

RECEIVED

STATE DOCUMENTS
MAR 21 1978
TEXAS DEPT. OF STATE

TEXAS REGISTER

In This Issue...

Emergency adoption by the Board of Dental Examiners governing emergency equipment and CPR courses, effective March 6 . . . 861

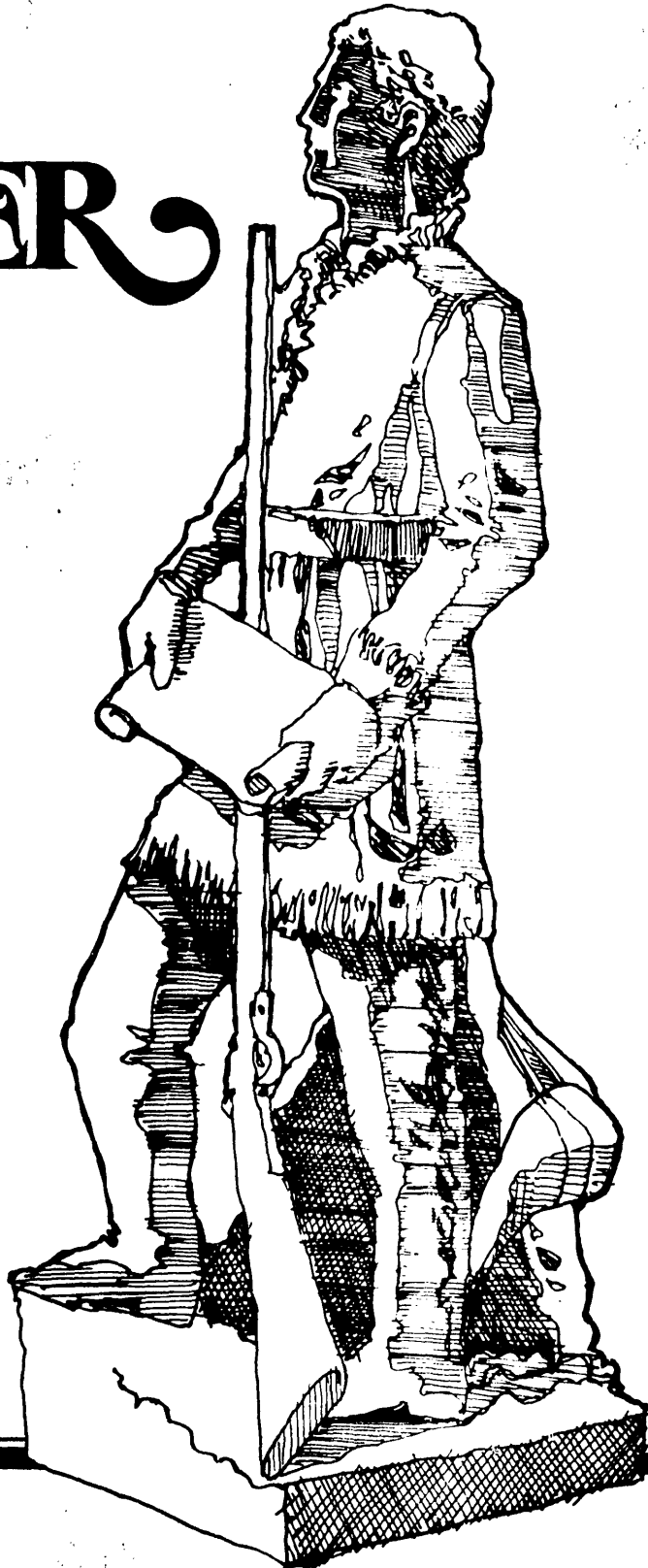
Proposed amendment to a rule on examinations by the Board of Medical Examiners, proposed date of adoption—April 14 . . . 865

Department of Public Safety's proposal concerning accident investigation, proposed effective date—April 14 867

Adopted inheritance tax rules by the comptroller of public accounts, effective March 15 . . . 869

Program guidelines for the administration of Title IV, as amended by P.L. 93-380, effective March 29 881

Commission on Jail Standards' adoptions, effective July 1 . . . 896



Office of the Secretary of State

USPS Publication Number 120090

NOTES ON THE ISSUE

On July 1, 1978, the Speedy Trial of Criminal Cases Act becomes effective. The act, passed by the 65th Legislature as Senate Bill 1043, establishes priority for the trial of criminal actions over trials of civil cases, and the trial of criminal actions against defendants who are jailed pending trial over trials of other criminal actions. The act defines time limitations and addresses delays. Governor Briscoe, in an executive order appearing in the Governor section of this issue, established the Task Force on Speedy Trial in Criminal Cases to assist in the implementation of the act. In the Attorney General section, the application of the act to a trial *de novo* in a county court following a conviction in a justice or municipal court is the subject of an opinion.

The Department of Human Resources adopts amendments to rules concerning child abuse and neglect. Plaintiffs in *John Pleasant Sims, et al., v. Raul Jimenez, et al.*, challenged the investigative and seizure procedures of the Texas Family Code in child abuse cases, particularly the confidentiality of records, entrance to the home, and the examination of the child without a full adversary hearing. The decision results in prohibiting identification in the Child Abuse and Neglect Report and Inquiry System (CANRIS) until a finding of abuse and/or neglect by the court and in prohibiting the psychological and psychiatric examination of the child without the consent of the parent prior to an adversary hearing. A memorandum opinion in this case was issued October, 1977, but the judgment was not signed until March 6; the department was required to comply immediately.

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

Artwork: Gary Thornton

TEXAS REGISTER

The *Texas Register* is published twice weekly, at least 100 times a year by the Texas Register Division, Office of the Secretary of State, P.O. Box 12887, Capitol Station, Austin, Texas 78711, telephone (512) 475-7886.

The *Register* contains executive orders of the governor; summaries of attorney general's opinions and summaries of requests for opinions; emergency rules, proposed rules, and adopted rules of state agencies; notices of open meetings; and miscellaneous notices of general interest to the public of Texas.

Subscriptions are \$25 for one year. Back issues, when available, are \$1 each.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the Texas Register Division director provided no such republication shall bear the legend "Texas Register" or "Official" without the written permission of the director, Texas Register Division. Published under the authority granted in the Texas Civil Statutes, Article 6252-13a. Second-class postage is paid at Austin, Texas, and additional entry offices.



*Steven C. Oaks
Secretary of State*

Texas Register Division

Bill Lalla, Director
Tommy Denton
Annie Fitzpatrick
Mary Barrow
Linda Camp

Hobby Duncan
Terry Foster
Anne Lewis
Pam Fridrich

Magdalena Cortez
Charlotte Scroggins
Brenda Mills
Bill Pratt
Becky Willard

The Governor

Executive Orders

- 857 *D.B. 32-A (expanding the Texas Commission on the Status of Women)*
- 857 *D.B. 33 (creation of the Task Force on Speedy Trial in Criminal Cases)*
- 858 *D.B. 36 (establishment of the Texas Workers Compensation Interim Advisory Committee)*
- 859 *D.B. 37 (commencement of operations by the Texas Deepwater Port Authority)*

The Attorney General

Opinions

- 860 *H-1130 (construction of Speedy Trial Act)*
- 860 *H-1131 (authority of a county to provide certain potable water facilities)*

Emergency Rules

Texas State Board of Dental Examiners

- 861 *Dentistry*
- 861 *Conduct*

Proposed Rules

Texas Air Control Board

- 862 *Regulation VI—Control of Air Pollution by Permits for New Construction or Modification*

Texas State Board of Dental Examiners

- 864 *Dentistry*
- 864 *Conduct*

Texas Department of Human Resources

- 864 *Medicaid Eligibility*

Texas State Board of Medical Examiners

- 865 *Licensure by Examination*

Texas Department of Public Safety

- 865 *Organization and Administration*
- 867 *Traffic Law Enforcement*
- 867 *Commercial Vehicles*

Adopted Rules

Texas Air Control Board

- 869 *Regulation VI—Control of Air Pollution by Permits for New Construction or Modification*

Comptroller of Public Accounts

- 869 *Tax Administration*

Texas Education Agency

- 881 *Instructional Development*

Texas Department of Human Resources

- 891 *AFDC*
- 891 *Food Stamps*
- 892 *Child Welfare Services*

Texas Commission on Jail Standards

- 896 *New Construction*
- 912 *Inmate Housing*
- 912 *Existing Facilities*

Texas Board of Licensure for Nursing Home Administrators

- 927 *Examination*
- 927 *Education*

State Securities Board

- 928 *Transactions Exempt from Registration*

The Courts

5th U.S. Circuit Court of Appeals

- 929 *In re 1975-2 Grand Jury Investigation of Associated Milk Producers, Inc.*

Open Meetings

- 930 *Coordinating Board, Texas College and University System*
- 930 *Texas County and District Retirement System*
- 930 *Texas Commission for the Deaf*
- 931 *Texas State Board of Dental Examiners*
- 931 *State Board of Education*
- 931 *Employees Retirement System of Texas*
- 931 *Commission on Fire Protection Personnel Standards and Education*
- 931 *General Land Office*
- 932 *Office of the Governor*
- 932 *Texas Department of Health*
- 932 *Texas Health Facilities Commission*
- 933 *State Board of Insurance*
- 934 *Texas Advisory Commission on Intergovernmental Relations*
- 934 *Lamar University*
- 935 *Texas Department of Mental Health and Mental Retardation*
- 935 *Texas Optometry Board*
- 935 *Board of Pardons and Paroles*
- 936 *Texas Parks and Wildlife Department*

- 936 *Texas Private Employment Agency Regulatory Board*
- 936 *Texas State Board of Examiners of Psychologists*
- 936 *State Board of Registration for Public Surveyors*
- 936 *Public Utility Commission of Texas*
- 937 *University of Texas at Austin*
- 937 *Texas Turnpike Authority*
- 938 *Veterans Land Board*
- 938 *Governor's Coordinating Office for the Visually Handicapped*
- 938 *Texas Water Commission*
- 939 *Regional Agencies*

In Addition

Department of Banking

- 942 *Notice of Application*

Comptroller of Public Accounts

- 942 *Administrative Decisions*

Office of the Secretary of State

- 943 *Notice of Tax Assessor-Collectors*

Executive Orders

D.B. 32-A

Expanding the Texas Commission on the Status of Women

WHEREAS, on the 17th day of August, A.D. 1977, I did create and establish the Texas Commission on the Status of Women; and

WHEREAS, a critical need continues in our country to utilize the full potential of all our citizens; and

WHEREAS, the Texas Commission on the Status of Women has provided and continues to provide valuable assistance to the governor in assessing the needs and potentiality of this state; and

WHEREAS, it is desirable to augment the effectiveness of that commission by broadening the basis and participation in order that the governor may continue to receive a comprehensive review of the needs of this state; and

WHEREAS, the expansion of the commission will be of assistance to the governor in achieving the goal of maximizing the women's opportunities to contribute fully to the growth of this state.

NOW, THEREFORE, by virtue of the authority vested in me as governor of the State of Texas by the constitution and statutes of the State of Texas, the following is ordered:

The Texas Commission on the Status of Women, referred to herein as the commission, which was established by Executive Order 32 on the 17th day of August, A.D., 1977, is hereby expanded to be composed of 19 members appointed by the governor, who shall serve at the discretion of the governor. The commission shall continue to operate in the manner and under the conditions specified in Executive Order 32.

In official recognition whereof, I hereby affix my signature this the 3rd day of March, A.D., 1978.

D.B. 33

Creation of the Task Force on Speedy Trial in Criminal Cases

WHEREAS, the swiftness and certainty of punishment is a major deterrent to crime; and

WHEREAS, the 65th Legislature of the State of Texas enacted the Speedy Trial in Criminal Cases Act (Chapter 787, page 1970, Acts of the 65th Legislature, Regular Session, 1977); and

WHEREAS, the Speedy Trial in Criminal Cases Act places new burdens and responsibilities on the criminal justice system and particularly on the judiciary and prosecutors' offices; and

WHEREAS, the Speedy Trial in Criminal Cases Act becomes effective July 1, 1978; and

WHEREAS, the judiciary and prosecutors' offices will need every available resource to insure that the transition to and implementation of the Speedy Trial in Criminal Cases Act is accomplished efficiently and effectively.

NOW, THEREFORE, I, Dolph Briscoe, governor of the State of Texas, by virtue of the power vested in me, do hereby establish the Task Force on Speedy Trial in Criminal Cases to provide assistance and coordination in the transition to and implementation of the Speedy Trial in Criminal Cases Act. I charge this task force to address the following matters and any other matters which are germane to its deliberations:

(1) Assess the present caseloads and backlogs of criminal cases.

(2) Assess the impact of similar legislation in the federal system and other states that have a statutory mandate of speedy trials.

(3) Identify potential problem areas based on the results gathered from (1) and (2) above.

(4) Develop an immediate plan to reduce any current backlog prior to July 1, 1978.

(5) Develop an immediate plan for the coordination of available judicial resources to assist the local trial courts.

(6) Develop an immediate plan for criminal caseload management.

(7) Develop recommendations for the full and effective use of prosecutor screening and grand juries.

(8) Develop training programs for the judiciary and prosecutors.

(9) Establish a monitoring system for ready availability of data to gauge the impact of the act on the system and the effectiveness of the plans developed.

(10) Prepare and submit to me a report prior to February 1, 1979, which shall include the development of the above plans and recommendations for the transition to and implementation of the act, the impact and effect on the judiciary and prosecutors' offices, recommendations as to the needs of the judiciary and prosecutors' offices to fully comply with the act, and recommendations on needed legislative changes.

This task force will operate under my personal supervision, chaired by my executive director, Criminal Justice Division, and it shall be composed of the following:

chief justice, Supreme Court of Texas, and as chairman, Judicial Planning Committee

presiding judge, Court of Criminal Appeals of Texas
chairman, Judicial Section, State Bar of Texas
president, Texas District and County Attorneys

Association, and as chairman, Texas
Prosecutors Coordinating Council

president, Texas Judicial Council
administrative director, Office of Court Administration
chairman, Criminal Law Section, State Bar of Texas
chairman, Continuing Legal Education Committee,

Texas Center for the Judiciary
president, Texas Criminal Defense Lawyers Association
president, Texas Police Association

president, Texas Chiefs of Police Association
president, Sheriffs Association of Texas

president, Texas Justices of the Peace and Constables
Association

chairman, Municipal Judges Section, State Bar of Texas
chairman, Texas Adult Probation Commission

president, County and District Clerks Association
such citizen members as may be appointed by the

governor

I request each member of this task force to commit their support staff personnel and financial resources to the execution of this executive order. And I further request each state

agency and state official concerned with the field of criminal justice to cooperate with and assist the task force at the request of the chairman.

The chairman shall appoint such committees as deemed necessary and may include citizens and other appropriate members of the criminal justice system on these committees.

Meetings of the task force and the committees appointed thereunder shall be subject to the call of the chairman.

The chairman is a voting member of the task force.

Any services rendered to the task force by state officials and state employees shall be an additional duty of their respective offices and positions.

The task force, through its chairman, may apply for and accept grants from public or private funds.

The task force will report its findings, recommendations, and conclusions to me and make such interim reports as may be requested.

The membership and responsibilities of the task force may be modified, expanded, or diminished from time to time.

This executive order shall be effective immediately and shall remain in effect until February 1, 1979, unless modified, extended, or rescinded by me.

In official recognition thereof, I hereby affix my signature this the 3rd day of March, 1978.

D.B. 36

Establishment of the Texas Workers Compensation Interim Advisory Committee

WHEREAS, the State of Texas has no Texas Workers' Compensation Advisory Committee to study and evaluate workers' compensation laws in this state; and

WHEREAS, there exists a need for the establishment of an interim advisory committee to study and analyze the status of Texas laws relating to workers' compensation insurance and to advise the governor and the legislature on the repeal or amendment of existing legislation or the adoption of new legislation in that body of law.

NOW, THEREFORE, I, Dolph Briscoe, governor of the State of Texas, by virtue of the authority vested in me, do hereby establish the Texas Workers' Compensation Interim Advisory Committee to conduct a thorough study and analysis of Texas laws relating to workers' compensation insurance and advise me and the legislature of any needed changes in the Texas Workers' Compensation Law. I charge this committee to address the following matters and any other matters which are germane to its deliberations:

(a) review the laws of the State of Texas pertaining to workers' compensation insurance, including judicial interpretation, with a view to improving the system for the benefit of the citizens of Texas; and

(b) conduct research and hold hearings as needed to identify problem areas of the law and to formulate solutions; and

(c) utilize data of the Industrial Accident Board and the State Board of Insurance, subject to maintaining the confidentiality of any data so received; and

(d) assist legislative committees and members of the legislature by review and analysis of present and proposed legislation pertaining to workers' compensation insurance; and

(e) recommend changes in the laws on workers' compensation insurance if a quorum of the committee is in unanimous agreement as to such change; and

(f) report to the governor and the 66th Legislature not later than 30 days prior to the convening of the regular session of the legislature. The report shall contain a summary of the committee's activities and its recommendations, if any; and

(g) to draft proposed legislation for the consideration of the legislature and the governor creating a permanent Texas Workers' Compensation Advisory Committee.

