation if the applicant cannot obtain it himself.

(c) The department certifies only the children whose age and relationship are proven. If the applicant does not provide documentation by the established deadline for any one of the children, the application for that child only is denied.

(d) Current recipients must provide documentation concerning age and relationship if those items were not verified during the application process.

(e) A newborn child is not certified in an active case until the recipient complies with the age and relationship documentation requirements.

**§3.2003. School Attendance Special Considerations.**

(a) Handicapped children may attend fewer hours than other students or receive instructions from a visiting teacher at home and still meet the school attendance requirement.

(b) Children enrolled in a Vocational Adjustment Program are considered full-time students.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1983.

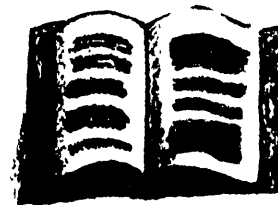
TRD-835166

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: August 1, 1983

Proposal publication date: May 24, 1983

For further information, please call (512) 441-3355, ext. 2037.



**Legal Requirements**

**40 TAC §§3.2001-3.2003**

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which authorize

the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1983.

TRD-835173      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: August 1, 1983  
Proposal publication date: May 24, 1983  
For further information, please call (512) 441-3355,  
ext. 2037.

## Relationship and Domicile

### 40 TAC §3.2101

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which authorize the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1983.

TRD-835174      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: August 1, 1983  
Proposal publication date: May 24, 1983  
For further information, please call (512) 441-3355,  
ext. 2037.

The new rule is adopted under the authority of the Human Resources Code, Title 2, Chapters 22 and 31, which authorize the department to administer public assistance programs.

#### §3.2101. *Establishing Relationship and Domicile.*

(a) A child or a newborn child meets the domicile requirement if he lives or will live in the home of a relative within the required degree of relationship.

(b) A child meets the relationship requirement if he lives with the following relatives (either natural or adoptive):

- (1) father or mother,
- (2) grandfather or grandmother,
- (3) brother or sister,
- (4) uncle or aunt,
- (5) first cousin,
- (6) nephew or niece,
- (7) stepfather or stepmother,
- (8) stepbrother or stepsister,
- (9) step grandparents, or

(10) natural father or paternal grandparents of an illegitimate child.

(c) Relationship extends to the degrees of 'great' and 'great-great' for relatives listed in paragraphs (2), (4), (6), and (9) of subsection (b) of this section.

(d) Relationship extends to the spouse of the relatives listed in subsection (b) of this section except for the spouse of the stepbrother, stepsister, stepfather, stepmother, and step grandparent.

(e) A child meets the relationship requirement if he lives with his relative even though a court has jurisdiction over the child or an agency is the child's managing conservator. If a child lives with a managing conservator, the conservator must meet the relationship requirement.

(f) If an illegitimate child lives with his natural father, the child meets the relationship requirement if the father acknowledges paternity. If the illegitimate child lives with his paternal grandparents and the grandparents cannot obtain the father's statement of paternity they must provide:

(1) proof that the child's biological father is their son, and

(2) a source for collateral contact that can establish that the child is their son's child. The collateral source must be a person that has no vested interest in the establishment of paternity.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1983.

TRD-835167      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: August 1, 1983  
Proposal publication date: May 24, 1983  
For further information, please call (512) 441-3355,  
ext. 2037.

## Determination of Need

### 40 TAC §§3.3003-3.3005, 3.3008-3.3013

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 11, 1983

TRD-835175      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

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Proposal publication date: May 24, 1983  
For further information, please call (512) 441-3355,  
ext. 2037

The new rules are adopted under the authority of the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

**§3.3003. Definitions.** The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

**Caretaker—Is:**

(A) a person who is:

(i) physically present in the home and supervises and cares for the children.

(ii) a relative within the required degree of relationship.

(iii) a needy individual as defined by department standards.

(iv) a citizen or alien lawfully admitted to the U.S. for permanent residence or otherwise residing in the U.S. under color of law.

(B) normally, the individual applying for the children qualifies as caretaker. If this individual does not qualify, his needs are not included in the AFDC grant. If another individual in the home can qualify as caretaker, his needs are included. This applies even though the payment is in the name of the unqualified individual. If there is no qualified caretaker, only the needs of the eligible children are included in the AFDC grant.

(C) if there is a legal parent or stepparent in the home ineligible for budget inclusion but physically and mentally able to provide care, no other person may be designated as caretaker.

**Minor parent—**A person under 18 years of age who has a child and has never married or has been married but the marriage was annulled.

(A) If a minor parent is a member of a current AFDC household, the Department of Human Resources (DHR) evaluates the situation to determine if the parent should be certified as caretaker for the child. If the minor parent cannot be considered as a caretaker, the existing caretaker is used for the minor parent and the child.

(B) If a minor parent is not a member of an AFDC household, the parent is not eligible to be certified as caretaker if he lives with his own parents and is supported by them. Unless a court order has relieved the parents of the duty to support their unmarried minor child, they have a legal obligation to provide clothing, shelter, food, medical care, and education. If the minor parent's child is eligible, he is certified for AFDC as a noncaretaker case. An exception is made if the minor parent has income in his own right and uses the income to meet his needs as a member of the family group. In this situation, the minor parent is regarded as a needy person and is eligible for consideration as a caretaker.

**Payee—**A person to whom the AFDC warrant is issued if no one in the household qualifies or wants to be a caretaker. The payee must be within the degree of relationship required of a caretaker. Payees are not included in the grant and do not receive medical assistance. An ineligible alien may serve as payee for AFDC-eligible children who meet the citizenship or legal entrant requirements.

**Protective payee—**A person who receives and manages the AFDC warrant if the caretaker does not comply with child support regulations and cannot establish good cause or is not using the AFDC payments for the children's benefit.

(A) A protective payee is mandatory when caretakers do not have good cause for not complying with child support regulations or when they do not use the AFDC payments for the children's benefits. The caretaker's needs are removed from the grant if he refuses to comply with child support requirements. The caretaker may participate by suggesting appropriate persons for the protective payee.

(B) The protective payee must ensure that the grant is used for the benefit of the children.

(C) The client is notified about the need for a protective payee and is given an opportunity to appeal.

**Second parent—**The spouse of a child's caretaker. Inclusion of a second parent in the grant is based on need and incapacity of either the caretaker or his spouse. The second parent must meet all AFDC eligibility requirements.

**§3.3004. Persons Who May Be Included in the Certified Group.**

(a) The AFDC-certified group includes only the following persons:

- (1) the caretaker, if eligible.
- (2) eligible children.
- (3) a second parent if one parent is incapacitated.

(b) Other persons are not included in the AFDC grant.

**§3.3005. SSI Recipients.**

(a) If a family member begins receiving Supplemental Security Income (SSI), he is removed from the AFDC-certified group. The AFDC budget includes only the income and needs for those in the AFDC-certified group, excluding the SSI recipient.

(b) If a parent receives SSI or is designated as an essential person in the SSI grant, he is not eligible for inclusion in the AFDC grant. According to SSI policy, a parent's resources and income, if any, are counted against the SSI budget. His SSI grant or other income or resources are not diverted to meet the needs of his AFDC dependents. Likewise, the AFDC grant or any portion of the resources or income of the AFDC-certified group is not counted against the parent's SSI grant.

(c) If a child in the AFDC group is certified for SSI, the parent's income, if any, is applied to the other AFDC members. The AFDC grant excludes the child's income.

(d) If several children receive Retirement, Survivors and Disability Insurance (RSDI) payments and one of the children is certified for SSI, the sum of the RSDI payments is prorated for each child in the family except the child who receives SSI. Only the portion accruing to the certified AFDC children is counted against the AFDC budget. Court-ordered child support payments and veteran's benefits designated for children are not prorated.