This committee shall consist of 13 members appointed by me to serve at my pleasure. Members shall be appointed so that three members represent each of the following:

(a) employers who are subscribers as that term is defined in Article 8309, Revised Civil Statutes of Texas, as amended;

(b) employees who are insured under the provisions of Title 130, Revised Civil Statutes of Texas, 1925;

(c) insurers which write workers' compensation insurance in Texas; and,

(d) attorneys who represent claimants before the Industrial Accident Board.

The chairman of the Industrial Accident Board is an ex-officio member of the committee and is designated by me as its chairman.

I request each member of this committee to commit his or her support and resources toward accomplishment of its purposes. I further request state agencies and officials to cooperate with and assist the committee at the request of the chairman or his designee and any services rendered shall be an additional duty of their respective offices and positions.

Regular meetings of the committee shall be held in Austin, Texas, at least once every two months at the call of the chairman or his designee. Hearings and special meetings shall be held at such times as a majority of the members may determine. A quorum for the transaction of business by the committee shall consist of one member of each of the four groups named above.

The chairman shall appoint such subcommittees as deemed necessary and each shall consist of at least one member of each of the four groups named above.

Members of the committee and subcommittees shall serve without compensation and each shall be responsible for his or her expenses.

The personnel of the Industrial Accident Board shall serve as the staff for the committee in addition to their regular duties and shall assist the committee in its duties and in drafting any needed legislation to present to the next session of the Texas Legislature.

The membership and responsibilities of the committee may be modified, expanded, or diminished from time to time by modification of this executive order.

This executive order, D.B. 36, is effective on this 14th day of February, A.D., 1978, and shall remain in effect until amended, modified, or repealed by me.

In official recognition whereof, I hereby affix my signature this the 14th day of February, A.D., 1978.

D.B. 37

Commencement of Operations by the Texas Deepwater Port Authority

WHEREAS, Senate Bill 7, 65th Legislature, 1st Called Session, 1977, created the Texas Deepwater Port Authority as an agency of the State of Texas; and

WHEREAS, Section 19.003 of said act provides that the Texas Deepwater Port Authority shall not commence operations unless and until the governor determines, and so states by executive order, that no active and viable plan to develop a deepwater offshore port by private enterprise exists in Texas.

NOW, THEREFORE, I, Dolph Briscoe, governor of the State of Texas, by virtue of the authority vested in me, do hereby find, determine, and conclude that no active and viable plan to develop a deepwater offshore port by private enterprise exists in the State of Texas.

I direct that the Texas Deepwater Port Authority created pursuant to Senate Bill 7, 65th Legislature, 1st Called Session, 1977, immediately commence operations and that its board of commissioners, to be appointed by me, proceed to carry out its responsibilities under this act.

I further direct that the Texas Deepwater Port Authority shall conduct engineering, environmental, financial, and other feasibility studies, as necessary, to determine if the construction and operation of a deepwater port facility is feasible and in the public interest and to submit a report of its findings to me and the Texas Legislature.

This executive order shall become effective on this 21st day of February, A.D., 1978, and shall remain in effect until amended, modified, or repealed by me.

In official recognition whereof, I hereby affix my signature this 21st day of February, A.D., 1978.

Issued in Austin, Texas, on March 6, 1978.

Doc No. 781617 Dolph Briscoe
Governor of Texas

For further information, please call (512) 475-3021.

Opinions

Summary of Opinion H-1130

Request from Patrick J. Ridley, Bell County attorney, Belton, concerning construction of the Speedy Trial Act.

Summary of Opinion: A trial *de novo* in county court following conviction in municipal or justice court is subject to Article 32A.02 of the Code of Criminal Procedure, providing for speedy trials of criminal charges. The criminal action commences for purposes of Article 32A.02 when the defendant files a valid appeal bond. The defendant's detention, for purposes of Article 17.151 of the Code of Criminal Procedure, begins when he is actually taken into custody following conviction in the municipal or justice court. The Article 17.151 requirement that defendant "be released . . . by reducing the amount of bail" means that bail must be reduced to an amount he can afford to pay.

Doc. No. 781581

Summary of Opinion H-1131

Request from Joe Resweber, Harris County attorney, Houston, concerning the authority of Harris County to provide certain potable water facilities.

Summary of Opinion: Harris County does not have authority to construct or replace water main distribution systems for the purpose of supplying water to private consumers.

Issued in Austin, Texas, on March 7, 1978.

Doc. No. 781644

C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

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

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

Numbering System—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

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

Texas State Board of Dental Examiners

The Texas State Board of Dental Examiners has adopted amendments to Rules 382.19.18.003, 382.19.18.007, and 382.01.01.002 on an emergency basis.

In Rule 382.19.18.003, the board deemed it necessary that all dentists maintain emergency equipment appropriate for patient resuscitation whether they use anesthesia or not. The board feels this will further protect the health and welfare of the public.

In Rules 382.19.18.007 and 382.01.01.002, the addition of the American Red Cross as an approved organization to give and certify that Texas dental licensees have passed the cardiopulmonary resuscitation course is deemed necessary because the board feels the qualifications of the instructors in both the American Heart Association and the American Red Cross are equal, and the American Heart Association cannot handle and certify all Texas dentists. The services of the American Red Cross personnel are necessary and desired. The board feels this will further protect the health and welfare of the public.

These emergency amendments are promulgated under the authority of the Texas Administrative Procedure Act, Rule 382.13.02.050(d) of the dental board's Rules of Procedures Governing Grievances, Hearings, and Appeals, and Article 4551d of the Revised Civil Statutes of Texas, as amended.

Dentistry

Qualifications of Applicants 382.01.01

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

.002. CPR Course. An applicant, to be licensed to practice dentistry in Texas, must present to the board proof that he has taken and passed within the last 12 months a course in cardiopulmonary resuscitation given or approved by the American Heart Association *or the American Red Cross*

and that he has a certificate attesting to such fact, based upon current AHA *or ARC* standards and guidelines. Evidence of compliance is to be attached to the application for examination.

Doc. No. 781582

Conduct

Anesthesia and Anesthetic Agents 382.19.18

These rules are promulgated under the authority of Article 4551d of the Revised Civil Statutes of Texas, as amended.

.003. Emergency Equipment. All dentists practicing in Texas (using any type of anesthesia or anesthetic agents, including local anesthesia,) shall have and maintain emergency equipment appropriate for patient resuscitation. Such equipment shall include a positive pressure breathing apparatus including oxygen. All emergency equipment shall be present in the dental office and shall be utilized by the licensed professional or under his direct supervision. Training of emergency procedures shall be given to all dental personnel.

.007. CPR Course Requirement. All dentists licensed and practicing dentistry in Texas who have not taken and passed the American Heart Association *or the American Red Cross* sponsored course in cardiopulmonary resuscitation since January 1, 1975, are required to take and pass such course before October 1, 1977. (See CPR requirement for new licensees.)

Issued in Austin, Texas, on March 3, 1978.

Doc. No. 781584 Carl C. Hardin, Jr.
Executive Director
Texas State Board of Dental Examiners

Effective Date: March 6, 1978

Expiration Date: July 4, 1978

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



PROPOSED RULES

862

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

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

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

Texas Air Control Board

Regulation VI—Control of Air Pollution by Permits for New Construction or Modification 131.08.00

The Texas Air Control Board is withdrawing the proposed Rule 131.08.00.010 as published in the *Texas Register* on February 1, 1977, and substituting the attached revised proposed rule. This revision resulted from the comments received at public hearings held during March of 1977 and from consideration of the requirements of the Clean Air Act Amendments of 1977 (Public Law 95-95).

The major changes from the previously proposed version are: (1) deletion of the requirement for posting of signs on the property where a new or modified facility is to be located; (2) deletion of the requirement for specific notification of all businesses and residences within a five-mile radius of the proposed location; (3) deletion of the requirement for posting of notices in public facilities; (4) addition of a provision for exemption of relocation of previously permitted facility, if certain conditions are met; (5) addition of a requirement for notification of nearby states in certain instances; and (6) addition of a requirement for public notification by the executive director of new determinations as to best available control technology.

The net effect of these changes is to reduce the notification burden on permit applicants somewhat from that previously proposed, while ensuring adequate notification of all concerned through the increased use of newspaper notices and letters.

Since this proposed rule designates a method for review by the Air Control Board of public comments on permit applica-

tions, there will be some additional workload and added costs imposed on the Texas Air Control Board staff. However, the Texas Air Control Board proposes to meet these additional requirements by using existing resources and reducing lower priority activities, and thus foresees no requirement for additional state funding during this biennium, as the result of this proposed rule.

The direct cost impact on local governments should be negligible. However, the Texas Air Control Board may ask for some additional assistance from local agencies in reviewing and responding to public comments received under this new procedure.

Because of the substantive changes from the regulation previously proposed, the Texas Air Control Board has scheduled additional public hearings on this rule to be held at the following places and times:

Texas Air Control Board Auditorium
8520 Shoal Creek Boulevard
Austin, Texas 78758
2 p.m. Monday, April 17, 1978

City of Houston Health Department Auditorium
1115 North MacGregor
Houston, Texas 77025
7 p.m. Thursday, April 13, 1978

Public comment on the proposed Rule 131.08.00.010 is invited, both at the public hearings and by submission of written comments. Written comments should be submitted to the Texas Air Control Board hearings examiner at 8520 Shoal Creek Boulevard, Austin, Texas 78758, prior to April 17, 1978.

Copies of the oral and written testimony from the previous hearings on this rule are available for review during normal working hours at the Austin office of the Texas Air Control Board.

This rule is proposed under the authority of Article 4477-5, Vernon's Annotated Texas Statutes.

.010. Public Notification and Comment Procedures.

(a) Public notification procedures.

(1) **General requirement.** Upon receipt of a construction permit application containing all information required by Rule 131.08.00.003(a), the executive director shall submit a written notification to the permit applicant acknowledging receipt of the application, requiring the applicant to provide public notification of the proposed construction; specifying the air contaminants to be included in the notification, and specifying certain agencies to be notified. The applicant shall provide such notification using each of the methods specified below.

(2) **Publication in public notices section of newspaper.** Notice of intent to construct shall be published in the public notice section of the newspaper of general circulation in the county where the proposed facility is to be located. The notice shall contain the information and be of the form specified in Appendix I to this rule.

(3) **Publication elsewhere in the newspaper.** Another notice with a size of at least 7.5 by 12.5 centimeters (three by five inches) shall be published in a prominent location elsewhere in the same issue of the newspaper and have the same content as the notice required by Section (a)(2) of this rule.

(4) **Notification of Texas Air Control Board and others.** When newspaper notices are published in accordance with Section (a)(2) and (a)(3) of this rule, the permit applicant shall furnish a copy of such notices and date of publication to the Texas Air Control Board regional supervisor with responsibility for the area in which the facility proposed for construction is to be located; the Texas Air Control Board Permits and Source Evaluation Division in Austin, Texas; the Environmental Protection Agency regional administrator in Dallas, Texas; all local air pollution control agencies with jurisdiction in the county in which the construction is to occur; and the air pollution control agency of any nearby state whose air quality may be adversely affected by the emissions from the new or modified facility. The Texas Air Control Board will notify the applicant of the specific agencies to be furnished a copy of the newspaper notice.

(5) **Exemption of previously permitted facilities.**

Upon written request by the owner or operator of a facility which previously has received a permit from the Texas Air Control Board, the executive director may exempt the relocation of such facilities from the requirements of this rule if he finds: (1) no indication that operation of the facility at the proposed new location will significantly affect ambient air quality; and (2) no indication that operation of the facility at the proposed new location will create a nuisance.

(b) **Comment procedures.**

(1) **Comment period.** Interested persons may submit written comments on the construction permit application to the executive director. All such comments must be received in writing within 30 days of the publication date of the notices specified in Sections (a)(2) and (a)(3) of this rule.

(2) **Consideration of comments.** All written comments received by the executive director during the period specified in (b)(1) shall be considered in formulating proposed agency action. A record of all comments received shall be maintained, together with the agency analysis of such comments.

(3) **Availability of data.** The complete construction permit application shall be available at the appropriate Texas Air Control Board regional office and at the Texas Air Control Board office in Austin, Texas, during normal business hours. All portions of the permit application will be available for public inspection except those sections relating to confidential information. The agency evaluation of the permit application shall also be available for public review at the Texas Air Control Board Austin office after the proposed agency action on the permit application has been decided upon. Written comments submitted to the executive director and the agency analysis thereof shall be available for review during normal business hours at the Texas Air Control Board Austin office.

(4) **Notification of proposed actions.** Interested persons may submit a request to be notified of the proposed agency action. Such requests must be in writing and must be received by the executive director within the comment period specified in Section (b)(1) of this rule. Those persons requesting notification shall be notified in writing of the proposed agency action.

(5) **Comments on proposed action.** Comments on the proposed agency action on a construction permit application will be accepted by the executive director within the 30 calendar day period following the mailing of the notice of the proposed action to those requesting such notice in accordance with Section (b)(4) of this rule and shall be considered by him

in making his final decision to issue or deny the permit to construct.

(6) **Waiver of comment period.** If no request to be notified of the proposed agency action is received in the period specified in (b)(4), the executive director may proceed without additional delay to issue or deny the permit based upon his evaluation of the application and of any written comments received during the comment period specified in Section (b)(1) of this rule.

(c) **Notification of final action.**

(1) **Notification of applicant.** The executive director shall notify the applicant for a construction permit as expeditiously as possible of his final decision to grant or deny the permit.

(2) **Notification of commenters.** Persons submitting written comments in accordance with Sections (b)(1) or (b)(5) of this rule will be notified of the executive director's final decision at the same time that the applicant is notified.

(d) **Notification of new determinations as to best available control technology.** If the requirements of any permit will incorporate a new determination of best available control technology pursuant to Rule 131.08.00.003(a)(6) which may affect a class or category of sources, the executive director shall so notify the public by publication of a notice in the *Texas Register* at least 15 days prior to the issuance of any such permit.

(e) **Effective date.** Rule 131.08.00.010 shall be effective 120 days after the filing of certified copies in the office of the secretary of state and shall apply only to applications for permits to construct received on or after the effective date.

Appendix I Newspaper Notices

To All Interested Persons and Parties: You are hereby notified of the opportunity for written public comment concerning the Construction Permit Application No. (application number) by (company name) to construct a (type of facility) in (local city, local county), Texas. The proposed location is (location). This facility will emit the following air contaminants: (list of contaminants as specified by the Texas Air Control Board).

A copy of all materials submitted by the applicant is available for public inspection at the Texas Air Control Board Region (number) office at (address of regional office), and at the Texas Air Control Board, 8520 Shoal Creek Boulevard, Austin, Texas 78758. All interested persons shall have until (date—30 days from notice publication date) to inspect these materials, submit written comments to the executive director, and/or request notification of the proposed agency action. All comments received in writing by the above date shall be considered by the board in making its decision on the application. All comments will be made available for public inspection at the Texas Air Control Board office in Austin.

Issued in Austin, Texas, on March 7, 1978.

Doc. No. 781654 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Proposed Date of Adoption: Within 60 days of public hearing
For further information, please call (512) 451-5711.

Texas State Board of Dental Examiners

Dentistry

Qualifications of Applicants 382.01.01

The Texas State Board of Dental Examiners is proposing for permanent adoption the amendments to the emergency rule it adopts in this issue.

These amendments have no fiscal implications for the state or for units of local government.

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

These amendments are proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas, as amended. The proposed date of adoption is April 14, 1978.

Doc. No. 781583

Conduct

Anesthesia and Anesthetic Agents 382.19.18

The Texas State Board of Dental Examiners is proposing for permanent adoption the amendments to the emergency rules it adopts in this issue.

These amendments have no fiscal implications for the state or for units of local government.

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

These amendments are proposed under the authority of Article 4551d of the Revised Civil Statutes of Texas, as amended. The proposed date of adoption is April 14, 1978.

Doc. No. 781585

Texas Department of Human Resources

Medicaid Eligibility

Income for Individuals Related to the SSI Program 326.25.34

The Department of Human Resources proposes to amend its rules about special income exemptions for individuals related to the Supplemental Security Income (SSI) Program. Medicaid policy states that eligibility for and amounts of assistance under Medicaid are determined under no more restrictive criteria than are used in the SSI Program. The proposed amendment to Rule 326.25.34.011 extends the exclusion of earned income tax credits, as a resource or income,

through December 31, 1978. The rule previously provided for this exclusion through December 31, 1977.

The department has determined that the proposed amendment will have no fiscal implication for the state or units of local government. So few of the recipients in this program receive earned income tax credit; the department determines that appropriations will not be exceeded.

Written comments are invited and may be sent to Susan L. Johnson, Administrator, Systems and Procedures Bureau—001, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this Register.

This amendment is proposed under the authority of Article 695j-1, Texas Civil Statutes.

.011. Special Income Exemptions.

(a) Special income exemptions apply to income received from certain sources. The special exemptions are applied prior to the application of the general exclusions. These special income exemptions are applied to any income used in determining the individual's eligibility whether the income is the individual's or that of a person for whom income is deemed.

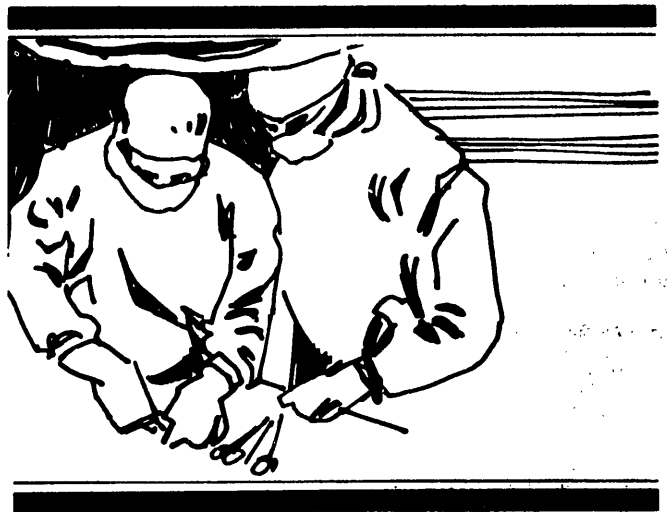
(20) Any federal income tax refunds that are earned income credits from the tax year ending December 31, 1978, are totally excluded. The exclusion applies to any individual who was a recipient in the month before the month in which the refund was received. This exclusion is provided by Section 103(b) of Public Law 95-30, Tax Reduction and Simplification Act of 1977. Earned income credits, as provided by Section 402 of Public Law 94-455, are totally excluded. An earned income credit is more commonly known as a tax refund or rebate.

Issued in Austin, Texas, on March 3, 1978.

Doc. No. 781622 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: April 14, 1978

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



Texas State Board of Medical Examiners

Licensure by Examination 386.02.00

The Texas State Board of Medical Examiners is proposing to amend Rule 386.02.00.003(o). Revised text of this rule follows.

The proposed amendment involves clarification of the requirements for retaking of the FLEX examination by physicians in the State of Texas. Precisely, once a physician has been unsuccessful in passing the FLEX examination on three occasions, completes the required postgraduate training, and waits one year before retaking the FLEX examination, it will be mandatory that he take the entire FLEX examination, even though he may have passed one or more days of the three-day examination on previous occasions.

It has been discussed with the attorney general's office and the state comptroller's office, and there are no fiscal implications.

Public comment on the proposed amendment to Rule 386.02.00.003(o) is invited. Comments may be submitted by telephoning the office of the board at (512) 474-6335, or by writing to the board at Southwest Tower Building, 211 East 7th Street, Austin, Texas 78701.

This amendment to Rule 386.02.00.003(o) is proposed under the authority of Article 4496 and Article 4509, Texas Civil Statutes.

.003. Time, Place, and Scope of Examination.

(o) Examinees who fail in a partial or complete examination shall be required to repeat the full day of the examination in which the appropriate failed subject occurred. If an examinee fails the FLEX examination on three occasions, that person shall be required to give evidence to the board of additional postgraduate training acceptable to the board and cannot take the FLEX examination for one year and until evidence of further postgraduate training has been accepted by the board. The examinee may apply one additional time for the FLEX examination. If the examinee again fails the FLEX examination, it will be at the board's discretion as to if the examinee will be allowed to sit for the examination again. For purposes of clarification, a FLEX examination shall be considered when it is administered by any appropriate licensing body. *In the event an applicant has failed the examination on three occasions and has presented evidence of additional postgraduate training acceptable to the board, such applicant shall be required to take the full examination even though the applicant may have on prior occasions successfully passed one or more days of the examination.*

Issued in Austin, Texas, on March 6, 1978.

Doc. No. 781646 A. Bryan Spires, Jr., M.D.
Secretary-Treasurer
Texas State Board of Medical
Examiners

Proposed Date of Adoption: April 14, 1978

For further information, please call (512) 474-6335.

Texas Department of Public Safety

Organization and Administration

Personnel and Employment Policies 201.01.03.003

The Texas Department of Public Safety is proposing to amend Rule 201.01.03.003, relating to screening of applicants on the basis of traffic and criminal record. The proposed amendments have been approved by the Public Safety Commission.

Proposed amendment 1 provides for a change in the language of Section (a) relating to conviction for a felony. Proposed amendment 2 provides for a change in the language of Section (b) relating to conviction of driving while intoxicated or driving under the influence of drugs. Proposed amendment 3 would delete Section (e) relating to conviction of a nontraffic misdemeanor crime involving moral turpitude. Proposed amendment 4 would designate Section (f) as Section (e) and provide for a change in the language relating to a delinquent child. Proposed amendment 5 would designate Section (g) as Section (f). The meaning of the section would remain the same.

Due to the nature of this activity, there are no fiscal implications, as the amendments deal only with applicants' qualifications for employment with this department.

Comments on the proposed amendment of Rule 201.01.03.003 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments as outlined above are proposed under Vernon's Civil Statutes, Article 4413(4).

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

(a) *A conviction for a felony.* [An indictment or conviction of a felony in any jurisdiction at any time.] *Probation* [A probated or suspended sentence] will be considered a conviction *until the case is dismissed.*

(b) A conviction of driving while intoxicated or driving under the influence of drugs [in any jurisdiction at any time]. *Probation* [A probated or suspended sentence] will be considered a conviction *until the case is dismissed.* This requirement may be waived for applicants seeking positions of labor or trades, providing the conviction has not occurred within the [past] five-year period immediately prior to the date of application.

(c) The applicant's drivers license is suspended, cancelled, or revoked.

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

(e) A conviction of a nontraffic misdemeanor crime involving moral turpitude. Probation will be considered a conviction.

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

(g) The applicant's drivers license has been suspended by the department during the last five years as an habitual violator.

Doc. No. 781627

201.01.03.004

The Texas Department of Public Safety is proposing to amend Rule 201.01.03.004, relating to individual evaluation of applicant's suitability. The proposed amendments have been approved by the Public Safety Commission.

Proposed amendment 1 provides for a change in the language of Section (a) relating to an arrest and/or indictment without conviction for a felony offense. Proposed amendment 2 provides for deleting certain language of Section (b) relating to an arrest without conviction for driving while intoxicated or driving under the influence of drugs. Proposed amendment 3 provides for deleting certain language of Section (c) relating to a conviction for driving while license suspended. Proposed amendment 4 provides for a change in the language of Section (d) relating to any suspension of the applicant's drivers license. Proposed amendment 5 provides for a change in the language of Section (e) relating to applicants who do not have a valid Texas drivers license. Proposed amendment 6 would delete Section (g) relating to an arrest without conviction for any nontraffic misdemeanor offense. Proposed amendment 7 would designate Section (h) as Section (g) and provide for a change in the language relating to an arrest or conviction for a Class A or B misdemeanor. Proposed amendment 8 would designate Section (i) as Section (h) and provide for a change in the language relating to any military disciplinary action.

Due to the nature of this activity, there are no fiscal implications, as the amendments deal only with applicants' qualifications for employment with this department.

Comments on the proposed amendment of Rule 201.01.03.004 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The amendments as outlined above are proposed under Vernon's Civil Statutes, Article 4413(4).

004. Individual Evaluation of Applicant's Suitability. When an applicant's record shows any of the following, additional information will be secured from the applicant or other sources and an individual evaluation will be made of the applicant's suitability:

(a) An arrest *and/or indictment* without conviction for a felony offense (in any jurisdiction at any time). If recent, the applicant will generally be disqualified unless there are strong extenuating circumstances such as a mistake hav-

ing been made, withdrawal of charges by arresting agency, etc.

(b) An arrest without conviction for driving while intoxicated or driving under the influence of drugs (in any jurisdiction at any time). If recent, the applicant will generally be disqualified unless there are strong extenuating circumstances similar to (a) above.

(c) A conviction for driving while license suspended (in any jurisdiction at any time).

(d) Any [A] suspension of *the applicant's* drivers license (by department under its discretionary authority at any previous time).

(e) *Applicants who do not have a valid Texas drivers license will be individually evaluated according to the requirements of the position being sought.* (Any automatic suspension of drivers license in Texas at any time.)

(f) A pattern of a high number of entries of accidents or arrests, at least two per year, in the applicant's traffic record over any three-year period and extending up into the past two years, but who was not suspended during the three-year period.

(g) An arrest, without conviction, for any nontraffic misdemeanor offense during the past five years.

(g)(h) An arrest or conviction for a *Class A or B misdemeanor* (misdemeanor offense involving moral turpitude at any time in any jurisdiction).

(h)(i) Any military disciplinary action *which results in forfeiture of any pay, confinement, or reducing of rank.*

Doc. No. 781628

Testimony in Civil Cases 201.01.07

The Texas Department of Public Safety is proposing to amend Rule 201.01.07.001, relating to testimony in civil cases. The proposed amendment has been approved by the Public Safety Commission.

Proposed amendment 1 provides for a change in the language of Section (c) relating to approval of qualified department members to serve as expert witnesses in civil cases.

There are no fiscal implications involved in the proposed amendment, which designates someone other than the director authority to approve a department member to serve as an expert witness in a civil case.

Comments on the proposed amendment of Rule 201.01.07.001 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

This amendment is proposed under the authority of Vernon's Civil Statutes, Article 4413(4).

001. Testimony in Civil Cases.

(a) Members of the Department of Public Safety will only testify in civil suits involving or arising from an official act after being served with a subpoena directing his appearance in court. This does not apply to suits to which the employee or the department is a party.

(b) Members of the department will not accept civil subpoenas for trials at which they cannot be legally compelled to attend unless specifically instructed to do so.

(c) *Employees of the department who are qualified and routinely serve as expert witnesses in criminal cases, such as chemists, may give expert testimony in civil cases under the following conditions:*

(1) *The employee must be under legal process or obtain approval of the chief of Identification and Criminal Records for headquarters personnel and the regional commander for field personnel when testimony is given, and will testify off-duty, at no expense to the state. An employee will not testify at a trial if deposition testimony can be arranged.*

(2) *When an employee becomes aware that civil testimony may be required, the supervisor will be consulted and the employee-witness will make arrangements to minimize inconvenience to the state. Civil court testimony will not take precedence over testimony in criminal cases unless required by law.*

(3) *Physical evidence and laboratory records will only be released under legal process.*

(4) *No employee will solicit requests to appear as an expert witness.*

[Members of the department will not serve as an expert witness in a civil case unless instructed to do so by the director.]

Doc. No. 781629

Traffic Law Enforcement

Accident Investigation 201.02.01

The Texas Department of Public Safety is proposing to amend Rule 201.02.01.007, relating to definitions and classifications of motor vehicle traffic accidents. The proposed amendment has been approved by the Public Safety Commission.

Reference to Article 6701h has been deleted in the statutory authority clause, which precedes the text of the rule, to avoid any conflict in definition and classification of motor vehicle traffic accidents regarding safety responsibility action. This change does not affect the meaning of the rule. The rule is being amended to provide uniformity with the National Safety Council policy in accident record statistics for counting those deaths that occur within 90 days after a motor vehicle traffic accident.

There are no fiscal implications involved in the proposed amendments to this rule.

Comments on the proposed amendment of Rule 201.02.01.007 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The following amendment is proposed under Vernon's Civil Statutes, 6701d, Article IV and Article 6687b, Section 21.

.007. Definitions and Classifications. The Manual on Classification of Motor Vehicle Traffic Accidents (American National Standards Institute D16.1), as amended, published by the National Safety Council, is adopted as the source of definitions and classifications of accidents involving motor vehicles.

(a) *To maintain uniformity with the policy of the National Safety Council for accident records statistics only those deaths that occur within 90 days after a motor vehicle accident and result from such accident will be counted as motor vehicle traffic accident fatalities.*

(b) *Motor vehicle traffic accident statistics for each calendar year will be closed on April 30 of the following year.*

Doc. No. 781630



Commercial Vehicles

Weight Law Enforcement 201.06.04

The Texas Department of Public Safety is proposing to amend Rule 201.06.04.003, relating to unloading and reducing loads consisting of livestock and dangerous commodities. The proposed amendments have been approved by the Public Safety Commission.

Proposed amendment 1 provides for deleting language in the title of the rule which would be consistent with proposed amendment 2. Proposed amendment 2 will delete Section (1). The Texas Department of Public Safety finds it to be unnecessary and does not contribute to the validity of the rule. Article 6701d-11, Section 6, Vernon's Civil Statutes, has been amended regarding exemptions from the unloading provisions. Proposed amendment 3 would format the rule into one unit. Proposed amendment 4 adds language to clarify situations where commodities of a dangerous nature must be unloaded or rearranged from overloaded vehicles.

There are no fiscal implications involved in the proposed amendments to this rule. This is a policy of the Department of Public Safety in exercising good judgment in unloading or rearranging hazardous commodities from vehicles found to be in excess of the maximum gross weight or axle weight.

Comments on the proposed amendment of Rule 201.06.04.003 are invited. Comments may be submitted by contacting Norman V. Suarez, Texas Department of Public Safety, Box 4087, Austin, Texas 78773, telephone (512) 452-0331. Comments must be received within 30 days of the publication of this proposal in the *Register*.

The following is proposed under the authority of Vernon's Civil Statutes, Articles 4413(4) and 6701d-11.

.003. Unloading and Reducing Loads Consisting of /Livestock and/ Dangerous Commodities.

(1) The statute only exempts vehicles transporting livestock from the unloading provisions.

(2) In situations wherein commodities of a dangerous nature must be unloaded or rearranged *from overloaded vehicles*, every precaution applicable in such situation must be exercised to insure the safety of the public. In every event the owner, driver, or person who has physical control of the truck or cargo should be allowed ample time to acquire safe

and proper equipment for unloading or handling. In no event shall members of the department knowingly permit dangerous or inflammable materials to be discharged in such manner as to constitute a hazard.

Issued in Austin, Texas, on March 3, 1978.

Doc. No. 781631 Wilson E. Speir
Director
Texas Department of Public Safety

Proposed Date of Adoption: April 14, 1978

For further information, please call (512) 452-0331.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

Texas Air Control Board Regulation VI—Control of Air Pollution by Permits for New Construction or Modification 131.08.00

The Texas Air Control Board has withdrawn from consideration proposed Rule 131.08.00.010 as published in the February 1, 1977, issue of the *Texas Register* (2 TexReg 340-341).

Doc. No. 781664

Comptroller of Public Accounts

Tax Administration

Inheritance Tax Division 026.02.14.001-.070

The comptroller of public accounts has repealed Rules 026.02.14.001-.070 under the authority of Texas Revised Civil Statutes Annotated, Article 6252-13A.

Doc. No. 781336

026.02.14.101-.113

(Editor's note: Because of the length of this adoption, the text will be published in two parts. However, the effective date for both portions of the adoption is March 15, 1978.)

The comptroller of public accounts adopts Rules 026.02.14.101-.113 under the authority of Texas Taxation—General Annotated, Article 14.13(A).

.101. Filing of the Inheritance Tax Return: Article 14.14.

(a) Representatives of estates of resident decedents are required to file a Texas inheritance tax return. Representatives of estates of nonresident decedents who owned real property interests, or tangible personal property with a situs in Texas must also file a Texas inheritance tax return.

(b) Inheritance tax returns are due nine months after the date of death, unless an extension of time to file has been requested of and granted by the Inheritance Tax Division prior to the due date. Failure to file timely shall subject the estate to penalties. (See Rule 026.02.14.111.)

(c) Inheritance tax returns must be filed with the Inheritance Tax Division, Comptroller of Public Accounts, LBJ State Office Building, Austin, Texas 78774, or any comptroller field office.

.102. What Must Be Filed: Article 14.14

(a) Representatives of estates having a gross value as determined under the inheritance tax rules of less than \$60,000 shall file a completed Small Estate Inheritance Tax Return. An incomplete return may not be considered timely filed. The estate representative shall file with the return an affidavit of heirship or a copy of the last will and testament showing the probate clerk's file mark. A return must be filed on all estates including those where no tax is due.