**§3.3008. Stepparents.**

(a) If either the legal parent or the stepparent is incapacitated, the department takes the following action:



(1) If the stepparent wants his needs and income included in the AFDC grant, the department budgets the case like a regular AFDC case.

(2) If the stepparent does not want to be included in the AFDC grant, the department does not certify the legal parent as caretaker if the stepparent's income is sufficient to meet the legal parent's needs.

(3) If one of the parents receives SSI, the other parent may be certified as caretaker with only the income of the AFDC-certified recipients considered in the AFDC grant.

(4) If the parent's children born of their marriage are deprived of parental support because of incapacity, the stepchildren are technically deprived. The department budgets the case like a regular AFDC case.

(b) The stepparent is allowed to divert his income to meet his needs, the needs of the legal parent, and the needs of his other tax dependents in the home. The stepparent also is allowed deductions for work-related expenses, support for tax dependents outside the household, and monthly alimony or child support payments. The stepparent's remaining income after deductions is considered available to meet the stepchildren's needs.

**§3.3009. Children Placed in the Homes of Relatives.** If children live with relatives other than their parents, deprivation of parental support from the child's natural, legal, or adoptive parents must be established. The relative may be included in the grant as a caretaker if the relative is needy and otherwise meets the definition of a caretaker. If a married relative wants to be considered as the caretaker, his need is determined according to the rules for stepparents. If the relative's spouse receives SSI, the relative is eligible if he has no other income. If the relative is not legally obligated to support the child, but voluntarily contributes money to the child, the amount of the contribution is considered in determining the child's AFDC eligibility.

**§3.3010. Persons in Nursing Homes.** If a member of the AFDC-certified group enters a nursing facility his needs are left in the AFDC budget during his temporary stay in the nursing facility or until he is certified for SSI.

**§3.3011. Persons Entering State Schools for the Mentally Retarded.** If an AFDC recipient enters a state school for the mentally retarded, the recipient's needs are removed from the AFDC grant. If the recipient is the caretaker or payee and there are other eligible children, the grant is continued in the name of another eligible person.

**§3.3012. Legal Aliens with Sponsors.**

(a) If a sponsored alien applies for benefits for the first time after September 30, 1981, the department considers that the sponsor's income and resources are available for the support of the alien for three years after the alien enters the United States, unless exempted under subsection (e) of this section.

(b) The sponsored alien must be lawfully admitted for permanent residence or permanently living in the United States under color of law. The alien must:

(1) provide the DHR any necessary information about the sponsor's income and resources that are considered available to the alien; and

(2) obtain the sponsor's cooperation. If the sponsor refuses to cooperate, the alien's application for AFDC is denied.

(c) A sponsor is an individual, not an organization, who executed an affidavit of support or a similar agreement on behalf of an alien as a condition of the alien's entry into the United States. A sponsor's income and resources are not considered if the sponsor receives SSI or AFDC.

(d) The sponsor's income and resources are not considered available for meeting the needs of other unsponsored members of the alien's family unless the sponsor's income or resources are actually available to the unsponsored members.

(e) A sponsor's income and resources are not considered available to an alien who is:

(1) admitted to the United States before April 1, 1980, as a result of the application of the provisions of the Immigration and Naturalization Act, §203(a)(7);

(2) admitted to the United States after March 31, 1980, as a result of the application of the provisions of the Act, §207(e);

(3) paroled into the United States as a refugee under the Act, §212(d)(5);

(4) granted political asylum by the attorney general under the Act, §208;

(5) a Cuban or Haitian entrant, as defined in the Refugee Education Assistance Act of 1980 (Public Law 96-422), §501(e), or

(6) the spouse or dependent child of the sponsor.

**§3.3013. Strikers.** A family is not eligible for AFDC for any month in which the caretaker is participating in a strike on the last day of the month. The needs of another individual in the certified group participating in a strike on the last day of the month are not included when determining the amount of the grant.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD 835168

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
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ext 2037



## Resources

40 TAC §3.3109

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes

the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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The new rule is adopted under the authority of the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

**§3.3109. Vehicle.** The value of one vehicle, owned and used by a client or members of the client's household for transportation, is disregarded unless the equity exceeds \$1,500. If the equity exceeds \$1,500, the excess is counted as a resource subject to the \$1,000 limit for resources. The equity in other vehicles is a countable resource.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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**Income**

**40 TAC §§3.3201-3.2223**

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which authorize the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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**40 TAC §§3.3201-3.3213, 3.3215-3.3223**

The new rules are adopted under the authority of the Human Resources Code, Title 2, Chapters 22 and 31, which authorize the department to administer public assistance programs.

**§3.3201. Determining Income.**

(a) In determining eligibility, the department considers earned and unearned income if the client receives it regularly and predictably. The department considers income only if the client receives it in cash or by another negotiable instrument.

(b) The department considers the income of any household member who is:

- (1) included in the certified group, or
- (2) not included in the certified group but is legally responsible for a member of the certified group.

**§3.3202. Client Responsibilities Related to Income.** Before being certified or recertified, the client must comply with the following requirements:

- (1) pursuing and taking advantage of all income to which he is legally entitled, including veterans, social security, and unemployment benefits. The only exception is that the client may choose between SSI and AFDC benefits.
- (2) providing proof of the source and amount of income.
- (3) providing information if the department needs to contact the source of income.
- (4) reporting income and eligibility status monthly, if required.

**§3.3203. Earned Income.** Earned income is countable in determining AFDC eligibility and the amount of the grant. Earned income includes:

- (1) wages, salaries, and commissions received in exchange for work performed for an employer.
- (2) profits from self-employment.
- (3) income that accrues over a period of time and for which a settlement is made at one time.

**§3.3204. Wages, Salaries, and Commissions**

(a) Wages are payments received from an employer:

- (1) on an hourly or other regular basis, or
- (2) for each item produced by the employee.

(b) Salaries are fixed payments paid on a regular basis regardless of the number of hours an employee works or items the employee produces

(c) Commissions are fees received by an employee for units of business transacted or services performed for an employer.

(d) The department considers as earnings the cash value of an "in-kind" item the client receives from an employer if the client has the option of receiving his earnings in cash or in-kind. The department does not consider the value of an in-kind item if the client does not have this option and acceptance of the item is required for employment.

(e) Gross earned income is the total amount the client receives before deductions. Gross earnings may include earned income credits (EIC). Net earned income

is the amount left after the department subtracts the earned income deductions the client is entitled to receive.

(f) The department considers earnings from the Comprehensive Employment and Training Act (CETA), the Community Service Act, and Title I of the Elementary and Secondary Education Act, according to the rules governing these earnings.

**§3.3205. Self-Employment Income.**

(a) Self-employment income is derived from the production or sale of goods and services. Business expenses are deducted from the gross self-employment income. The department does not consider monthly installment payments to replace or improve capital items as a business expense. The department does not make deductions for depreciation, obsolescence, or similar "paper" losses. The department does not allow income from one business to be used to offset losses from another business.

(b) Clients who are self-employed may be entitled to the same earned income deductions as clients who are employees.

**§3.3206. Earned Income of Children.**

(a) The earned income of a child under 19 years old is counted in the 150% maximum income test. It is exempted in the budgetary and recognizable needs tests if the child is a:

- (1) full-time student, or
- (2) part-time student and not employed full time. Full-time employment is 30 or more hours a week.

(b) Payments to participants in CETA's Job Corps Program are exempted after completion of the 150% maximum income test. This rule applies only to AFDC recipients certified as children. The earned income of AFDC recipients under 19 years old, who are certified as caretaker parents, is subject to the income policies applied to AFDC caretakers.