(b) A copy of the inventory and appraisement may be attached as a supplement to the Small Estate Inheritance Tax Return. The values stated on the inventory and appraisement or the return must be determined in accordance with the valuation sections of the inheritance tax rules and all property subject to the tax, both probate and nonprobate, must be included in the return.

(c) Representatives of estates with a gross value as determined under these rules of \$60,000 or more shall file Inheritance Tax Return Form 2Q30-4.01. Returns shall be considered complete when all documents required by statute and these rules are filed. Incomplete returns shall not be considered timely filed until all requisite information is submitted. A copy of an inventory and appraisement may not be filed in lieu of any requirement to list property in the return.

(d) Representatives of estates of nonresidents having real property interests or tangible personal property with a situs in Texas must file a Nonresident Inheritance Tax Return along with all other documents required by statute or the Inheritance Tax rules.

.103. Duties of the Probate Clerk: Article 14.14; General.

(a) The probate court clerk must file a County Clerk Report for each estate within 20 days of receipt and approval of the following information:

- (1) full name of decedent;
- (2) county;
- (3) date of death;
- (4) name, address, and telephone number of the attorney of record (If there is no attorney, the same information should be included for the person representing the estate);
- (5) probate number; and
- (6) indication of whether an inventory and appraisement, will, or affidavit of heirship has been filed (however, it is not required that these be sent to the comptroller except when specifically requested).

(b) When an inventory and appraisement, will, affidavit of heirship, or any other information is requested, the county clerk shall furnish such within 10 days of receipt of such request requisition. A fee for making the required report or supplying any requested information will be charged to the estate.

.104. Assets Reportable: Article 14.00A, et seq.

(a) Assets to be reported: general. All property, tangible and intangible, real and personal, in which the decedent had an interest at time of death must be reported, except in the case of a nonresident decedent in which case only interest in Texas real property or tangible personal property with a situs in Texas must be reported. Transfers made within three years prior to the date of death and assets which are tax-exempt by law must also be reported.

(b) Property to be reported includes, but is not limited to, the following:

- (1) realty,
- (2) interests in businesses: corporations, partnerships, and sole proprietorships,
- (3) stocks and bonds,
- (4) cash on hand or on deposit,
- (5) mortgages and notes,
- (6) government notes and securities redeemable at par,
- (7) proceeds of life insurance policies,
- (8) household and personal effects.
- (9) livestock and other animals,
- (10) transfers, transfers in contemplation of death,
- (11) annuities,
- (12) powers of appointment,
- (13) estate property situated within and without Texas,
- (14) jointly owned property,
- (15) intangible personal property (i.e., patents, royalties, etc.), and
- (16) employer benefit plans.

.105. Valuation: Article 14.11.

(a) Market and assessed values: general.

(1) The inheritance tax is imposed upon the fair market value of taxable property.

(2) Fair market value means the price property would bring when offered for sale by one who desires but is not obligated to sell, if bought by one who desires to buy but is under no necessity of buying. Fair market value is not to be determined by a forced sale; it shall be determined assuming normal conditions in the market generally available to the public. Thus, in the case of property which is generally obtained by the public in the retail market, the value would reflect the normal retail sales price. For example, the market value of an automobile is the price for which an automobile of the same or approximately the same description, make, model, age, and condition could be purchased by a member of the local general public and not the price for which such automobile could be purchased by a dealer in used automobiles.

(3) Property is not to be reported at the value assessed for ad valorem tax purposes unless that value represents fair market value as of the applicable valuation date. Each item of property shall be reported and valued individually, except for interests in businesses which shall be valued in accordance with Section (d) of this rule. All relevant facts and elements of value as of the applicable valuation date should be considered. Detailed descriptions analyzing the valuation, along with any available appraisals, must be submitted. Appraisals should include a statement concerning the reputation, skill, and experience of the appraiser with regard to the particular class of property involved. Valuation techniques used must be explained in detail.

Values established by sales should include a statement regarding any relationship between the parties that would cause the sale not to be negotiated at arm's length. A buy-sell agreement may establish value for inheritance tax purposes depending on the circumstances such as the parties and contract provisions of the agreement.

(b) Valuation dates: Article 14.00A and 14.11.

(1) Property should be valued as of date of death, unless the personal representative of the estate elects the alternate valuation date under Article 14.11 (B). If the alternate date method is chosen, the property must be valued as follows:

(A) Any property distributed, sold, exchanged, or otherwise disposed of within six months after the decedent's death must be valued on the date of such disposition.

(B) Property not distributed, sold, exchanged, or otherwise disposed of within six months after the decedent's death must be valued as of six months after the decedent's death.

(2) Method and effect of election. Article 14.11 (B) permits a reduction in the amount of tax that would otherwise be payable due to a shrinkage in the aggregate value of the estate during the six months following the decedent's death. The alternate valuation method is not automatic but must be elected. It may be elected whether or not there has been a shrinkage in the aggregate value of the estate. However, if the election is made, it applies to all property owned by the decedent and cannot be applied to only a portion of the property.

(3) Meaning of "distributed, sold, exchanged, or otherwise disposed of."

(A) The phrase "distributed, sold, exchanged, or otherwise disposed of" includes all possible ways by which the property ceases to form a part of the gross estate. For example, money on hand at the date of the decedent's death which is used in the payment of funeral expenses, or which is invested, falls within the term "otherwise disposed of." The term also includes the surrender of stock certificates for corporate assets in complete or partial liquidation of a corporation pursuant to Internal Revenue Code of 1954, Section 331. The term does not extend to transactions which are mere changes in form. Thus, it does not include an exchange of stock or securities in a corporation for stock or securities in the same corporation in a transaction such as a merger, recapitalization, reorganization, or other transaction to which no gain or loss would be recognizable for federal income tax purposes under Internal Revenue Code of 1954, Sections 368(a), 354, and 355.

(B) If a binding contract for the sale, exchange, or other disposition of property is entered into, the property is considered as sold, exchanged, or otherwise disposed of on the effective date of the contract, unless the contract is not subsequently carried out substantially in accordance with its terms. The effective date of a contract is normally the date it is entered into unless the contract specifies a different effective date.

(4) Included property and excluded property. All property interests owned by the decedent at the date of death are referred to as "included property." Such property interests remain included property even though they may change in form or be disposed of in whole or in part during the alternate valuation period. "Excluded property" is that property which has been earned or has accrued since the date of death. Such property does not constitute a part of the dece-

dent's taxable estate. Illustrations of "included property" and "excluded property" are:

(A) Interest-bearing obligations. Interest-bearing obligations, such as savings bonds or notes receivable, comprise two separate elements of included property, the principal of the obligation itself, and interest accrued to the date of death. Each of these elements is to be separately valued and reported as of the applicable valuation date. Interest accrued after the date of death but before the subsequent valuation date constitutes excluded property. Any payment of principal made during the alternate valuation period will be included property. Advance payments of interest for a period beyond the subsequent valuation date have the effect of reducing principal and are includable property.

(B) Leased property. The principles set forth in the preceding paragraph concerning interest-bearing obligations also apply to property on which rent is received. Both the property itself and the rents accrued to the date of death constitute included property. Each is to be separately valued and reported as of the applicable valuation date. Any rent accrued after the date of death is excluded property. The principle applied to interest paid in advance is equally applicable to advance payments of rent.

(C) Noninterest-bearing obligations. Noninterest-bearing obligations bought at a discount will be valued at their outstanding principal value plus the discount amortized to the date of death to determine included property. The obligation itself is to be valued as of the subsequent valuation date without regard to any further increase in value due to amortized discount. The additional discount amortized during the alternate valuation period is the equivalent of interest accruing and is excluded property.

(D) Stock of a corporation. Shares of stock in a corporation and dividends declared but not paid on or before the date of the decedent's death constitute included property. Ordinary dividends out of earnings and profits (whether in cash, shares of the corporation, or other property) declared after the date of death are excluded property. However, if dividends are declared after the date of death so that the shares of stock at the subsequent valuation date do not reasonably represent the same included property as existed at the date of death, the dividends are included property, unless they are out of earnings of the corporation after the date of death. For example, if a corporation makes a distribution in partial liquidation to stockholders of record during the alternate valuation period which is not accompanied by a surrender of a stock certificate for cancellation, the amount of the distribution received on stock owned by the decedent is included property, except to the extent that the distribution was out of earnings and profits since the date of death. If a corporation in which the decedent owned a substantial interest and which possessed at the date of death accumulated earnings and profits equal to its paid-in capital and which distributed all of its accumulated earnings and profits as a cash dividend to shareholders of record during the alternate valuation period, the dividends received will be included property. Likewise, a stock dividend distributed under the described circumstances is included property.

(5) Illustrations of included property and excluded property. The application of paragraph (4) of this section may be further illustrated by the following example, in which it is assumed that the decedent died on January 1, 1975.

<u>Description</u>	<u>Subsequent Valuation Date</u>	<u>Alternate Value</u>	<u>Value at Date of Death</u>
Bond, par value \$1,000 bearing interest at 4% payable quarterly on Feb. 1, May 1, Aug. 1, and Nov. 1. Bond distributed to legatee on March 1, 1975	March 1, 1975	\$ 1,000.00	\$ 1,000.00
Interest coupon of \$10 attached to bond and not cashed at date of death although due and payable Nov. 1, 1974. Cashed by executor on Feb. 1, 1975	Feb. 1, 1975	\$ 10.00	\$ 10.00
Interest accrued from Nov. 1, 1974 to Jan. 1, 1975 collected on Feb. 1, 1975	Feb. 1, 1975	\$ 6.67	\$ 6.67
Real estate, used for rental not disposed of within six months following death. Based on appraisal for July 1, 1975	July 1, 1975	\$11,000.00	\$12,000.00

Rent due for quarter ending Nov. 1, 1974, but not collected until Feb. 1, 1975.	Feb. 1, 1975	\$ 300.00	\$ 300.00
Rent accrued for November and December, 1974, collected on Feb. 1, 1975.	Feb. 1, 1975	\$ 200.00	\$ 200.00
Common stock, X Corporation, 500 shares, not disposed of within six months following decedent's death.	July 1, 1975	\$47,500.00	\$50,000.00
Dividend of \$2 per share declared Dec. 10, 1974 and paid on Jan. 10, 1975 to holders of record on Dec. 30, 1974.	Jan. 10, 1975	\$ 1,000.00	\$ 1,000.00

(6) Mere lapse of time. Article 14.11 (B)(3) provides that the value of any property interest is not to be affected by "mere lapse of time." Property interests which are affected by "mere lapse of time" include patents, estates for the life of a person other than the decedent, remainders, reversions, and similar properties. The application of this paragraph is illustrated as follows:

(A) Life estates, remainders, and similar interests. Life estates, remainders, and similar interests are to be valued by applying the methods prescribed in Section M of this rule using:

(i) The age as of the date of death of each person whose life may affect the value of the interest, and

(ii) The value of the property on the alternate date. For example, assume that the decedent or his estate was entitled to receive property upon the death of his elder brother who was entitled to receive the income from the property for life. At the date of death, the property was worth \$50,000 and the elder brother was 31 years old. The value of the decedent's remainder interest at the date of death would be \$6,941.50 ($\$50,000 \times 0.13883$). If, because of economic conditions, the property declined in value and was worth only \$40,000 six months after the date of death, the value of the remainder interest as of the alternate date would be \$5,553.20 ($\$40,000 \times 0.13883$) even though the elder brother would be 32 years old on the alternate date. (Use age on date of death.)

(B) Patents. To illustrate the alternate valuation of a patent, assume that the decedent owned a patent which on the date of death had an unexpired term of 10 years. Six months after the date of death, the patent (then having an unexpired term of only 9-1/2 years) was sold for \$60,000. The alternate value would be \$60,000 divided by 0.95 (proration of the remaining life of the patent at the date of the decedent's death) or \$63,157.89.

(C) Mere depreciation after the date of death shall not be considered for valuation purposes.

(c) Realty: Article 14.11.

(1) The methods used to determine fair market value shall be based on the nature and use of the property. Examples of appropriate methods include but are not limited to the following:

(A) the current cost of replacing a property less depreciation from deterioration and functional and economic obsolescence;

(B) the value which the property's net earning power will support based upon a capitalization of net income; and

(C) the value indicated by recent sale of comparable properties in a comparable market.

(2) Each method of valuation is a technique to estimate the price a willing buyer would pay to a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts. The following paragraphs (A) through (C) will illustrate the three main valuation techniques; (D) will consider the peculiarities of mineral interests; and (E) will deal with valuation evidence and reporting requirements.

(A) Replacement cost minus depreciation. This approach is relevant only for improved real estate. It assumes that replacement costs set the upper limit of value if the type of improvement is the best economic use of the land. The deficiencies or depreciation of the existing building are measured and subtracted from the replacement cost to arrive at an estimate of fair market value of the improvements. Land is valued separately.

(B) Capitalization of after-tax earnings potential. This method is relevant when the property's major function is to produce income. The estimate of fair market value is the capital base required to yield that amount of income. This shall be determined by the rate of return investors would demand of similar investments. Example: An apartment complex is expected to yield \$10,000 per year for its remaining life. Based on analysis of investment alternatives, it is determined that investors are currently demanding a yield rate of nine percent for investments with similar risk, depreciation, and potential appreciation characteristics. An estimate of fair market value is: \$10,000 divided by .09, or \$111,111.11.

(C) Comparison of recent sales of comparable properties or market data analysis. This method is usually the most relevant and the most accurate. Recent comparable sales in comparable markets shall be analyzed to determine the fair market value of the property being valued.

(D) Valuation of mineral interests. Valuation of non-producing minerals usually requires the use of the market data approach. Valuation where there is production is generally based upon an estimate of future dollar value of production discounted for time and risk. Evidence that shall be considered when valuing non-producing minerals includes the amount of development and exploration in the vicinity and geological reports as to structure, stratigraphy, and trends. Production or potential production evidence such as historical production, porosity, thickness and number of pay zones shall be considered. In the absence of relevant evidence of value, a five-year payout based on the last 12 months prior to death will be used in determining the value of such mineral interest.

(E) Valuation information. Complete descriptions and all appraisals for each property interest should be included with the return. The descriptions should include not only legal descriptions but also descriptions of direction and distance from prominent towns and highway intersections. Full descriptions of any road or water frontage should also be included. Appraisals should include the qualifications of the appraiser as well as a complete disclosure of his methods and basis for valuation.

(D) Businesses: corporations, partnerships, sole proprietorships: Article 14.11.

(1) General. There are basically four techniques used to determine a range of reasonable values of an interest in a business. These four methods, explained in detail below, are (A) market data, (B) liquidation, (C) adjusted book value, and (D) discounted present value of future benefits. Often all methods can be used in some weighted combination in order to produce a more precise estimate.

(A) Market data. The market data approach is divided into two classes: first, where there exists an historical record of actual transactions in the stock or bonds of the business being valued; and second, where there are no transactions in the actual stock. In the second case, an analogy must be constructed from transactions in stocks of comparable businesses.

(i) Historical transactions available.

(aa) Where there are transactions in similar size blocks of stocks or bonds in a regulated market, such as the New York Stock Exchange, the American Stock Exchange, or NASDAQ (over the counter), the market value is the average between high and low prices on the valuation day.

(bb) Where such data is not available for the valuation date, data for a reasonable period before or after the valuation date may be used. The prices are to be weighted inversely by the respective number of trading days between selling dates and valuation day. Examples:

Example 1: Assume that the sales of X Company stock nearest the valuation date (Friday, June 15) occurred two trading days before (Wednesday, June 13) and three trading days after (Wednesday, June 20). On these days the mean sale prices per share were \$10 and \$15, respectively. The price of \$12 is taken as representing the fair market value of a share of X Company common stock as of the valuation date. $(3 \times 10) + (2 \times 15)$ divided by 5.

Example 2: Assume the same facts as in Example 1 except that the mean sale prices per share on June 13 and June 20 were \$15 and \$10, respectively. The price of \$13 is taken as representing the fair market value of a share of X Company stock as of the valuation date. $(3 \times 15) + (2 \times 10)$ divided by 5.

Example 3: Assume the decedent died on Sunday, October 7. If sales of X Company common stock occurred on Friday, October 5, at mean sale prices per share of \$20 and on Monday, October 8, at mean sale price per share of \$23, the price of \$21.50 is taken as representing the fair market value of a share of X Company common stock as of the valuation date. $(1 \times 20) + (1 \times 23)$ divided by 2.

Example 4: Assume that on the valuation date (Tuesday, April 3, 1973) the closing selling price of a listed bond was \$25 and that the highest and lowest selling prices are not available in a listing or publication of general circulation containing transactions in a regulated market. Assume further that the closing selling price of the same listed bond was \$21 on the day before the valuation date (Monday, April 2, 1973). Thus, under subparagraph (b) the price of \$23 is taken as representing the fair market value per bond as of the valuation date. $(25 + 21)$ divided by 2.