**§3.3207. Unearned Income.**

(a) Unearned income is income a client receives without performing work-related activities and includes benefits from other programs, pensions, retirement benefits, contributions, living allowances, and military allotments.

(b) To be eligible for AFDC, a client must accept benefits for which he is legally entitled and benefits routinely offered by other agencies. A client cannot refuse to accept a benefit or contribution unless there are conditions involved that restrict the client's fundamental rights.

(c) Sections 3.3208-3.3221 contain the rules governing various types of unearned income.

**§3.3208. Retirement, Survivors, and Disability Insurance (RSDI) Benefits.**

(a) Clients must apply for RSDI benefits if they might be eligible. The client is allowed time to apply for and receive a decision regarding RSDI benefits (usually three months). The client is not entitled to AFDC if he refuses to apply for or follow through with an application for RSDI.

(b) RSDI benefits are countable in all three AFDC income tests. The department pays the premiums for Part B Medicare for AFDC clients and this premium is added to the amount of RSDI income received.

**§3.3209. Veterans' Benefits.** The department considers monthly Veterans' Administration (VA) benefits as countable income. The department exempts benefits that meet a special need not included in the department's standard of need.

**§3.3210. Unemployment Compensation Benefits.** The department considers unemployment benefits as countable income.

**§3.3211. Worker's Compensation Benefits.** The department considers most worker's compensation benefits as countable income. The department may exempt the portion of a compensation benefit that is designated for payment of medical expenses if the medical expenses were incurred before Medicaid eligibility began. The client must use the benefit for medical expenses before the benefit is exempted. If the benefit includes payment for medical expenses incurred after Medicaid coverage began, the benefit may be subject to recovery through the department's third-party resources policy.

**§3.3212. Retirement Benefits.** The department considers retirement benefits as countable income.

**§3.3213. Disability Insurance Benefits.** The department considers disability benefits received from a private insurance company as countable income.

**§3.3215. Supplemental Assistance from Other Agencies.** Supplemental payments from other agencies are not counted as income if the payments are for special items not included in the department's standard of need, or if the payments are for training-related expenses. Supplemental payments from other agencies are counted as income if the payments are intended for monthly maintenance items included in the department's standard of need.

**§3.3216. Income of an Alien's Sponsor.** The department determines the countable amount of a sponsor's income considered available to the alien as unearned income by adding the amount of earned and unearned income of the sponsor (and sponsor's spouse if living with the sponsor) and subtracting:

- (1) the lesser of:
  - (A) 20% of the total monthly earnings from employment or self-employment plus the total monthly costs to produce self-employment income; or
  - (B) \$175.

(2) the recognizable need standard for the sponsor's family size (sponsor and all members in the household claimed as tax dependents).

(3) amounts paid by the sponsor or his spouse to nonhousehold members claimed as tax dependents.

(4) amounts paid in alimony or child support for persons not living with the sponsor.

**§3.3217. Contributions.** The department considers cash contributions from friends, relatives, or other benefactors as income if the client receives them on a regular monthly basis or if a single contribution exceeds the recognizable needs figure for the family's size. These contributions are not counted as income if they are not regularly received on a monthly basis and the amount received is less than the recognizable needs figure for the family's size.

§3.3218. *Support Payments from Absent Parents.* The department considers child support payments as countable income in determining eligibility. The child support payments are not counted as income in determining the amount of benefits for a client certified for AFDC.

§3.3219. *Noneducational Loans and Grants.* The department considers noneducational loans and grants as countable income if there are no restrictions on what the money may be used for and the client is free to use the money for monthly living expenses. The department does not consider these loans and grants as countable income if the principal is not available to meet monthly living expenses.

§3.3220. *Educational Assistance.*

(a) The department does not consider educational assistance as countable income if the assistance is for undergraduate vocational or educational courses.

(b) The department does not count the portion of a VA educational payment that is actually used for school attendance and supplies. The part of the VA payment left after subtracting school-related expenses is considered as countable income.

§3.3221. *Exempted Unearned Income.* The department does not count the following types of unearned income in determining AFDC eligibility:

(1) foster care payments received by AFDC clients.

(2) in-kind contributions and cash gifts from benefactors for special occasions.

(3) two-party checks from other agencies or benefactors for a specific service or item

(4) Supplemental Security Income (SSI).

(5) value of food stamps.

(6) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(7) funds distributed or held in trust by the Indian Claims Commission for members of Indian tribes under Public Law 92-254 or Public Law 93-135.

(8) benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965.

(9) payments for support services or reimbursement of out-of-pocket expenses made to clients serving as foster grandparents, senior health aides, senior companions, and to clients serving in the Service Corps of Retired Executives and Active Corps of Executives or any other programs under Titles II and III, pursuant to Public Law 93-113, §418.

(10) payments made to clients serving as VISTA volunteers under Title I.

(11) value of supplemental food assistance received under the Child Nutrition Act of 1966 and the Special Food Service Program for Children under the National School Lunch Act.

(12) incentive allowance of \$30 per week for clients who are training under the Comprehensive Employment and Training Act of 1978 (CETA); the CETA training-related allowances; payments made under Title IV, Part A of CETA (the Youth Development Demonstration Program). These include payments under the Youth Employment Program, the Youth Communi-

ty Conservation and Improvement Projects, and the Youth Employment and Training Programs.

(13) tax-exempt portions of payments made under the Alaska Native Claims Settlement Act.

(14) monthly incentive payments paid by the Texas Employment Commission (TEC) to participants in institutional and work-experience training and training-related expense payments received from the TEC.

(15) payments from the Experimental Housing Allowance Program from annual contributions contracts signed before January 1, 1975, under the amended U.S. Housing Act of 1937, §23.

(16) payments from the Home Energy Assistance Program (HEAP).

(17) utility supplement payments from the Department of Housing and Urban Development (HUD) or local housing authorities, regardless of whether the payments are provided in the form of vendor, in-kind, or direct cash payments.

(18) AFDC special payments from the department.

§3.3222. *Income from Property.*

(a) The department considers income from real or personal property held by the client as countable income. Dividends and interest income from personal property are considered as unearned income. Income produced from real property is considered as either earned or unearned income, depending on the amount of personal effort and expense involved. Contractual unearned income received at one time is prorated over the length of the contract. If the income from property is earned, the department considers the income according to the rules for earned income. If the income is unearned, the department computes the net unearned income by deducting allowable expenses from the gross income.

(b) The cost of repairs for a capital improvement is not an allowable deduction. Income may not be diverted to increase total assets.

(c) Depreciation that is reflected only as a paper loss or as a shrinking of capital assets is not an allowable deduction.

(d) The department considers money or items that clients receive from having a resource as countable income. Money or items that clients receive from the sale or other disposition of a resource is considered as a resource.

§3.3223. *Income from Household Members.*

(a) The department considers monthly cash payments a client receives from a noncertified member of the household as countable income if the amount is more than the noncertified member's share of the household expenses. The payment is earned income if the client provides room or board services to the noncertified household member. Otherwise, the payment is unearned income.

(b) If the remaining cash payment is earned income, the department deducts the allowable work-related expense deductions from the cash payment. The result is the earned income the department counts.

(c) If the remaining cash payment is unearned, the department does not allow additional deductions from

the cash payment. The remaining amount is the unearned income the department counts.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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## Budgeting Process

### 40 TAC §§3.3304, 3.3307-3.3309

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

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### 40 TAC §3.3304

The new rule is adopted under the authority of the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

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## Handling of Assistance Warrants

### 40 TAC §§3.8518, §3.8520

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## Chapter 8. HEAP HEAP Cooling Program

### 40 TAC §§8.3501-8.3507

The Texas Department of Human Resources adopts the repeal of §§8.3501-8.3507 and new §§8.3501-8.3507, concerning the cooling phase of the Home Energy Assistance Program. The rules are adopted without changes to the proposed text published in the May 13, 1983, issue of the *Texas Register* (8 Tex-Reg 1587).

The new rules include the program's policies without reference to any specific program year or dollar amounts; minor editorial changes for clarity; the household's right to contest the department's determination of an overpayment and clarification of other responsibilities of the household; the department's

process of automatically notifying potentially eligible AFDC, food stamp, and SSI households; the responsibilities of VA needs-tested households; clarification that household benefit amounts are based on the average cost of electricity; and the extension of the time period during which a household may request a hearing from 60 to 90 days.

Adoption of the rules and repeals is justified so that the department may assist low-income households to pay for the cost of cooling their homes during the cooling phase of the Home Energy Assistance Program.

The rules provide the criteria by which the department administers the benefits of the cooling program.

No groups or associations commented clearly in favor of or against the rules. One group, the Texas Legal Services Center, did comment, but its comments consisted primarily of concerns and recommendations about specific portions of the rules.

The following is a list of individual comments received on the proposal and the department's response to each.

Concerning §8.3506, the Texas Legal Services Center supported the program's rule on outreach, but suggested that the department go further than making information available to the public. The department agrees that outreach is essential to the success of the program. At the onset of each phase of HEAP, the department implements several measures to ensure that eligible households are made aware of the program's benefits. The department notifies active AFDC, food stamp, and SSI clients by mailing applications to households whose income meets the program's requirements. Follow-up notices are sent to households that do not respond to the initial mailing of the application. Notices of explanation are sent to households who do not meet either the income or vulnerability requirements. The department also sends public service announcements to radio and television stations and press releases to newspapers throughout Texas. Notices are also posted in department offices.

These activities fulfill the federal outreach requirements and are encompassed by the rule as proposed.

Concerning the same section, the Texas Legal Services Center commented that if the department does not include the income caps in the rules, it should publish the figures as a public notice in the *Texas Register*. The department will make a cost-of-living adjustment to the income caps at the start of each program year. A public notice will be posted in the *Texas Register* when the change is made.

Concerning §8.3501, Texas Legal Services Center also expressed concern about the department's decision to limit participation in the program to recipients of AFDC, food stamps, Supplemental Security Income, or Veterans' Administration needs-tested households. The department considers this limitation essential to its efforts to control administrative costs and to maximize benefits for the more than 300,000 households that receive assistance.

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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ext. 2037.

## Chapter 49. Child Welfare

### Subchapter WWW. Adoption Service

#### 40 TAC §§49.7540-49.7546

The Texas Department of Human Resources simultaneously adopts the repeal of §§49.7540-49.754 and new §§49.7540-49.7546, concerning adoption subsidies. The new rules are adopted in compliance with federal regulations issued to implement Public Law 96-272, Adoption Assistance and Child Welfare Act of 1980. The new rules provide the basis for granting adoption subsidies for hard-to-place children.

The repeals are adopted under the Human Resources Code, Title 2, Chapter 47, which authorizes the department to administer a program for hard-to-place children. The repeals are adopted under federal requirements effective October 1, 1982.

§49.7540. *Adoption Subsidy Program.*  
§49.7541. *Type of Subsidy and Amount Limitations.*  
§49.7542. *Amount and Duration of Subsidies.*

- §49.7543. *Application and Approval Procedures.*  
 §49.7544. *Regional Adoption Subsidy Committee.*  
 §49.7545. *State Adoption Subsidy Committee.*  
 §49.7546. *Payment Procedures.*  
 §49.7547. *Renewal and Review Procedures.*

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 12, 1983.

TRD-835212      Marlin W. Johnston  
 Commissioner  
 Texas Department of Human  
 Resources

Effective date: October 1, 1982

Proposal publication date: N/A

For further information, please call (512) 441-3355,  
 ext. 2037.

The new rules are adopted under the Human Resources Code, Title 2, Chapter 47, which authorizes the department to administer a program for hard-to-place children. The new rules are adopted under federal requirements effective October 1, 1982.

§49.7540. *Eligibility Requirements.* For a child to receive an adoption subsidy, the following requirements apply:

- (1) The child must be in the department's managing conservatorship at the time of adoptive placement.
- (2) The DHR unit responsible for placing the child must first try to place the child without the subsidy unless the child is being adopted by his foster parents.
- (3) The child must meet one of the following criteria at the time of adoptive placement:
  - (A) be six years old or older;
  - (B) be two years old or older and a member of a racial or ethnic minority;
  - (C) have a professionally diagnosed physical, mental, or emotional handicap; or
  - (D) belong to a sibling group needing placement in the same home.
- (4) The child's income must be less than the department's daily rate for foster care maintenance for a child his age in a foster family home.
- (5) The child must not have real or personal property with a market value over \$1,000.
- (6) The child must be less than 18 years old.
- (7) The child must not be receiving foster care benefits in the adoptive home.
- (8) The adoptive parents must apply for the subsidy before consummation of the child's adoption.
- (9) The adoptive parents must meet the department's standards and criteria for adopting a child.
- (10) The adoptive parents must be contributing to the child's financial support.

§49.7541. *Additional Eligibility Requirements for Title IV-E Subsidy.*

- (a) For a child to receive a Title IV-E subsidy, the following additional requirements apply:
  - (1) The child's adoption must be consummated after September 30, 1982.

(2) During the month that court proceedings were initiated resulting in the child's removal from his home, one of the following must apply:

- (A) The child received AFDC.
- (B) The child would have received AFDC if application had been made.
- (C) The child lived with a qualified relative sometime during the six-month period before the month court proceedings were initiated. The child would have received AFDC if he had been living with the relative during the month court proceedings were initiated.
- (D) The child was eligible for Supplemental Security Income (SSI).

(3) The child was deprived of parental support according to AFDC eligibility requirements immediately before parental rights were terminated or the child was eligible for SSI at the time the adoption petition was filed.

(b) A child may not receive a Title IV-E adoption subsidy and SSI benefits at the same time.

§49.7542. *Determination of Subsidy Payments.*

(a) If eligible, the adoptive parents are entitled to subsidy payments, if needed, equal to the department's foster family care rate for the child minus the child's income. Income deducted from the subsidy payment includes benefits received for the child from SSI, RSDI, VA, child support, any other dependent or survivor's income, or other income from private resources.

(b) The department does not deduct income from the following sources:

- (1) earnings of a child if the child is:
  - (A) under 14 years old,
  - (B) a full-time student, or
  - (C) a part-time student and not a full-time employee; and
- (2) money given as a gift to the child on an irregular basis.

(c) The department determines the subsidy paid to adoptive parents for children on a case-by-case basis. The determination is based on the needs of the child and circumstances of the parents and is subject to the following:

(1) The adoptive parents are entitled to receive actual cost reimbursement for legal fees incurred for the child's adoption. The parents must provide documentation of these costs to the department. The total amount of the subsidy, both state-paid and Title IV-E, received for the child in a continuous 12-month period may not exceed the yearly cost of foster family care minus the child's income.

(2) The adoptive parents must apply their income and resources toward meeting the child's needs.

(3) The adoptive parents must provide documentation of the child's need for services and costs of services if they request a subsidy for services for the child. If the parents cannot provide actual cost figures, the department accepts reasonable cost figures. The department does not provide subsidies to cover cost of services for children who are Medicaid recipients if Medicaid covers the cost of the services. The department also does not provide subsidies for the cost of services if the services are reimbursable from other health coverage available to the parents or child.