Example 5: Assume the same facts as in Example 4 except that there were no sales on the day before the valuation date. Assume further that there were sales on Thursday, March 29, 1973, and that the closing selling price on that day was \$23. The price of \$24.50 is taken as representing the fair market value per bond as of the valuation date. $(1 \times 23) + (3 \times 25)$ divided by 4.

Example 6: Assume that no bonds were traded on the valuation date (Friday, April 27). Assume further that sales of bonds nearest the valuation date occurred two trading days before (Wednesday, April 25, and Thursday, April 20) valuation date and that on these two days the closing selling prices were \$29 and \$22, respectively. The highest and lowest selling prices were not available from published sources or general circulation containing transactions in regulated markets. Thus, under subparagraph (b) the price of \$26.20 is taken as the fair market value of a bond as of the valuation date. $(3 \times 29) + (2 \times 22)$ divided by 5.

(cc) Blockage. When historical transactions differ materially in size from the block of stock being valued, "blockage" effects may be considered. The element of blockage is usually the basis for a discount claim but may result in an upward adjustment in value under certain circumstances. Discounts for blockage are generally claimed based on the contention that the block of the publicly traded stock or bond being valued is so large that offering it on the market at one time would depress the price. Such a contention shall be tested as follows: the average number of shares traded daily over a period before and after the valuation date shall be determined; the decedent's holdings will be compared with the average number of shares traded daily; if disposition can be made by the executor over a reasonable period of time without depressing the market, no discount for blockage will be allowed; and if it can be determined that a penalty will be incurred when the offering is sold and such penalty cannot be reasonably avoided, a discount for blockage may be allowed.

(dd) Reverse blockage. This refers to the premium assigned to a block of equity interests that would transfer control if a business is sold. When control is

transferred, it is generally more appropriate to use some form of earnings analysis or adjusted book value to determine the reasonable value range. Such range should be computed by more than one method to verify the validity of the range.

(2) No historical transactions available. In a situation where there are no or few transactions in the actual interest being valued but there are historical transactions in interests of similar businesses, a comparison can be made. There is no absolute formula, but the basic approach shall be to establish a profile of the company being valued. Areas such as earnings record, growth rate, relative size, market position, and quality of management should be considered. This profile is then compared to companies where adequate market information is available. Costs of preparing the unlisted stock for listing must be factored into the valuation. This method is best used in coordination with other methods.

(B) Liquidation value. The liquidation value method is appropriate where there is a *bona fide* commitment to dissolve a business and as the lower limit check on other valuation techniques. It requires a valuation of the individual assets and liabilities and a summation of the results.

(C) Adjusted book value. Adjusted book value method is appropriate in situations where the business is (1) a holding company or member of a multitiered partnership, (2) merely a receptacle to accumulate earnings, or (3) only marginally profitable. The method requires adjustment of the business' balance sheet to current value. The following areas usually require revaluation to reflect the true worth at the required valuation date.

(i) Land. Land values should be adjusted to fair market value.

(ii) Transactions with officers/stockholders. The validity of all transactions must be evidenced.

(iii) Depreciation. Federal income tax law permits various types of accelerated depreciation and assigns estimated useful lives to assets. Investment tax credit is also determined in a manner that influences the determination of useful lives. These and similar biases affecting depreciation must be factored out.

(iv) Goodwill. The fact that goodwill generally arises on balance sheets only where there has been a purchase of another business does not preclude its existence in other situations. The existence of goodwill may be indicated to the degree earnings are in excess of a normal return on tangible assets for the industry. If a valuation of tangible assets is possible and the earnings history is available, goodwill can be determined by the following method: A percentage return on average annual value of the tangible assets used in a business is determined using a period of years (preferably not less than five) immediately prior to the valuation date. The amount of percentage return on tangible assets is then deducted from the average earnings of the business for such period. The remainder is considered to be the earnings from "goodwill" or intangible assets. This amount is capitalized at an appropriate percentage, generally 15 to 20 percent, and the result is added to the valuation of tangible assets to arrive at a total value of the business. The rate of return on the tangible assets should be that percentage prevailing in the relevant industry; or, when the industry percentage is not available a reasonable percentage, generally 8 to 10 percent. The eight percent rate of return and 20 percent capitalization rate would be appropriate where the hazards of business are relatively high.

(v) Inventory. Inventory value shall be scrutinized, particularly where financial statements do not carry inventory in the accounts at the lower of cost or market value.

(D) Discounted present value of future earnings. The most commonly used technique for valuation of unlisted securities is the capitalization of adjusted earnings. This method requires:

(i) An adjustment of historical earnings to reflect true earning power on valuation date,

(ii) A determination of a capitalization rate appropriate for the particular industry on the valuation date, and

(iii) A division of the earnings by the rate to derive a value for the business.

(aa) Earnings are adjusted for any distortions in the accounting system. Depreciation is determined as in the adjusted book value method. Inventory valuation and inventory flow method are particularly important, especially when changes from year to year are apparent. Transactions between related businesses or between principals should be carefully scrutinized for substance. Salaries, bonuses, and dividends are sensitive areas. Nonrecurring items of both profit and loss must be factored out. Earning trends may be extrapolated by multiple regression analysis, least squares, etc. If no trend in earnings is apparent or the history of earnings is cyclical, a simple average of recent years may be appropriate. Earnings shall also be adjusted for taxes.

(bb) Determination of an appropriate capitalization rate is a critical judgment process because of the sensitivity of the final valuation to small changes in the rate. Simply stated, as the risk of the business goes up, so does the capitalization rate because a higher yield or return is demanded by investors in a risky business. As an example, a low risk business would have a rate of return of .08, medium risk .10, and high risk .18. However, this varies with the economy and the mix of tangible assets to goodwill (recorded and unrecorded) within the business. An analysis of similar listed companies appropriately adjusted will guide the judgment process.

(cc) Divide the earning power of the business by the appropriate discount rate and the result is an estimate of fair market value.

(e) Stocks and bonds: Article 14.11.

(1) Stocks, including most stock rights, are evidence of an equity or ownership interest in a corporation. When there is a market for these stocks or stock rights on a stock exchange, the value is to be established by application of the market data technique described in the preceding section. Where there is no market or the market is not representative of true value, the other valuation principles will apply to value the business as a whole.

(2) The value of each individual stock is then its *pro rata* share or equity interest in the corporation's total value. For example: A decedent owned 400 shares of XYZ Corporation out of 1,000 shares which have been issued and are outstanding. The stock is closely held and not traded on any exchange. All other transfers have been for small numbers of shares, generally among relatives, and often as gifts. Because the market data approach to valuation is inapplicable, either the liquidation approach, adjusted book value approach, or discounted present value of future benefits approach must be used. In this case the adjusted book value ap-

proach was considered the most appropriate and indicated a value of \$750,000 for the business. The value of the decedent's interest is then determined to be \$300,000 as follows: Number of shares owned (400) divided by number of shares issued and outstanding (1,000), multiplied by \$750,000, equals \$300,000.

(3) Bonds are evidence of a creditor interest in a corporation. When there is a valid market for these interests, the value is to be established by application of the fair market value.

(f) Insurance: Article 14.01.

(1) Insurance proceeds payable directly or indirectly to the estate are taxable. These proceeds shall include but not be limited to:

(A) Proceeds payable to a trustee which may be used to pay estate or other taxes, or debts or charges which are enforceable against the estate.

(B) Proceeds from certain insurance and annuities that do not involve insurance risk.

(C) Proceeds from insurance made payable to a named beneficiary with no provision for an alternate beneficiary, when the named beneficiary predeceases the decedent.

(D) Proceeds receivable when a husband and wife die simultaneously. When there is no direct evidence who died first, the insured shall be deemed to have survived the beneficiary. The proceeds are thus payable to the decedent's estate to the extent of a community one-half, while the remaining community interest goes to the surviving spouse's estate, unless a will clause or contractual agreement between the spouses explicitly states otherwise.

(E) Proceeds from policies converted to annuities.

(F) Proceeds from credit life policies or mortgage insurance.

(2) Cash surrender values from policies on the life of another are includable in the estate and are not entitled to the insurance exemption. Insurance proceeds payable to specific beneficiaries other than the estate are includable but subject to the \$40,000 exemption as provided by Article 14.01. These proceeds shall include but not be limited to:

(A) life and accident policies upon the life of the decedent made payable to a named beneficiary;

(B) insurance made payable to a named beneficiary directly or through a trustee where the proceeds may not be used to pay taxes or debts of the estate; and

(C) the proceeds on National Service Life Insurance policies to the extent of a community one-half when purchased after the date of marriage with community funds.

(3) Key man or similar insurance owned directly or indirectly by a business where the business received proceeds from the policy shall be considered an asset of the business and not entitled to the \$40,000 exemption or includable as insurance of the decedent.

(4) Accumulated dividends (including interest payable thereon), post mortem dividends, and returned premiums on insurance policies are not insurance and are not subject to the insurance exemption. Such dividends and premiums are taxable to the full amount. (Article 14.00, *et seq.*)

(g) Transferred property: Article 14.11. The value of an interest in transferred property includable in a decedent's gross estate under this section is the value of the interest as of the applicable valuation date. However, if the transferee has made improvements or additions to the property, any resulting enhancement in the value of the property is not

considered in ascertaining the value of the taxable estate. Similarly, neither income received subsequent to the transfer nor property purchased with such income is considered part of the estate.

(h) Mortgages and notes: Article 14.11. The fair market value of notes, secured or unsecured, and mortgages is presumed to be the amount of unpaid principal plus interest accrued to the date of death, unless the estate establishes that the value is lower. Interest shall be listed separately on the inheritance tax return. If a note or mortgage is not reported at face value plus accrued interest, satisfactory evidence must be submitted that the note is worth less than the unpaid amount (because of the interest rate, date of maturity, or other cause) or that the note is uncollectible, either in whole or in part (by reason of the insolvency of the party or parties liable, or for other cause), and that any property pledged or mortgaged as security is insufficient to satisfy the obligation.

(i) Government securities and notes redeemable at par: Article 14.11. Any bonds of the United States, savings notes, or other obligations, which upon the death of the decedent constitute a part of the estate and which may be and are received by the United States at par and accrued interest in payment of estate taxes or any other tax liability imposed by the United States, shall, for Texas inheritance tax purposes, be valued at the amount used in payment of any such federal tax. Government securities and notes not redeemed at par are valued at their fair market value.

(j) Cash on hand or on deposit: Article 14.11.

(1) Cash includes monies left by the decedent at the time of death, regardless of location, whether in this state or outside, whether in his immediate possession, standing to his credit, or in which he had any right, title, claim, or interest, including certificates of deposit, savings accounts, and other accounts held:

(A) with spouse,

(B) in decedent's name, or

(C) in spouse's name unless the separate property of such spouse.

(2) No deduction shall be allowed for the loss of accrued interest or penalty incurred for an untimely withdrawal from any deposit account unless such withdrawal is required for the payment of inheritance tax, estate taxes, or allowable debts of the estate.

(3) Deposits held in joint tenancy (including right of survivorship) are taxable to the extent of the amount attributable to the decedent's contribution. Bank account balances are reported as of the date of death and outstanding checks given in discharge of legal obligations of the decedent incurred for an adequate and full consideration must be deducted on Schedule K.

(k) Jointly owned property: Article 14.01 and Article 14.011.

(1) The decedent's gross estate includes property held jointly at the time of the decedent's death by the decedent and another person or persons. The property to be included is valued to the extent:

(A) contributed to the tenancy by the decedent, less any consideration from the other tenants received by or accruing to the benefit of the decedent; or

(B) received by the tenancy by gift from a person other than a tenant and attributable to the decedent.

(2) The value of a joint tenancy received by gift from a person other than a tenant is attributable to the tenant for

whom the gift was intended by the donor at the time of the gift, or if there is no evidence of the intent of the donor, it is presumed that the gift was to all tenants equally.

(3) Although the survivor of a right of survivorship contract takes the entire interest in the property by right of survivorship and no interest may form a part of the decedent's estate for purposes of probate administration, the decedent's share shall be included in the gross estate for inheritance tax purposes.

(4) An asset held jointly, in the absence of an expressed agreement that it is jointly held with right of survivorship, does not pass by contract for inheritance tax purposes.

(5) Property owned by the decedent as a tenant in common is not considered as jointly owned with right of survivorship.

(6) Community property held by the decedent and spouse shall be reported as real property or personal property because a husband and wife cannot create a joint tenancy with the right of survivorship out of community funds without first reducing those funds to their separate estates by statutory partition. Where a decedent used the spouse's separate funds, with the knowledge and consent of the spouse, to purchase an asset which is issued in the spouses' names as joint tenants with right of survivorship, one-half interest becomes vested at the time of the creation of the joint tenancy, subject to being divested. Therefore, one-half interest is subject to inheritance taxes upon the death of either spouse.

(7) A joint tenancy with the expressed right of survivorship established by the decedent with a third person, not a spouse, whether with separate or community funds with the knowledge of the spouse is a valid contract.

(l) Powers of appointment: Article 14.01.

(1) Powers of appointment are either general or special. A power of appointment is general when the donee has the power to pass on an interest in the property to whomever he pleases, including himself or his estate. A power of appointment is special or limited when the donee is authorized to appoint interests in the property only to specified objects or classes of objects. The persons, corporations, or charitable entities to or among which the donee may appoint the property are known as the objects of the power.

(2) Under a general power of appointment, the donee is charged with the property as though he had received it in fee simple; however, if the donee does not exercise his power to appoint the property by will before his death, the property passes under the will of the donor and is not reported as an asset in the donee's estate. If an asset is not included in a donee's estate by reason of the donee's failure to exercise a power to appoint, no deduction for property previously taxed is allowable on such excluded property.

(3) Generally, under a special or limited power of appointment, the donee is not taxed on the property but the value of such interest is taxed to the takers in default.

(A) Example of a general power of appointment. Upon the death of my wife, any undistributed income and the principal of the trust shall be paid over to such person or persons (including my wife's estate, creditor, or creditors of her estate) in such amounts and manner as my wife may appoint by will.

(B) Example of a special or limited power of appointment. Upon the death of my wife, any undistributed income and the principal of the trust shall be paid to such of my issue and spouses of my issue as she shall appoint by will, and

if she shall make no effective appointment, then in equal shares to my children.

(4) The taxpayer shall be required to furnish the following:

(A) the full name of the donor,
 (B) the description of the property received,
 (C) value of the property at date of death or, if used, the alternate valuation date,
 (D) category of power of appointment received (general or special), and
 (E) a statement of whether or not the power of appointment was exercised at any time by will or otherwise.

(m) Annuities: Article 14.11.

(1) An annuity is a series of periodic payments of a fixed amount at regular intervals. The annuity may last for a certain number of years or for the life of a specific person.

(2) The values of all annuities or other payments receivable under any plan or agreement because of the death of the decedent are includable property subject to inheritance tax except for the following:

(A) any benefits accruing under the Texas State Teacher Retirement Plan, Texas Revised Civil Statutes Annotated, Article 2922, Section 1.07 (1960);

(B) any benefits accruing under the Texas State Employees Retirement System, Texas Revised Civil Statutes Annotated, Article 6228a, Section 9 (1960);

(C) any benefits accruing under the Texas Judicial Retirement System, Texas Revised Civil Statutes Annotated, Article 6628b (1960); or

(D) the value of an annuity or other payment received by any beneficiary (other than a personal representative of the decedent) to the extent that it qualifies for exemption from the Federal Estate Tax under subsections (c), (d), or (e), of Section 2039 of the Internal Revenue Code of 1954, as now or hereafter amended.

(3) Servicemen's survivorship annuities. In estates of servicemen dying after December 31, 1965, the gross estate does not include the value of annuities for a surviving spouse or certain child beneficiaries under the Retired Serviceman's Family Protection Plan, except to the extent of amounts deposited by a retired member. The Retired Serviceman's Family Protection Plan is continued under the Survivor Benefit Plan for servicemen dying on or after September 21, 1972; however, no provision exists for retired servicemen to make deposits to the Survivor Benefit Plan and it is therefore exempt in its entirety. Dependency and Indemnity Compensation paid in lieu of the Survivor Benefit Plan is also exempt.

(4) Texas Municipal Retirement System.

(A) The retirement plans of cities and municipalities participating in the Texas Municipal Retirement System are exempt from inheritance tax under Texas Revised Civil Statutes Annotated, Article 6243h (1970).

(B) Cities and municipalities which do not participate in the Texas Municipal Retirement System whose plans qualify for exemption under Internal Revenue Code of 1954, Section 2039(c), (d), or (e) are exempt to the extent of its provisions.

(C) The retirement plans of cities and municipalities that do not participate in the Texas Municipal Retirement System and are not qualified under Internal Revenue Code of 1954, Section 2039(c), (d), or (e) are subject to state inheritance tax.

The value used for inheritance tax purposes shall be the present value of the annuity received as calculated by application of the tables on the following pages.

VALUATION OF LIFE ESTATES, ANNUITIES AND REMAINDERS

The value of estates for years, estates for life, remainders and annuities, created under a will or trust, shall be determined by use of Table A (1), Table A (2) and Table B as shown on the following pages:

TABLE A (1)
TABLE, SINGLE LIFE MALE, 6 PERCENT, SHOWING THE PRESENT WORTH OF AN ANNUITY,
OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

(1) Age	(2) Annuity	(3) Life Estate	(4) Remainder	(1) Age	(2) Annuity	(3) Life Estate	(4) Remainder
0	15.6175	0.93705	0.06295	55	10.2980	.81776	.38224
1	16.0362	.96217	.03783	56	10.0777	.80466	.39534
2	16.0283	.96170	.03830	57	9.8562	.79131	.40869
3	16.0089	.96053	.03847	58	9.6297	.77778	.42222
4	15.9841	.95905	.04095	59	9.4028	.76417	.43583
5	15.9553	.95732	.04298	60	9.1753	.75052	.44048
6	15.9233	.95540	.04460	61	8.9478	.73687	.44313
7	15.8885	.95331	.04669	62	8.7202	.72321	.44679
8	15.8508	.95105	.04895	63	8.4824	.70954	.45046
9	15.8101	.94861	.05139	64	8.2842	.69586	.45416
10	15.7663	.94598	.05402	65	8.0353	.68212	.45788
11	15.7194	.94316	.05684	66	7.8060	.66836	.46164
12	15.6698	.94019	.05981	67	7.5763	.65458	.46542
13	15.6180	.93708	.06292	68	7.3462	.64077	.46923
14	15.5651	.93391	.06609	69	7.1149	.62699	.47311
15	15.5115	.93069	.06931	70	6.8823	.61294	.47706
16	15.4576	.92746	.07254	71	6.6481	.59889	.48111
17	15.4031	.92419	.07581	72	6.4123	.58474	.48526
18	15.3481	.92089	.07911	73	6.1752	.57051	.48949
19	15.2918	.91751	.08249	74	5.9373	.55624	.49376
20	15.2339	.91403	.08597	75	5.6990	.54194	.49806
21	15.1744	.91046	.08954	76	5.4602	.52761	.50239
22	15.1130	.90678	.09322	77	5.2211	.51327	.50673
23	15.0487	.90292	.09708	78	4.9825	.49895	.51106
24	14.9807	.89884	.10116	79	4.7469	.48461	.51519
25	14.9075	.89445	.10555	80	4.5164	.47028	.51902
26	14.8287	.88972	.11028	81	4.2955	.45573	.52277
27	14.7442	.88465	.11535	82	4.0879	.44127	.52643
28	14.6542	.87925	.12075	83	3.8924	.42684	.53006
29	14.5588	.87353	.12647	84	3.7029	.41247	.53363
30	14.4534	.86750	.13250	85	3.5117	.39816	.53719
31	14.3528	.86117	.13883	86	3.3259	.38395	.54075
32	14.2418	.85451	.14549	87	3.1450	.36982	.54431
33	14.1254	.84752	.15248	88	2.9703	.35577	.54787
34	14.0034	.84020	.15980	89	2.8052	.34183	.55143
35	13.8758	.83255	.16745	90	2.6536	.32802	.55500
36	13.7425	.82455	.17545	91	2.5162	.31437	.55857
37	13.6036	.81622	.18378	92	1.3917	.30091	.56214
38	13.4591	.80755	.19245	93	2.2801	.28761	.56571
39	13.3090	.79854	.20146	94	2.1802	.27447	.56928
40	13.1538	.78923	.21077	95	2.0891	.26153	.57285
41	12.9934	.77960	.22040	96	1.9997	.24881	.57642
42	12.8279	.76967	.23033	97	1.9145	.23631	.58000
43	12.6574	.75944	.24058	98	1.8331	.22402	.58357
44	12.4819	.74891	.25109	99	1.7554	.21199	.58714
45	12.3013	.73806	.26182	100	1.6812	.20027	.59071
46	12.1158	.72695	.27285	101	1.6101	.18881	.59428
47	11.9253	.71552	.28448	102	1.5418	.17756	.59785
48	11.7308	.70385	.29615	103	1.4744	.16654	.60142
49	11.5330	.69198	.30802	104	1.4085	.15576	.60500

50	11.3329	.67997	.32003	105	1.3334	.00000	.82000
51	11.1308	.66785	.33215	106	1.2462	.07471	.82529
52	10.9287	.65560	.34440	107	1.1198	.06718	.83282
53	10.7200	.64320	.35680	108	.9042	.05426	.84574
54	10.5100	.63060	.36940	109	.4717	.02820	.87170

TABLE A(2)
TABLE, SINGLE LIFE FEMALE, 6 PERCENT, SHOWING THE PRESENT WORTH OF AN ANNUITY,
OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

(1) Age	(2) Annuity	(3) Life Estate	(4) Remainder	(1) Age	(2) Annuity	(3) Life Estate	(4) Remainder
0	15.8972	.95383	.04617	55	11.6432	.68859	.30141
1	16.2284	.97370	.02630	56	11.4363	.68612	.31388
2	16.2287	.97372	.02628	57	11.2200	.67320	.32680
3	16.2180	.97308	.02692	58	10.9980	.65988	.34012
4	16.2029	.97217	.02783	59	10.7703	.64622	.35378
5	16.1850	.97110	.02890	60	10.5376	.63226	.36774
6	16.1648	.96989	.03011	61	10.3005	.61803	.38197
7	16.1421	.96853	.03147	62	10.0587	.60352	.39648
8	16.1172	.96703	.03297	63	9.8118	.58871	.41129
9	16.0901	.96541	.03459	64	9.5592	.57365	.42645
10	16.0608	.96366	.03635	65	9.3005	.55833	.44197
11	16.0293	.96178	.03824	66	9.0352	.54211	.45789
12	15.9958	.95975	.04025	67	8.7639	.52583	.47417
13	15.9607	.95764	.04236	68	8.4874	.50924	.49076
14	15.9239	.95543	.04457	69	8.2068	.49241	.50759
15	15.8856	.95314	.04686	70	7.9234	.47540	.52460
16	15.8460	.95078	.04924	71	7.6371	.45823	.54177
17	15.8048	.94829	.05171	72	7.3480	.44089	.55912
18	15.7620	.94572	.05428	73	7.0568	.42341	.57669
19	15.7172	.94303	.05697	74	6.7645	.40567	.59443
20	15.6701	.94021	.05979	75	6.4721	.38833	.61187
21	15.6207	.93724	.06276	76	6.1788	.37073	.62927
22	15.5687	.93412	.06588	77	5.8845	.35307	.64683
23	15.5141	.93085	.06916	78	5.5810	.33546	.66454
24	15.4566	.92739	.07261	79	5.3018	.31811	.68189
25	15.3959	.92375	.07625	80	5.0195	.30117	.69883
26	15.3322	.91993	.08007	81	4.7482	.28469	.71511
27	15.2652	.91591	.08409	82	4.4892	.26825	.73066
28	15.1946	.91168	.08832	83	4.2398	.25239	.74561
29	15.1208	.90725	.09275	84	3.9927	.23658	.76044
30	15.0432	.90259	.09741	85	3.7401	.22141	.77509
31	14.9622	.89773	.10227	86	3.5016	.21010	.78990
32	14.8775	.89265	.10735	87	3.2780	.19674	.80328
33	14.7888	.88733	.11267	88	3.0719	.18431	.81589
34	14.6960	.88176	.11824	89	2.8808	.17285	.82715
35	14.5999	.87593	.12407	90	2.7068	.16241	.83759
36	14.4975	.86985	.13016	91	2.5502	.15301	.84689
37	14.3915	.86349	.13651	92	2.4116	.14470	.85530
38	14.2811	.85687	.14313	93	2.2901	.13741	.86259
39	14.1663	.84998	.15002	94	2.1839	.13103	.86897
40	14.0468	.84281	.15719	95	2.0901	.12535	.87465
41	13.9227	.83536	.16464	96	1.9997	.11986	.88002
42	13.7940	.82764	.17236	97	1.9145	.11487	.88513
43	13.6604	.81962	.18038	98	1.8331	.10989	.89001
44	13.5219	.81131	.18869	99	1.7554	.10532	.89468
45	13.3781	.80269	.19731	100	1.6812	.10087	.89913
46	13.2290	.79374	.20626	101	1.6101	.09661	.90239
47	13.0746	.78448	.21552	102	1.5416	.09250	.90750
48	12.9147	.77488	.22512	103	1.4744	.08846	.91184
49	12.7496	.76498	.23502	104	1.4085	.08439	.91581

50	12.5793	.75476	.24524	105	1.3334	.08000	.92000
51	12.4039	.74423	.25577	106	1.2452	.07471	.92529
52	12.2232	.73339	.26661	107	1.1196	.06718	.93282
53	12.0367	.72220	.27780	108	.9043	.05426	.94574
54	11.8436	.71062	.28938	109	.4717	.02930	.97170

TABLE B
TABLE SHOWING THE PRESENT WORTH AT 6 PERCENT OF AN ANNUITY FOR A TERM CERTAIN,
OF AN INCOME INTEREST FOR A TERM CERTAIN, AND OF A REMAINDER
INTEREST POSTPONED FOR A TERM CERTAIN

(1) Number of Years	(2) Annuity	(3) Term Certain	(4) Remainder	(1) Number of Years	(2) Annuity	(3) Term Certain	(4) Remainder
1	0.9434	0.066604	0.943396	31	13.8291	.835745	.164255
2	1.8334	.110004	.889996	32	14.0840	.845043	.154957
3	2.6730	.160381	.839619	33	14.2302	.853814	.146188
4	3.4651	.207906	.792094	34	14.3681	.862088	.137912
5	4.2124	.252742	.747258	35	14.4982	.869895	.130105
6	4.9173	.295039	.704961	36	14.6210	.877259	.122741
7	5.5824	.334943	.665057	37	14.7368	.884207	.115793
8	6.2098	.372588	.627412	38	14.8460	.890761	.109239
9	6.8017	.408102	.591898	39	14.9491	.896944	.103056
10	7.3601	.441605	.558395	40	15.0463	.902778	.097222
11	7.8869	.473212	.526788	41	15.1380	.908281	.091719
12	8.3838	.503031	.496969	42	15.2245	.913473	.086527
13	8.8527	.531181	.468839	43	15.3062	.918370	.081630
14	9.2950	.557699	.442301	44	15.3832	.922991	.077009
15	9.7122	.582735	.417265	45	15.4558	.927350	.072650
16	10.1059	.606354	.393646	46	15.5244	.931462	.068538
17	10.4773	.628636	.371364	47	15.5890	.935342	.064658
18	10.8276	.649656	.350344	48	15.6500	.939002	.060998
19	11.1581	.669487	.330513	49	15.7076	.942454	.057546
20	11.4699	.688195	.311805	50	15.7619	.945712	.054288
21	11.7641	.705845	.294155	51	15.8131	.948785	.051215
22	12.0416	.722495	.277505	52	15.8614	.951684	.048316
23	12.3034	.738203	.261797	53	15.9070	.954418	.045582
24	12.5504	.753021	.246979	54	15.9500	.956999	.043001
25	12.7834	.767001	.232999	55	15.9905	.959433	.040567
26	13.0032	.780190	.219810	56	16.0288	.961729	.038271
27	13.2105	.792632	.207368	57	16.0649	.963885	.036105
28	13.4062	.804370	.195630	58	16.0990	.965839	.034061
29	13.5907	.815443	.184557	59	16.1311	.967667	.032133
30	13.7648	.825890	.174110	60	16.1614	.969386	.030314

If an annuity is payable at the end of semiannual, quarterly, monthly or weekly periods during the life of an individual or for a definite number of years, the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table A (1) or A (2) or B, whichever is appropriate, opposite the number of years in column 1. The product so obtained is then multiplied by whichever of the following factors is appropriate:

1.0148 for semiannual payments
 1.0222 for quarterly payments
 1.0272 for monthly payments
 1.0291 for weekly payments

Use of the preceding tables is illustrated by the following examples:

Example 1: A, a male, age 40 years, 8 months, received under his father's will \$10,000 a year payable annually during the lifetime of A. By reference to Table A(1), the figure in column 2 opposite 41 years is 12.9934. The present value of the annuity at the date of the father's death is \$129,934 (\$10,000 x 12.9934).

Example 2: A, a female, age 60 years, 4 months, received under the will of a sister a life estate in property valued at \$150,000 with a remainder at the death of A to B. By reference to Table A(2), the figure in column 3 opposite 60 years is .63226. The present value of the life estate of A at the sister's date of death is \$94,839 (\$150,000 x .63226). The figure in column 4 of Table A(2) opposite 60 years is .36774. Therefore, the present value of the remainder interest passing to B is \$55,161 (\$150,000 x .36774).

Example 3: A leaves to B an annuity of \$12,000 a year payable monthly for a term certain of 10 years. By reference to Table B, the figure in column 2 opposite 10 years is 7.3601. The aggregate annual amount, \$12,000, is multiplied by the factor 7.3601 and this product is then multiplied by the factor 1.0272 (factor for monthly payments). The present value of the annuity is, therefore, \$90,723.54 (\$12,000 x 7.3601 x 1.0272).

(n) Household and personal effects: Article 14.11.

(1) General. Household and personal effects with values in excess of \$1,000 should be adequately described and valued individually. Items of lesser value may be grouped together if a sufficient description is provided. Adequate descriptions should include at least:

(A) in the case of books or sets of books with artistic or collectors value, the edition, author, title;

(B) in the case of paintings, the size, subject, and artist's name;

(C) in the case of oriental rugs, the size, class, estimated age, and condition;

(D) in the case of silverware, weight in troy ounces, patterns, age, condition, and style;

(E) in the case of coin collections, the condition, dates, and types; and

(F) in the case of a collection of any article with value above bare utility value, the condition, origin, age, and size.

(2) Special rule. Where estate representatives must file a federal estate tax return, copies of all appraisals, descriptions, and statements required by federal regulations shall be submitted. This includes the appraisal by an expert filed under oath, of articles having a marked artistic or intrinsic worth of total value in excess of \$3,000 (e.g., jewelry, furs, silverware, paintings, engravings, antiques, books, statuary, vases, oriental rugs, coin or stamp collections).

Also included should be a written statement of the executor containing a declaration that it is made under the penalties of perjury as to the completion of the itemized list of such property and as to the disinterested character and the qualifications of the appraiser. If it is necessary to distribute or sell any portion of the household or personal effects of the decedent in advance of any investigation by an officer of the comptroller, information to that effect must be given to the Inheritance Tax Division. The statement shall be accompanied by an appraisal under oath and by a written statement of the executor (containing a declaration that the statement was made under the penalties of perjury) regarding the completeness of the list of such property and the qualifications of the appraiser, as heretofore described.

(o) Livestock and other animals: Article 14.11. Animals should be valued in relation to their potential use. Therefore, due consideration shall be given to whether the animal is or may be used for food, breeding, or recreation. Additionally, the grade, quality, and age shall also affect value. Descriptions of all animals shall include at least breed, age, condition, and size.

(p) Charitable remainder trusts and pooled income funds: Article 14.11. The market value of property transferred into pooled income funds and charitable remainder trusts shall be determined in accordance with U.S. Internal Revenue Code, Sections 642 and 664, and their attendant federal regulations.

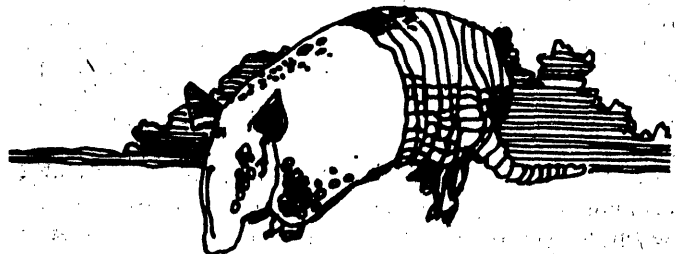
Issued in Austin, Texas, on February 17, 1978.

Doc. No. 781334

Bob Bullock
 Comptroller of Public Accounts

Effective Date: March 15, 1978

For further information, please call (512) 475-6894.