(4) The adoptive parents are entitled to receive no more than 90% of the monthly foster family care rate

minus the child's income if they need the subsidy mainly for regular support.

**§49.7543. Effective Dates of Subsidy Benefits.**

(a) The department approves and provides subsidies for no longer than 12 months at a time.

(b) The department uses the following to determine the earliest month that adoptive parents are entitled to subsidies:

(1) the first month after the month of placement if the adoptive parents apply before or during the month of placement and other eligibility requirements are met.

(2) the month the adoptive parents apply if they apply after the month of placement and other eligibility requirements are met.

(3) the first month following the month the child's adoption was consummated for children eligible for a Title IV-E subsidy if the parents did not receive any other subsidy for the month.

(c) If a child's eligibility for a Title IV-E subsidy is pending consummation of the adoption, the child may receive state-paid subsidies before consummation.

(d) The department does not authorize subsidies for any month that the child is receiving foster care benefits.

**§49.7544. Application and Right to Notification.**

(a) To apply for or renew a subsidy, the adoptive parents must complete and submit an application form for each child to the department.

(b) The adoptive parents are entitled to written notification from the department about the decision on

the subsidy. The department must notify the adoptive parents about:

(1) an approval of the subsidy.

(2) a denial of the subsidy and reasons for the denial.

(3) a delay in processing the application and the reasons for the delay.

(c) adoptive parents may request a fair hearing if their claim for a subsidy is denied, reduced, or delayed by the department.

**§49.7545. Beginning the Subsidy.** Adoptive parents and department staff must sign an adoption subsidy agreement before subsidies are paid.

**§49.7546. Reporting Changes.** The adoptive parents must immediately report to the department any changes in circumstances which may affect eligibility for the subsidy or the amount of the subsidy.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on July 12, 1983.

TRD-835211

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: August 1, 1983

Proposal publication date: May 24, 1983

For further information, please call (512) 441-3355, ext. 2037.



Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

# Open Meetings

## **Texas Department on Aging**

**Friday, July 22, 1983, 10 a.m.** The Texas Board on Aging of the Texas Department on Aging will meet in the board room, fifth floor, 210 Barton Springs Road, Austin. Items on the agenda summary include approval of the March 18, 1983, minutes; resolutions of appreciation; financial and legislative reports, and a report of the older workers program; State Advisory Council matters; action of the executive director regarding an application to the Administration on Aging for \$70,312 to continue the Advocacy Assistance Program; the two-year state plan and funding formula for fiscal year 1984-1985; and procedures for implementation of the carry-over policy as adopted in the agency fiscal manual, April 1, 1983.

**Contact:** Chris Kyker, P.O. Box 12786, Austin, Texas 78711, (512) 475-2717.

**Filed:** July 12, 1983, 11 a.m.  
TRD-835201

## **Texas Department of Agriculture**

**Tuesday, July 26, 1983, 10 a.m.** The Produce Recovery Fund Board of the Agricul-

tural Protective Act-Unit of the Texas Department of Agriculture will meet at Expressway 83, two blocks west of Morning-side Road, San Juan. According to the agenda, the board will conduct a contested case hearing in Docket 72-82-APA—allegations of nonpayment of produce by Green Grove Citrus, Inc., McAllen, to Kincade-Orr, La Feria.

**Contact:** Bill B. Quicksall, P.O. Box 12847, Austin, Texas 78711, (512) 475-4304.

**Filed:** July 14, 1983, 8:33 a.m.  
TRD-835256

## **Texas Commission on Alcoholism**

**Sunday, July 24, 1983, 11 a.m.** The Texas Commission on Alcoholism will meet in the conference room, eighth floor, Sam Houston Building, 201 East 14th Street, Austin. Items on the agenda include approval of minutes; appeal of the funding policy; advisory council nominations; certification of DWI education programs; proposed expenditure of Emergency Jobs Bill funds; a report on budget adjustments and the executive director's report; approval of the fiscal year 1984 budget; a proposed revision to the administrative costs definition; and

proposed policies, resolutions, and a general statement of policy. The commission also will meet in executive session.

**Contact:** Jane C. Maxwell, Sam Houston Building, Eighth Floor, 201 East 14th Street, Austin, Texas 78701, (512) 475-2577.

**Filed:** July 13, 1983, 11:33 a.m.  
TRD-835247

## **Texas Board of Architectural Examiners**

**Wednesday, July 13, 1983, 1:30 p.m.** The Texas Board of Architectural Examiners met in emergency session in Room 107, 8213 Shoal Creek Boulevard, Austin. According to the agenda, the board considered personnel matters that were discussed in executive session. The emergency status was necessary because immediate action was needed to advertise for and write a job description for a newly created job.

**Contact:** Philip D. Creer, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

**Filed:** July 12, 1983, 11:04 a.m.  
TRD-835202

### State Bar of Texas

**Thursday, July 21, 1983, 10 a.m.** The Executive-Budget Committee of the State Bar of Texas will meet in the President's Room, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the committee will hear reports of the president concerning committee matters, organization of the Bar, budgetary matters, including any budget amendments, and approval of any capital expenditures; the executive director concerning personnel and outside counsel to handle the legislative program; reports of the president-elect, the Supreme Court liaison member, the immediate past president, the general counsel concerning grievance matters; the director of the Professional Development Department; the associate executive director, including dental insurance for employees; and the Board Committee on Travel.

**Contact:** Evelyn Avent, 1414 Colorado Street, Austin, Texas, (512) 475-4746.

**Filed:** July 13, 1983, 3:17 p.m.  
TRD-835250

### Texas Engineering Extension Service

**Saturday, July 23, 1983, 7 p.m.** The Firemen's Training School Advisory Board of the Texas Engineering Extension Service will meet in Room 203, Memorial Student Center, Texas A&M University, College Station. Items on the agenda include special recognitions of the State Firemen's and Fire Marshals' Association President Ray Williamson, the fourth Vice President Ernest Reising, and the Firemen's Training School board member, Chief C. A. Shelton; the April 14, 1983, minutes; an annual report; an overview of fire school activities including the 54th annual school events, municipal, industrial, and Spanish programs; board activity schedule; and general comments.

**Contact:** Henry D. Smith, Texas A&M University System, College Station, Texas 77843.

**Filed:** July 13, 1983, 2:14 p.m.  
TRD-835248

### Texas State Board of Registration for Professional Engineers

**Wednesday and Thursday, July 27 and 28, 1983, 8:30 a.m. daily.** The Texas State

Board of Registration for Professional Engineers will meet in the board room, 1917 IH 35 South, Austin. According to the agenda summary, the board will receive reports from members and staff, interview applicants, take action on applications for registration, read communications, and conduct any other business that comes before the board.

**Contact:** Woodrow E. Mize, 1917 IH 35 South, Austin, Texas 78741, (512) 475-3141.

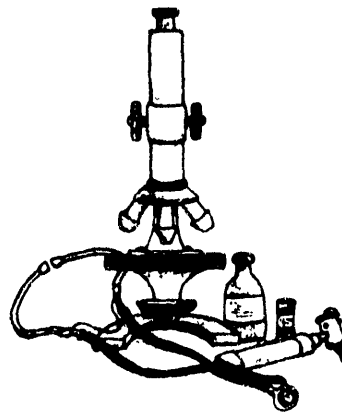
**Filed:** July 13, 1983, 9:56 a.m.  
TRD-835240

### Office of the Governor

**Monday, July 18, 1983, 11 a.m.** The Executive Funding Committee of the Criminal Justice Division of the Office of the Governor met in emergency session in the Lieutenant Governor's Conference Room, State Capitol, Austin. According to the agenda, the Criminal Justice Advisory Board presented recommendations for fiscal year 1983 supplemental grant requests. The emergency status was necessary to ensure approval and award of fiscal year 1983 supplemental grant requests prior to August 31, 1983.

**Contact:** Gilbert J. Pena, Sam Houston Building, Room 208, Austin, Texas 78701, (512) 475-3001.

**Filed:** July 13, 1983, 4:28 p.m.  
TRD-835255



### Texas Health Facilities Commission

**Friday, July 22, 1983, 9:30 a.m.** The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agen-

da summary, the commission will consider the following applications.

#### Declaratory Ruling

Spohn Hospital, Corpus Christi  
AH83-0603-579

Carrollton Community Hospital,  
Carrollton  
AH83-0502-448

Heritage Village, Fort Worth  
AN83-0607-598

Under 21 Houston, Houston  
AO83-0603-583

#### Notice of Intent Regarding a Research Project

The Methodist Hospital, Houston  
Uro-Tech, Ltd., a Texas limited  
partnership, Dallas  
AH83-0617-632

#### Amendments of Certificate of Need Orders

Dallas Eye Surgicenter, Inc., Duncanville  
AS83-0120-042A(060183)

Rockwall Nursing Home, Rockwall  
AN82-0512-064A(060983)

**Contact:** John R. Neel, P.O. Box 50049,  
Austin, Texas 78763

**Filed:** July 13, 1983, 9:29 a.m.  
TRD-835238

### Texas Historical Commission

**Thursday, July 28, 1983.** Committees of the Texas Historical Commission will meet at the Carrington-Covert House Library, 1511 North Colorado Street, Austin. Times, committees, and agendas follow.

**2 p.m.** The Museum and Field Services Committee will revise grant guidelines for museums.

**Contact:** Cindy Leo, P.O. Box 12276,  
Austin, Texas 78711, (512) 475-3750.

**Filed:** July 13, 1983, 9:59 a.m.  
TRD-835241

**4 p.m.** The Sesquicentennial Committee will discuss possible projects for the sesquicentennial year.

**Contact:** Curtis Tunnell, P.O. Box 12276,  
Austin, Texas 78711, (512) 475-3092.

**Filed:** July 12, 1983, 10:14 a.m.  
TRD-835199

### Texas Department of Human Resources

**Friday, July 22, 1983, 9 a.m.** The Institutional Review Board of the Texas Depart-

ment of Human Resources will meet in Room 2L1, 706 Banister Lane, Austin. Items on the agenda include the following six Public Law 93-247 funded projects for fiscal year 1984: the impact of the Protected Services Project (Region X); a project to develop and test fair hearing practices in child protective services (Region X); the Group Services for Child Protective Clients Project (Region IX); the Foster Care Advocacy Service Projects (Region IV); the Coordinated Approach to Investigations and Information/sharing Project (state office); and the Multidisciplinary Institute for Child Sexual Abuse Intervention and Treatment (Regions IV and V). Also included are grant applications for the tri-state adoption, recruitment, and placement project; the application for the Aid to Families with Dependent Children grant diversion; and targeted assistance for refugees.

**Contact:** Charlie Clarkson, P.O. Box 2960, Austin, Texas 78769, (512) 441-3355, ext. 6111.

**Filed:** July 14, 1983, 9:18 a.m.  
TRD-835257

**Thursday and Friday, July 28 and 29, 1983, 1 p.m. daily.** The Advisory Council for Social Work Certification of the Texas Department of Human Resources will meet at Howard Johnson's Motor Lodge, 11140 East, Amarillo. Items on the agenda include approval of minutes of the last meeting, implementation of changes in the law; draft rules; open forum for public questions, comments, and discussion, and rules regarding private practice.

**Contact:** Michael Doughty, P.O. Box 2960, Austin, Texas 78760, (512) 441-3355, ext. 6055.

**Filed:** July 12, 1983, 2:59 p.m.  
TRD-835219

### Texas Industrial Commission

**Thursday, July 21, 1983, 4 p.m.** The Texas Small Business Industrial Development Corporation Board of Directors of the Texas Industrial Commission will meet in Suite A, La Posada Hotel, 1000 Zaragoza, Laredo. Items on the agenda include an introduction of board members and staff; a discussion of by-laws and action on prior minutes, corporation bond procedures, the fee schedule, program guidelines for the Small Business Administration 503 Program, letters to be sent to the bond counsel and the financial advisor, trustee request

for proposal, requests to participate, lender/Certified Development Corporation meetings and selection of sites, preliminary guidelines for selection of underwriters, final rules, the Texas Small Business Industrial Development Corporation flow chart, form of inducement resolutions for eligible projects; a discussion of possible projects; and a presentation on the bond insurance program.

**Contact:** Kent Yates, 410 East Fifth Street, Austin, Texas 78701, (512) 472-5059, ext. 656.

**Filed:** July 12, 1983, 1:45 p.m.  
TRD-835205

**Friday, July 22, 1983, 10 a.m.** The Board of Commissioners of the Texas Industrial Commission will meet in the Zaragoza Room, La Posada Hotel, 1000 Zaragoza, Laredo. According to the agenda, the commission members will meet for breakfast at 7:30 a.m. At 10 a.m., the board will conduct a quarterly meeting to introduce commissioners and staff; act on prior minutes, financial statements, a resolution giving Kent Yates signature authority on revenue bond approval letters for two weeks in August, Texas Small Business Development Corporation, rural loans of Llano Estacado Winery, Lasseter Industries, Inc., Eligible Blighted Areas Subcommittee, and commission rules; reports of the Development Council, executive director, written quarterly division, and rural loan alternative financing procedures; a slide show presentation titled *Texas Means Business*; a presentation on the Mexico City office; summary of legislation affecting the commission passed during the 68th Legislature; impact of enterprise zone legislation on the commission; and selection of the next meeting date and location.

**Contact:** Alexa Richter, 410 East Fifth Street, Room 408, Austin, Texas 78701, (512) 472-5059, ext. 627.

**Filed:** July 12, 1983, 1:44 p.m.  
TRD-835206

### State Board of Insurance

**Monday, July 25, 1983, 10:30 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 section will conduct a public hearing in Docket 7268—whether the title insurance agent's license

held by Walker County Title Company, Huntsville, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** July 13, 1983, 4:12 p.m.  
TRD-835254

### Lamar University

**Saturday, July 16, 1983, 9 a.m.** The Board of Directors of Lamar University submitted an emergency revision to the agenda of a meeting held in the Spindletop Room, Gray Library, Lamar University, Beaumont. According to the revised agenda summary, the board considered the June 2, 1983, minutes; reports of the president; Building Committee reports and recommendations; 1983-1984 budgets of general education and auxiliary; the faculty/staff assistance fund; housing fees for 1983-1984; approval of the state FEOP plan; receipt of small class reports for summer term I; and approval of the May financial reports. The board also met in executive session. The emergency status was necessary because this was the only time for a quorum of regions to approve budget for the next year.

**Contact:** Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, (409) 838-8403.

**Filed:** July 13, 1983, 10:32 a.m.  
TRD-835246

### Legislative Audit Committee

**Tuesday, July 26, 1983, 9 a.m.** The Legislative Audit Committee will meet in Room 301, State Capitol, Austin. According to the agenda, the committee will approve the auditor's 1984 operating budget, classification plan corrections and departmental requests, and any current audit concerns.