Texas Education Agency

Instructional Development

Program Guidelines for Administration of Title IV, as Amended by Public Law 93-380 226.36.95

The Texas Education Agency has adopted Rules 226.36.95.101-312, the program guidelines for administration of programs under Title IV of the Elementary and Secondary Education Act, as amended by Public Law 93-380. Under Title IV, Part B, federal funds are provided to local education agencies for the acquisition of school library resources, instructional equipment, and for the provision of certain testing, guidance and counseling services. Funds are provided under Title IV, Part C, for educational innovation and support. These funds may be used for projects designed to (1) develop exemplary programs; (2) provide vitally needed educational services not presently available; (3) improve nutrition and health services in areas with high services in areas with high concentrations of children from low-income families; and (4) reduce the number of students who do not complete their secondary school education. Children enrolled in private, nonprofit are eligible to participate in all of the Title IV, Parts B and C, program purposes available to public school children.

These rules are adopted with no change from the text proposed.

These rules are promulgated under the authority of Section 11.02, Texas Education Code.

101. Civil Rights Compliance. To establish eligibility for participation in the Title IV, Parts B and C, local education agencies and nonpublic schools must be in compliance with Title VI as amended, Civil Rights Act of 1964, and with Title IX of the Education Amendments of 1972. Participating nonpublic schools must have on file with the applicant local education agency signed forms attesting to compliance with Title VI, Civil Rights Act of 1964. Participating nonpublic schools are subject to audits and monitoring by federal civil rights officers.

102. Participation of Nonpublic School Children. Children enrolled in private, nonprofit schools are eligible to participate in all of the Title IV, Parts B and C, program purposes available to public school children. Each local education agency with nonpublic schools within its geographical boundaries must provide nonpublic school officials with information concerning the eligibility of and provisions for participation by nonpublic school children in the various programs. In addition to maintaining on file statements for nonpublic school officials indicating an intent to participate in the Title IV programs, local education agencies must establish procedures whereby representatives of the nonpublic schools are consulted in the planning for the various programs in which the nonpublic school children may participate. The federal regulations contain specific information pertaining to the participation of private school children. For the purposes of this section, "private school children" means "children who are enrolled in private, nonprofit elementary and secondary schools" "in the school district of a local educational agency" to which this section applies.

(a) Benefits.

(1) The local educational agency "shall provide for the benefit of" private school children "secular, neutral, non-ideological services, materials, and equipment" authorized under Title IV of the act, "including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with" 134.98 and 134.99).

(2) If the local educational agency determines that it is not "feasible or necessary" to locate the "services, materials and equipment" referenced in subsection (1) of this section "in one or more" "private schools," the local educational agency "shall provide such other arrangements as will assure equitable participation of" private school children in the purposes and benefits of Title IV of the act.

(b) Number of private school children to be served. The number of private school children to receive benefits under Title IV of the act shall be determined by the local educational agency on a basis comparable to that used in determining the number of children enrolled in public schools to receive such benefits.

(c) Expenditures. Subject to 134.93, the average expenditure per child for private children who receive benefits under Title IV of the act shall be "equal" to the average expenditure per child for children enrolled in public schools who receive such benefits.

(d) Criteria for adjustment of expenditures. The local educational agency shall adjust its average expenditure per private school child if (1) the needs of private school children with respect to benefits under Title IV of the act differ from such needs of children enrolled in public schools, and (2) the actual cost per child of such benefits to meet the needs of private school children is lesser or greater than the actual cost per child of such benefits to meet the needs of public school children. Any such adjustments shall be designed to assure the "equitable participation of" private school "children in the purposes and benefits of" Title IV of the act.

(e) Concentration of programs or projects. In addition to the requirements set forth in 134.92 and 134.93, when funds available to a local education agency under Title IV of the act "are used to concentrate programs or projects on a particular group, attendance area, or grade or age level selected for such concentration shall" be assured equitable participation in the purposes and benefits of such programs or projects.

(f) Consultation with private school officials. The local educational agency shall consult with "appropriate private school officials" with respect to all matters, including planning, relating to the requirements of this subpart prior to making any determinations or decisions affecting such matters.

(g) Separate compliance for Parts B and C.

(1) Matters relating to assistance under Part C of Title IV of the act shall have no bearing on a determination of whether a state or local educational agency is in compliance with Section 406 of the Act or this subpart with respect to assistance under Part B of Title IV of the act.

(2) Matters relating to assistance under Part B of Title IV of the act shall have no bearing on a determination of whether a state or local educational agency is in compliance with Section 406 of the act or this subpart with respect to assistance under Part C of Title IV of the act.

(h) Limitations of personnel providing services. "The provision of services pursuant to" this subpart "shall be pro-

vided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under" Title IV of the act "shall not be commingled with state or local funds."

(i) Private schools not to benefit.

(1) Use of funds under Title IV of the act shall not inure to the benefit of any private school.

(2) Personal property acquired under Title IV of the act shall not become a part of the permanent structure of any private school and must be capable of being installed and removed without requiring remodeling of the premises.

(j) Avoidance of separate classes. Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

.103. Expenditure of Funds. Expenditure of Title IV funds shall be solely for the programs and purposes authorized by Parts B and C of Public Law 93-380. (See Rules .201 and .301 of these guidelines.) No commitment of Title IV, Parts B and C, funds shall be obligated prior to the effective date of approval of the application or of any amendment thereto. In accordance with Section 412(b), 20 United States Code 1225(b) of the General Provisions Act (Public Law 90-247 Title IV, as amended by Public Law 93-380):

"(a) Period for obligation. Except as otherwise provided by statute, federal funds made available for a fiscal year shall remain available for obligation in accordance with subsection (c) of this section during that fiscal year.

"(b) Carryovers. In accordance with Section 414(b), 20 United States Code 1225(b) of the General Education Provisions Act (Public Law 90-247, Title IV, as amended), any federal funds made available which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which they were made available shall remain available for obligation and expenditure by the recipient (state) during such succeeding fiscal year.

"(c) Determinations of obligations. For the purposes of this section, an obligation of funds will be considered to have been incurred by a recipient on the basis of documentary evidence of binding commitments for the acquisition of goods or property. . . or for the performance of work. However, the obligation of funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively."

.104. Commingling of Funds. Federal funds received under Title IV for any fiscal year will not be commingled with state funds. Therefore, appropriate treatment as described in Texas Education Agency Bulletin 679, *Financial Accounting Manual*, is necessary.

.105. Consultants' Fees. A consultant is not to receive a fee in excess of \$100 per day unless prior written approval is obtained from the Texas Education Agency.

.106. Records. Records will be retained for five years from the date of submission of the final expenditure report or, for grants which are renewed annually, from the date of the submission of the annual expenditure report. If an audit of the program has produced exceptions, or is in progress, the records must be retained, even if beyond five years, until the audit exceptions have been resolved.

.107. Title to All Materials Vested in the Local Education Agency. The local education agency must retain title to all materials and equipment purchased through this program. Through retention of title to the materials, the local education agency must be in a position to exercise recall functions for the purpose of:

- (a) replacement of worn, obsolete, and inappropriate materials;
- (b) recirculation or renewal of collections;
- (c) rectification of violations of the provisions or intent of the program;
- (d) correction of inventory records resulting from the closing of a school district, redistricting, or other circumstances which merit a redistribution of items.

.108. Inventory Records and Identification of Materials. The local education agency retaining title to the resources, equipment, and materials will maintain an inventory record in sufficient detail to show the quantity, placement, and location of the materials. All established state practices are to be observed concerning inventory records of instructional materials, including the discontinuance and disposal of records. Each item purchased under an approved application must be stamped with the name of the school district owning the materials. Each item must also bear a mark (TIV B—Public Law 93-380 or TIV C—Public Law 93-380) which will identify it for audit purposes as having been purchased under Title IV, Part B or C, of the Elementary and Secondary Education Act. Simple and convenient methods for maintaining inventory records and for conducting an inventory are described below:

- (a) An inventory control card should be maintained for each item of material and equipment acquired under the Title IV program.
- (b) The inventory control card of property record must include:
 - (1) a description of the property item, *e.g.*, film, record, textbook, filmstrip, 16mm projector, tape recorder;
 - (2) identification number or manufacturer's serial number;
 - (3) acquisition date and cost;
 - (4) source of the property, *e.g.*, the jobber, producer, manufacturer;
 - (5) amount of federal funds used in the purchase of the property;
 - (6) location, use, and condition of the property;
 - (7) ultimate disposition data, *e.g.*, reason for removal from inventory.

For school library resources (materials that have been cataloged), shelf list cards may be used as the inventory control cards, provided that materials acquired under Title IV are distinctly marked as such.

.109. Inventory Procedures. Inventory procedures designed to produce an annual or biennial summary of the status of the local education agency's acquisitions with Title

IV, Part B or C, funds should be maintained as official records for accounting purposes.

(a) All materials should be inventoried annually and must be inventoried every two years.

(b) Inventory control cards should be checked with materials or equipment whether in the school itself or on loan elsewhere.

(c) After all materials and equipment have been checked with the inventory control cards, a summary of items on hand and items missing should be prepared.

(d) Such a summary should consist of the total number of items of each type (i.e., books, filmstrips, maps, transparencies, 16mm projectors, microfiche readers, etc.) rather than lists of individual titles. The summary will then account for all the items acquired under Title IV, Part B or C, as (1) present, (2) on loan, (3) missing, or (4) removed from inventory. The summaries will serve the Texas Education Agency as official records for accounting purposes.

.110. Property Management. Each local education agency should follow Texas Education Agency Bulletin 679 for management of property. For disposition property acquired under Title IV, contact the Division of Federal Funding, Texas Education Agency.

.111. Evaluation. Each local education agency participating in Title IV, Parts B and/or C, will conduct a self-evaluation of each Title IV funded program and shall file an end-of-project report showing the results of this evaluation. The evaluations will be planned and conducted by public and non-public school personnel. The evaluation may follow the design developed by the Texas Education Agency, Appendix A: ESEA, Title IV, Parts B and C Evaluation Plan. Each year Texas Education Agency monitoring teams will conduct on-site evaluations in a representative sample of local education agencies.

.201. Part B, Libraries and Learning Resources: Purpose. Title IV, Part B, combines within a single authorization programs formerly implemented under the provisions of law governing Title II of the Elementary and Secondary Education Act; Title III of the National Defense Education Act; and that part of Title III of the Elementary and Secondary Education Act that is related to testing, guidance, and counseling. Part B: Libraries and Learning Resources provides grants to local education agencies for:

(a) the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and nonpublic elementary and secondary schools;

(b) the acquisition of instructional equipment (including laboratory and other special equipment, audiovisual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and minor remodeling of laboratory or other space used by such schools for such equipment;

(c) the provision of testing, guidance, and counseling for purposes that are primarily educational-vocational in nature and personal/social areas that are essential in educational-vocational planning and achievement, such as:

(1) programs for testing students in the elementary and secondary schools;

(2) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools;

(3) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

.202. Coordination with Instructional Program.

(a) Grants to local education agencies for the purposes in Section .201 may be used in conjunction with curriculum planning:

(1) to facilitate the accomplishment of instructional objectives in the local education agency's accreditation plan;

(2) to contribute materials and equipment support, where appropriate, to the accomplishment of State Board of Education priorities;

(3) to provide local education agencies with access to a regional collection of library resources and audiovisual materials appropriate to the instructional program;

(4) to develop a learning resources center in each campus unit to provide reading, listening and viewing experiences to extend learning, and individual and recreational interest.

(b) Grants to local education agencies for the provision of guidance, counseling, and testing, may be used in conjunction with curriculum planning:

(1) to provide instructional direction based on needs identified by the testing program;

(2) to provide students developmental counseling and guidance programs and activities that will encourage and stimulate learning;

(3) to provide professional renewal for teachers and counselors in interpersonal relationship skills; human growth and development; administration, interpretation, and utilization of tests and test results.

.203. Distribution of Funds. The state receives a Title IV, Part B, grant award to be distributed to local education agencies based upon the relative need of children. Funds are available to local education agencies on a formula basis, the parameters of which are prescribed by law and regulations. Local education agency entitlements are based on three factors, as follows:

(a) local education agency enrollment combined with private school enrollment within the district;

(b) local education agency tax effort, where such tax effort for education is substantially greater than the state average tax effort for education, but where the per-pupil expenditure (excluding payments made under Title I of the ESEA) is no greater than the average per-pupil expenditure in the state;

(c) high-cost students:

(1) low income based on Orshansky Index,

(2) institutions for neglected and delinquent,

(3) primary language other than English,

(4) sparse area.

Entitlements are based on these factors and are computed from data previously reported to the Texas Education Agency.

.204. Local Discretion in Use of Funds. Title IV, Part B, provides for a single grant and local discretion in the use of funds among the three former programs; ESEA, Title II; NDEA, Title III; and that portion of ESEA III that is related to testing, guidance, and counseling. Local education agen-

cies thus have flexibility in meeting local needs through exercising discretion in the use of the grant in determining the amount of funds to be assigned to any or all of the three program purposes which are essentially those of the original programs. However, those funds, which accrue to a local education agency because of high-cost pupils identified as a basis for fund distribution, should be targeted to the schools in which such pupils are enrolled. Funds earned because of high-cost, nonpublic school pupils should be used for the benefit of those pupils.

.205. Administrative Costs. No administrative costs are recoverable under Title IV, Part B, funds on either an indirect or a direct cost basis.

.206. Assurance, Maintenance of Effort, Part B.

(a) The Texas Education Agency assures that the aggregate amount expended per student or the aggregate expenditure in the preceding year by the state, its local education agencies, and participating nonpublic schools from funds derived from nonfederal sources for programs described in Public Law 93-380, Section 421(a), and Rules .201-.219 of this series for any fiscal year, will not be less than the amount so expended for the second preceding fiscal year.

(b) The Texas Education Agency will collect and maintain data from each participating local education agency and nonpublic school to ensure that the amount expended in the preceding year by the local education agency will not be less than the amount so expended for the second preceding fiscal year. Any reduction in the aggregate expenditure would preclude participation of the local education agency unless it is able to demonstrate to the satisfaction of the Texas Education Agency that such reduction was occasioned by unusual events or circumstances.

(c) Each local education agency is responsible for collecting maintenance of effort data from participating nonpublic school(s) located within its boundaries.

.207. Eligible Expenditures. These funds may be expended for materials and purposes defined in this section. Within the framework of the following definitions, only those materials may be purchased that are being used by the applicant local education agency, by other local education agencies of the state, or are approved for use in the local education agencies. Materials used for religious workshop or for religious instruction are not eligible to be included in this program. Eligible expenditures are delineated in the following sections under the subheads:

- (a) Library Resources;
- (b) Textbooks;
- (c) Other Printed and Published Materials;
- (d) Transportation and Processing;
- (e) Equipment and Materials for Instruction;
- (f) Minor Remodeling;
- (g) Counseling, Guidance, and Testing.

.208. Library Resources.

(a) Printed materials. Includes books (hard cover and reinforced paperbacks) for library collections, reference books, dictionaries, pamphlets, encyclopedias, programmed instruction materials, and other printed and published materials that have a life of more than one year. Examples of items not eligible: musical scores, manuals, maintenance supplies (mending materials, shelf markers, guide cards, plastic book jacket covers, etc.).

(b) Audiovisual materials includes films, filmstrips, sound recordings, including but not limited to, those on discs and tapes, processed slides, transparencies, videotapes, maps, charts, globes, pictures, picture sets, photographs, and any other audiovisual materials of a similar nature that have a life of more than one year and are intended for use as a party of a school library, materials center, or learning resources center. Examples of items not eligible: transparency film, wrico serts, models, blank tapes, flash cards, flannel board characters, multimedia kits or systems that include consumable materials.

(c) Periodicals. Magazines should be organized for use and kept on file for three to five years. Periodicals may be in microfilm or microfiche format.

All items in the three areas listed above (books, audiovisual materials, and periodicals) in order to be eligible for purchase as library resources must be cataloged, organized, and circulated from a central source.

.209. Criteria for Selection of Library Resources. In selecting and acquiring library resources, local education agencies will give consideration to needs for instruction, orientation, and guidance and counseling. Materials should be selected on the basis of quality and the contribution to the instructional program as well as the varying needs of children and teachers. Local education agencies will be guided by the following criteria:

- (a) Materials and equipment are selected and evaluated by professional school staff.
- (b) Selection is based on pertinency to the instructional program and to the needs of the pupils and teachers to be served.
- (c) Quality of content and format are major considerations.
- (d) Reliable professional selection tools, lists, and reviewing media are used as guides.
- (e) The selection is systematic and continuous throughout the school year.

Guidelines for the Development of Campus Learning Resources Centers, Bulletin 748, Texas Education Agency, August, 1974, will serve as the standards for the quantitative and qualitative acquisition of materials and equipment. This bulletin identifies the minimum quantities of materials and associated equipment needed to ensure adequate provisions for content coverage, range in levels, and choice of media formats responding to general information needs and personal interests and preferences. It outlines a basic collection for the media program in the individual school, with accompanying suggestions for achieving excellence in meeting user needs.