**Contact:** George W. McNiel, P.O. Box 12067, Austin, Texas 78711, (512) 475-4115.

**Filed:** July 13, 1983, 2:49 p.m.  
TRD-835249

### Legislative Budget Board

**Tuesday, July 26, 1983, 9 a.m.** The Legislative Budget Board will meet in Room 301, State Capitol, Austin. According to the agenda, the board will consider the operating budget, appointment of the director,

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and any other subjects that come before the board.

**Contact:** Jim Oliver, State Capitol, Room 207-A, Austin, Texas, (511) 475-3426.

**Filed:** July 12, 1983, 1:48 p.m.  
TRD-835207

### Legislative Reference Library

**Tuesday, July 26, 1983, 9 a.m.** The Legislative Library Board of the Legislative Reference Library will meet in Room 301, State Capitol, Austin. According to the agenda, the board will consider appointment of the director and approval of the operating budget of 1983-1984.

**Contact:** James R. Sanders, P.O. Box 12488, Austin, Texas 78711, (512) 475-4626.

**Filed:** July 13, 1983, 9:58 a.m.  
TRD-835242

### Public Utility Commission of Texas

**Wednesday, August 3, 1983, 10 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 division will conduct a prehearing in Docket 5198—application of Roger B. Wilson to amend a certificate of convenience and necessity within McLennan County.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** July 13, 1983, 9:59 a.m.  
TRD-835243

### Board of Tax Assessor Examiners

**Friday, July 29, 1983, 10 a.m.** The Board of Tax Assessor Examiners will meet in Conference Room C, John H. Reagan Building, 14th Street and Congress Avenue, Austin. Items on the agenda include approval of the March 29, 1983, minutes; certification of registered professional assessors; adoption of proposed rules published in the June 24, 1983, issue of the *Texas Register*; approval of the Policy and Procedures Manual and model forms, and the proposed fiscal year 1984 operating budget and interagency contract with the State Property Tax Board; the status of com-

plaints; and the 1983 fiscal year board travel and operating expenses to date.

**Contact:** Sam H. Smith, 9501 IH 35 North, Austin, Texas 78753, (512) 837-9800.

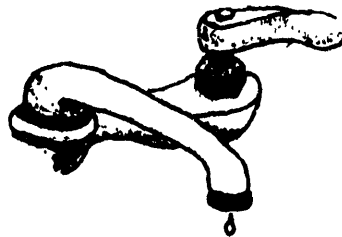
**Filed:** July 13, 1983, 9:57 a.m.  
TRD-835244

### Texas State Technical Institute

**Sunday and Monday, July 24 and July 25, noon and 9 a.m., respectively.** The Board of Regents of Texas State Technical Institute (TSTI) will meet at TSTI, Sweetwater. According to the agenda summary, the board will conduct committee meetings on Sunday. Items on Monday's agenda summary include the holiday schedule for fiscal year 1984, award of a contract for TSTI group insurance coverage, naming of a vice president, appointment of a senior vice president, acceptance of D.A. Pehouse Technology Center and the campus president's residence at TSTI—Sweetwater, appointment of project architects for major rehabilitation, budget changes, vesting rights in the optional retirement program, sublease of Hanger 11-1, TSTI—Waco, an owner easement to Texas Power and Light Company, the operating budget for fiscal year 1984, and a report on policy committees.

**Contact:** Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705, (817) 799-3611.

**Filed:** July 13, 1983, 4:21 p.m.  
TRD-835253



### Veterans Land Board

**Friday, July 22, 1983, 2 p.m.** The Veterans Land Board of the General Land Office will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the June 24, 1983, minutes; the report of the executive secretary; and consideration of forfeited tracts to be ordered for sale.

**Contact:** Richard Keahey, Stephen F. Austin Building, Room 738, 1700 North

Congress Avenue, Austin, Texas, (512) 475-3766.

**Filed:** July 12, 1983, 10:46 a.m.  
TRD-835200

### Texas Water Commission

**Wednesday, August 17, 1983, 10 a.m.** The Texas Water Commission rescheduled a meeting to be held in Room 124A, Stephen A. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on Application 3834A of Johnny W. Jones and Don E. Stone seeking an amendment to Permit 3547 to authorize the diversion and use for irrigational purposes of an additional 78 acre-feet of water per annum from Caney Creek, Brazos-Colorado Coastal Basin, in Matagorda County. The hearing was originally scheduled for July 8, 1983, as published at 8 *TexReg* 1572.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** July 12, 1983, 11:10 a.m.  
TRD-835203

**Wednesday, August 24, 1983, 9 a.m.** The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the following applications to the Texas Department of Water Resources.

Application of Doyle Hickerson, P.O. Box 783, Round Rock, Texas 78664, for an amendment to Permit 11931-01 to authorize the expansion of the existing treatment facility and to increase the discharge of treated wastewater effluent from a volume not to exceed an average flow of 400,000 gallons per day to three million gallons per day from the Windermere Wastewater Treatment Plant.

Application of A. Ben Pinnell, 3429 Purdue, Dallas, Texas 75225, for proposed Permit 12639-01 to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 120,000 gallons per day. The applicant proposes to build the 2181 Addition sewage treatment plant to serve a housing subdivision.

**Contact:** Gwendolyn H. Webb, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

**Filed:** July 13, 1983, 3:18 p.m.  
TRD-835251, 835252

**Regional Agencies**

**Meetings Filed July 12**

**The Bexar Appraisal District**, Board of Directors, met at 535 South Main Street, San Antonio, on July 18, 1983, at 5 p.m. Information may be obtained from Bill Burnette, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511.

**The Bosque County Review Board** will meet in the appraisal office, Bosque County Courthouse, Meridian, on August 25 and 26, 1983, at 9 a.m. daily. Information may be obtained from David G. Cooper, Box 393, Meridian, Texas 76665, (817) 435-2019.

**The Dallas County Appraisal District**, Board of Directors, met in emergency session in the board room, 2601 Live Oak, Dallas, on July 13, 1983, at 7:30 a.m. The Appraisal Review Board also met at the same location on July 15, 1983, at 2 p.m. Information may be obtained from Jerry Yeatts, 2601 Live Oak, Dallas, Texas, (214) 826-1480.

**The Fisher County Appraisal District**, Board of Directors, rescheduled an emergency meeting held in the Hospitality Room, Fisher County Courthouse, Roby, on July 14, 1983, at 8 p.m. The meeting was originally scheduled for July 11, 1983. Information may be obtained from Kyle Moore, Route 1, Roby, Texas 79543, (915) 776-2733.

**The Mills County Appraisal District** met in emergency session at Mills County Courthouse, Goldthwaite, on July 14, 1983, at 7:30 p.m. Information may be obtained

from J. Michael Morris, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.  
TRD-835218

**Meetings Filed July 13**

**The Atascosa County Appraisal District**, Appraisal Review Board, will meet at 1010 Zanderson, Jourdanton, on July 19, 1983, at 9 a.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanton, Texas 78026, (512) 769-2730.

**The Dallas Area Rapid Transit**, Special Service Needs Committee, met in emergency session in Suite 406, Love Field Terminal Building, Dallas, on July 13, 1983, at 4:30 p.m. The board met in emergency session in Room 6ES, Dallas City Hall, 1500 Marilla, Dallas, on July 14, 1983, at 7 p.m. Information may be obtained from Cinde Weatherby, Love Field Terminal Building, Lock Box 12, Dallas, Texas 75235, (214) 358-3217.

**The Region VIII Education Service Center**, Board of Directors, will meet in Room 107, 100 North Riddle Street, Mount Pleasant, on July 25, 1983, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455, (214) 572-6676

**The Grayson County Appraisal District**, Board of Directors, will meet in the commissioners courtroom, Grayson County Courthouse, Sherman, on July 20, 1983, at noon. Information may be obtained from

Rita Neill, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.

**The Guadalupe-Blanco River Authority**, Board of Directors, will meet at 933 East Court Street, Seguin, on July 21, 1983, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, (512) 379-5822.

**The Lamb County Appraisal District**, Board of Review, will meet at 318 Phelps Avenue, Littlefield, on July 19, 1983, at 8:30 p.m. The Board of Directors also met at the same location on July 21, 1983, at the same time. Information may be obtained from Jack Samford, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474.

**The Lampasas County Appraisal District**, Appraisal Review Board, met in emergency session at 403 East Second Street, Lampasas, on July 15, 1983, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

**The Limestone County Appraisal District**, Board of Directors, will meet in Room 6, city hall, Mexia, on July 20, 1983, at 7 p.m. Information may be obtained from Clydene Hyden, P O Box 266, Mexia, Texas 76667, (817) 562-5385, ext. 35.

**The Wise County Appraisal District**, Appraisal Review Board, will meet at 206 South State, Decatur, on July 20 and 21, 1983, at 9 a.m. daily. Information may be obtained from Angela Caraway, P.O. Box 509, Decatur, Texas 76234, (817) 627-3081.  
TRD-835245

# In Addition

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner), notices of rate ceilings (filed by the consumer credit commissioner), changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner), and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission)

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board), applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission), applications for waste disposal permits (filed by the Texas Water Commission), and notices of public hearing.

## Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order, CN indicates certificate of need, PIR indicates petition for reissuance, NIE indicates notice of intent to acquire major medical equipment, NIEH indicates notice of intent to acquire existing health care facilities, NIR indicates notice of intent regarding a research project, NIE-HMO indicates notice of intent for exemption of HMO related project, and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P. O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on 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 any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the nec-

essary information in the correct form may result in a defective request to become a party.

HCA Psychiatric Company, doing business as  
Shoal Creek Hospital, Austin

AH82-0203-014A(070683)

CN/AMD—Request for an amendment of Certificate of Need AH82-0203-014, which authorized the certificate holder to conduct an extensive renovation and expansion project to add 14,652 square feet to the existing building and to renovate 87,757 square feet of the existing facility which will result in a total of 105,312 gross square feet. The certificate holder requests an extension of the completion deadline from January 4, 1984 to December 31, 1984, an increase in the project cost from \$6,663,552 to \$6,961,301, to change the name of the certificate holder from HCA Psychiatric Company to HCA Health Systems of Texas, Inc., and to add an additional elevator to the project.

Stonebrook Properties, Inc., Arlington

AN83-0701-002

NIEH—Request for a declaratory ruling that a certificate of need is not required for Stonebrook Properties, Inc., to acquire by lease Midland Care Center (to be renamed Stonebrook Care Center—Midland), an existing 118-bed ICF nursing facility located in Midland, from Jewell Enterprises, a Texas general partnership.

Jewell Enterprises, a Texas general partnership  
Arlington

AN83-0701-003

NIEH—Request for a declaratory ruling that a certificate of need is not required for Jewell Enterprises to acquire by purchase Midland Care Center (to be renamed Stonebrook Care Center—Midland), an existing 118-bed ICF nursing facility located in Midland, from R. W. McDonnell Construction Company, Inc.,

San Marcos-Hays County Migrant Project,  
San Marcos  
A083-0705-013

DR—Request for a declaratory ruling that a certificate of need is not required for San Marcos-Hays County Migrant Project to establish a Community Health Center from the currently functioning Migrant Project.

APF Fund X, a limited partnership,  
San Jose, California  
AN83-0705-012

NIEH—Request for a declaratory that a certificate of need is not required for APF Fund X, a limited partnership, to acquire by purchase Azalea Manor, an existing 90-bed ICF nursing facility located in Sealy, from Sealy Nursing Home, Inc., doing business as Azalea Manor Nursing Home

Quality Care, Inc., doing business as Francis  
Convalescent Center, Fort Worth  
AN81-0320-029A(070583)

CN/AMD—Request for an extension of the completion deadline from June 30, 1983, to October 31, 1983, in Certificate of Need AN81-0320-029, which authorized the certificate holder to construct an 11,288 square foot building addition to provide 52 new skilled beds and to expand dietary, laundry, living, dining, and parking areas, resulting in an increase in the licensed bed capacity of 78 to 130 beds

Issued in Austin, Texas, on July 13, 1983

TRD-835239      John R. Neel  
                         General Counsel  
                         Texas Health Facilities  
                         Commission

Filed: July 13, 1983

For further information, please call (512) 475-6940.

## Heart of Texas Council of Governments Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Heart of Texas Council of Governments, on behalf of the cities of McGregor and Waco, McLennan County, and Texas State Technical Institute—Waco, is offering notice of invitation for offers of consulting services for a Federal Aviation Administration grant to develop an Airport Systems Plan for the three airports in McLennan County.

All eligible consulting firms are invited to request an RFP package for the purpose of submitting a proposal for the project. Please contact Charles Harrington, City of

Waco, P.O. Box 1370, Waco, Texas 76703, or call (817) 756-6161, ext. 229, for the RFP packet.

An informational meeting will be held for prospective bidders on Friday, July 15, 1983, at 10 a.m. in the Waco City Council Chambers at Third and Franklin Streets. The proposal will be due August 1, 1983. Proposals will be judged on a basis of compliance with RFP guidelines.

Issued in Austin, Texas, on July 7, 1983

TRD 835144      K. Paul Holt  
                         Deputy Executive Director  
                         Heart of Texas Council of  
                         Governments

Filed: July 11, 1983

For further information, please call (817) 756-6631.

## Texas Department of Human Resources Public Hearing

The Texas Department of Human Resources will conduct a hearing to receive comments on the selection of a new contractor to provide weatherization services. The hearing will be held at 2:30 p.m. on July 29, 1983, at 100 South Jackson Street, Fort Stockton. The notice of invitation for offers on the weatherization program was published in the May 25, 1982, issue of the *Texas Register* (7 TexReg 2008).

The Pecos County Community Action Agency was selected to provide weatherization services for Pecos County. The contract will begin July 1, 1983, and will end August 31, 1983. Service delivery will be in accordance with the Department of Energy regulations.

The department is interested in receiving comments on the agency's experience and performance in weatherization or housing renovation activities, the agency's experience in assisting low income persons in the area to be served, and the agency's capacity to undertake a timely and effective weatherization program.

Written comments may be submitted, if desired, to Charles E. Smith, Director of Energy Assistance Programs 519-A, Texas Department of Human Resources, P. O. Box 2960, Austin, Texas 78769.

Issued in Austin, Texas, on July 12, 1983

TRD 835213      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Filed July 12, 1983

For further information, please call (512) 441 3355, ext. 2037

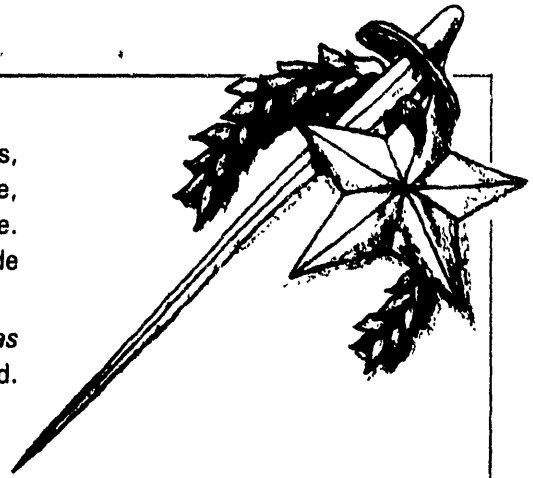
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