.210. Textbooks. Eligibility. This category includes textbooks for courses not supplied state-adopted texts (such as Russian, free enterprise system, etc.) and for special classes such as those for gifted or slow learners. Ineligible items are consumable textbooks, manuals, charts, and skill building cards or devices based on state-adopted or other texts.

.211. Criteria for Selection of Textbooks. Applicant local education agencies are subject to State Board of Education policies concerning textbooks. Nonpublic school personnel requesting textbooks for nonpublic school pupils under Title IV funding shall select appropriate textbooks from the State Catalog of Current Adoption Textbooks.

.212. Other Printed and Published Materials. Other printed and published materials include all the types of materials described in Rule .208, Library Resources, but that are not cataloged, processed, and organized. Ineligible items are any item not eligible for purchase under Rule .208, Library Resources, and Rule .210, Textbooks.

.213. Transportation and Processing. These expenditures are defined as:

(a) **Transportation.** Cost of shipment of materials purchased under this program from supplier to central distribution point in the local education agency or to the point of initial delivery within the local education agency.

(b) **Processing.** Processing and cataloging costs are considered as part of the cost of acquisition to the extent that these services are necessary to make these materials available to pupils and teachers. Allowable expenditures are:

(1) **Partial processing.** Includes printed catalog cards, or processing kits purchased from a commercial processing company, and for which there is an itemized invoice. Local education agencies using partial processing may not include the cost of supplies not included in the commercially prepared kit or packet.

(2) **Total processing.** Includes processing done by a commercial processing company and for which there is an itemized invoice. Local education agencies using total processing may not include the cost of supplies not included in the commercial processing.

(3) **Local processing.** Includes processing done by a central unit under the direction of a trained librarian. Large local education agencies may choose to establish a central processing center where a trained librarian can supervise the processing of all materials for all the schools within the local education agency. Local education agencies using this type of processing must have proper supporting data to substantiate the actual cost. Personal services for which funds are requested are considered expenditures on the basis of the time when such services are rendered or received rather than on the basis of entering into a binding contract. If the local education agency employs a person for the sole purpose of processing materials purchased under Title IV, the total cost (including materials) may not exceed the total amount which would have been charged for commercial processing of these same items. (The following types of materials may not exceed the total amount which would have been charged for commercial processing of these same items.) The following types of materials may be purchased under the program for local processing:

- (A) book pockets and cards;
- (B) catalog cards;
- (C) due-date slips;
- (D) identification stamp or labels, "Title IV B, Public Law 93-380".

.214. Equipment and Materials for Instruction.

(a) **Eligibility.** Equipment and materials to strengthen instruction in the critical subjects: science, mathematics, modern and classical foreign languages, history, civics, geography, economics, English, reading, industrial arts, art, music, and drama are eligible for acquisition.

(b) There is nothing inherent in equipment which in and of itself determines eligibility. Rather, it is the use to be made of the equipment and its direct relationship to instruction in the critical subjects which determine its eligibility for purchase under an approved project. Thus it becomes evident

that an item of equipment or material which is otherwise eligible under the act and regulations is eligible for inclusion in a project for acquisition with Title IV, Part B, funds only when it is to be acquired for use in providing education in the critical subjects. However, general purpose equipment such as desks, chairs, and tables are ineligible.

(c) **Equipment for use in demonstration and in instruction in local district centers for inservice education of teachers is not eligible for reimbursement under a local acquisition project.** This does not preclude the incidental use of an equipped classroom, laboratory, or library, for inservice education of teachers. Equipment for instruction means:

(1) fixed or movable articles, which are particularly appropriate for use in providing education in the critical subjects in an elementary or secondary school and which are to be used either by teachers in connection with teaching or by students in learning such subjects;

(2) audiovisual equipment, such as projectors, recording equipment, television receivers, and television tape records, to be used either by teachers in connection with teaching or by students in learning, primarily in providing education in the critical subjects in a local education agency or in nonpublic schools;

(3) "materials" as defined in subsection (1) of this section and devices (other than those used for printing such as printing presses and offset printing machines) to be used for preparation of audiovisual and instructional materials for the critical subjects;

(4) storage equipment to be used solely for the care and protection of the foregoing items when used in laboratories or classrooms;

(5) text scoring equipment to be used primarily in providing education in the critical subjects in a local education agency or nonpublic school;

(6) specialized equipment for the preparation or utilization of audiovisual materials for libraries or learning resources centers that have a unified program of printed and audiovisual materials, serving local education agencies or when such equipment is to be used primarily in providing education in the critical subjects.

.215. Materials for Instruction. Materials means those items which with reasonable care and use may be expected to last more than one year and are suitable for and are to be used in providing education in the critical subjects in an elementary or secondary school. The term includes such items as tapes and discs; slides and transparencies; films and filmstrips; books, pamphlets, and periodicals; and other printed and published materials such as maps, globes, and charts. The term does not include such items as textbooks, workbooks, chemicals, or other supplies which are consumed in use.

.216. Criteria for Selection of Materials for Instruction. Materials and equipment for use in providing education in critical subject areas shall be selected according to the following criteria:

(a) The equipment and materials relate directly to increased knowledge, understanding, or skill on the part of the student in the critical subjects.

(1) The items contribute specifically to the objectives of the instructional program.

(2) The items reflect the school's effort to introduce improvements in the program—longer sequences of study, increased offerings, continual sequential development, etc.

(3) The items stimulate the students' interests in and desirable attitudes toward the subject.

(b) The usability and suitability of the equipment and materials are optimum in the subject concerned.

(1) The items indicate a proper balance between student participation in laboratory activities and teachers' demonstrations and presentations.

(2) The items are appropriate for the grade level and type of activity in which they will be used.

(3) The items are compatible with the educational program offered or planned by the school.

(4) The items provide a learning potential not otherwise available in the program.

(c) The quantity, quality, and up-to-dateness of the equipment and materials are appropriate for the local education agency or the nonpublic school.

(1) The number of items requested is adequate for the number of students and teachers who will use the equipment or materials at one time.

(2) The quality and durability of these items are in keeping with the desired performance.

(3) The costs are compatible with the durability and performance needed for school use.

(4) Consideration has been given to the selection of recent models of equipment and up-to-date materials and to maintenance requirements.

(d) The use of such equipment and materials in teaching, in preparation for teaching, and in evaluation of instruction will improve instruction in one or more of the subject fields.

(1) Teachers have the necessary understanding or competency to make effective use of the equipment and materials (or provision is made for inservice preparation).

(2) Supervisory services are available or are being provided for the continuing improvement and evaluation of the instructional use of the equipment and materials.

.217. Minor Remodeling.

(a) Eligibility. Minor remodeling to make effective use of specialized equipment in classrooms and in audiovisual components of libraries or learning resources centers in an already completed building is eligible for funding under Title IV, Part B, but such remodeling is restricted to buildings owned by the local public education agencies. Minor remodeling does not include:

(1) the cost of equipment and its installation,

(2) the cost of construction of equipment and its installation,

(3) the cost of alterations or minor remodeling in buildings under construction or in buildings not owned and operated by a local education agency,

(4) the cost of transferring equipment from one school building to another.

(b) Projects for minor remodeling in the amounts of \$2,000 or more must comply with the Davis-Bacon, Copeland, and Contract Work Standards Act; Section 301 of Executive Order 11246, as amended by Executive Order 11375 (non-discrimination); and the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped." Minor remodeling, for which Title IV, Part B, funds may be used, includes:

(1) Removing and/or erecting partitions (other than a bearing wall) in existing classrooms or laboratories or adjacent space, cutting new doors or windows, or closing old ones;

repairing plaster and paint damaged in erecting or removing partitions, doors, or windows; finishing newly erected walls; and installing electrical lines and special exhaust vents from a point within the building to the classroom or laboratory where the equipment requiring facilities will be used. (Installing service lines outside the building or modifying exterior building walls—other than by cutting new doors or windows or closing old ones—and modifying building roofs do not constitute eligible minor remodeling.)

(2) Modifying or replacing inadequate or unsuitable utility service lines within a completed building leading to existing laboratories or classrooms used to provide instruction in the critical subjects.

(3) Restoring, if necessary, a floor to its original condition, including the floor covering damaged by the installation of equipment and/or approved minor remodeling; and adding to that area of the floor affected support required by weight of the equipment. (Where acid-resistant flooring in a science laboratory is required in connection with remodeling the laboratory, there may be federal financial participation in the cost of the new acid-resistant floor covering. Title IV funds are not available for tearing up a whole floor or ceiling, rebuilding the floor or ceiling, or pouring or otherwise constructing a new floor.)

(4) Providing additional lighting beyond normal classroom lighting requirements where needed to illuminate a particular area of the classroom or laboratory in order to make effective use of equipment. (Title IV funds are not available for modernizing or replacing general room lighting systems.)

(5) Modernizing existing classroom or laboratory equipment, such as old laboratory tables, by installing new sinks, faucets, service lines, or outlets, to make them more usable and, in this connection, the refinishing of such tables. (The repair and refinishing only of classroom or laboratory equipment and furniture are normal maintenance costs and therefore not eligible for federal financial participation.)

(6) Attaching supports to hold special equipment such as ceiling pulley hooks and hoists.

(7) Finishing ceiling or walls damaged by the installation of equipment and/or minor remodeling. (This does not include repainting of walls or ceilings unaffected by the installation of equipment or by minor remodeling. Minor remodeling under Title IV does not include other renovating or refurbishing of classroom or laboratory interiors, since such work is considered normal maintenance.)

(8) Installing acoustical treatment where required in language laboratories.

(9) Paying for architect's services when required for minor remodeling and when drawings accompany the project proposal.

(10) Converting existing space in a completed building into a planetarium, vivarium, terrarium, observatory, or greenhouse used for instruction in science, provided, however, that the basic structure or the outer confines of the building are not altered.

(11) Converting a room or rooms in an existing building into a functional area for the operation of an audiovisual component in the library including storage rooms, preview rooms, distribution center, booking room, and a center for the preparation, maintenance, and repair of audiovisual materials used for instruction in the critical subject.

(12) Converting a room or rooms in a school or other building for housing and using allowable test scoring equipment.

(13) Reimbursing school districts which employ personnel and have facilities to do minor remodeling under an approved project with federal funds for such costs, including materials and labor, provided there is adequate documentation by invoices and work orders. No such project may include the cost of time of teaching and administrative personnel. Costs for constructing equipment and its installation are equipment costs, not minor remodeling costs.

(c) All requests for minor remodeling must contain sketches and drawings, descriptions of the type of work to be done, how it is to be done, by whom, and under what conditions.

.218. Counseling, Guidance, and Testing. Eligibility. Allowable expenditures for the supervision and operation of guidance and counseling programs may include the following:

(a) salaries of local school guidance personnel to the extent that they are engaged specifically in activities approved for Title IV, Part B, funding, including the employer's contribution to retirement, workmen's compensation, or other welfare funds maintained for one or more general classes of the local education agency;

(b) salaries of clerical personnel assisting local guidance personnel engaged in the operation of a local guidance and counseling program;

(c) the purchase and maintenance of office equipment necessary to meet requirements with respect to professional guidance and counseling activities;

(d) the purchase of such materials (including library source materials) and supplies as may be necessary to fulfill the functions of the guidance and counseling program;

(e) consultant services (consultants may not receive a fee in excess of \$100 per day except with prior approval from the Texas Education Agency);

(f) travel and subsistence at a rate not to exceed that established for other local education agency personnel;

(g) contractual services (includes test scoring and guidance services);

(h) communications;

(i) supplies and printing costs;

(j) rental of office space is subject to prior approval by the Texas Education Agency;

(k) cost of short-term training sessions.

.219. Criteria for Selection of Tests. Tests listed in the most recent edition of *Buros Mental Measurements Yearbook* are acceptable for use by the population and grade level specified in the yearbook. Requests for approval of testing materials other than those in the *Buros Mental Measurements Yearbook* should be addressed to the Division of Student Services and Coordination, Texas Education Agency. The Texas Education Agency will approve local guidance and counseling programs with respect to:

(a) the guidance and counseling activities to be provided and the grade levels of students participating in such activities, including individual counseling, group procedures, information about students, educational and career information, parental involvement, and follow-up;

(b) the guidance and counseling activities that are based on clearly stated behavioral objectives with the desired student outcomes clearly specified;

(c) the duties of and qualifications for local guidance and counseling positions;

(d) the ratio of students to each full-time local guidance and counseling position or its equivalent filled by a person performing the duties and meeting the qualifications called for in the third subdivision of this section;

(e) the physical facilities, equipment, and materials to be available for the conduct of guidance and counseling, and testing activities under the annual program plan; and

(f) testing program.

.301. Part C, Educational Innovation and Support: Purpose. Innovative projects designed to develop new and creative approaches to fulfilling the purposes described below and projects designed to support diffusion and adoption of validated programs and practices which have proven to be cost-effective in other locations will be encouraged. Emphasis will be given to both areas. Funds available under Part C may be used to support projects designed to:

(a) stimulate and assist in the development and establishment of exemplary elementary and secondary school programs to serve as models for regular school programs;

(b) stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality;

(c) support demonstration projects designed to improve nutrition and health services in elementary and secondary schools serving areas with high concentrations of children from low-income families;

(d) support demonstration projects which show promise of reducing the number of students who do not complete their secondary school education.

.302. Types of Projects. Projects to be funded under Title IV, Part C may be categorized in several ways. However, the following categories should be used to help focus the nature of the project.

(a) **Developmental**—the development of ideas, practices, techniques, or processes which are new to the state, a geographic area, or a district, the results of which will meet a priority educational need of students in Texas.

(b) **Adopter**—the selection and replication of an exemplary program developed by another agency which can serve to meet priority educational needs of students in the applicant agency.

(c) **Disseminator**—providing information, materials, and training as an aid to other local education agencies desiring to adopt an exemplary approach to the solution of an educational problem common to all or several local education agencies which has been successfully developed by applicant agency.

(d) **Facilitator**—the assistance provided by a local education agency in cooperation with the Texas Education Agency to other local agencies within the state in locating appropriate exemplary programs to meet the educational needs of Texas students.

(e) **Other**—projects which cannot be classed in one of the above categories but which are needed to provide for a priority educational deficiency within the applicant agency. The nature of this priority educational deficiency must be identified.

.303. Priorities for New Proposals. There are many educational areas which need strengthening through the state. Title IV, Part C, funding currently addresses some of these

areas in a variety of projects. New proposals for 1978-79 funding under Title IV-C should be focused on priority areas which are not now being adequately addressed. Descriptions of these priority areas follow. In any one of these areas, new project proposals should offer a unique approach to meeting an educational need and should promise more effective solutions than are now available in Texas schools. Although the central focus of a single proposal should be upon one of the four large categories, it may be logical to include elements of more than one category.

(a) **Accountability**—proposals should address the development of criteria and processes for assessing:

- (1) the competency of staff;
- (2) the performance of students in areas such as citizenship and science (the areas of reading, mathematics, and career education are omitted for two reasons:
 - (A) developmental work on criteria and processes for assessment are in progress with other funding, and
 - (B) continuation projects will give adequate coverage in these); and
- (3) the efficient management and administration of school systems.

(b) **Curriculum development**—proposals should address the development of curriculum materials, processes for instruction, and/or models for:

- (1) coordinating and providing comprehensive educational programs serving all types of handicapped secondary level students (these proposals should include identification of skills and competencies needed by such students to enter into the program);
- (2) coordinating and providing comprehensive educational programs serving the limited English-speaking students at the secondary level;
- (3) using other learning environments in addition to the classroom, such as outdoor or community settings, in teaching various content areas at specific levels;
- (4) teaching nutritional aspects of health education and coordinating food services and other health services with the school's health education program; and
- (5) coordinating and providing education for parent-hood among in-school children and youth at specific levels.

(c) **Staff development**—proposals should address the planning, development, and/or implementation of coordinated staff development programs for:

- (1) teaching the limited English-speaking student;
- (2) teaching the gifted and talented student;
- (3) teaching the profoundly and multiply handicapped students;
- (4) improving instruction in writing (composition) and/or in applied mathematics;
- (5) improving classroom management skills (increase positive behaviors in teachers and students, meet divergent needs of students, recognize and use multicultural differences, etc.);
- (6) infusing reading instruction into curriculum content areas;
- (7) infusing career education into curriculum content areas;
- (8) infusing metric education into related curriculum content areas;
- (9) integrating special education students into general education classes;

(10) improving instruction in geography skills at the elementary level;

(11) improving instruction in the humanities and/or aesthetic education at the elementary level; and

(12) using research findings and other information as a basis for improving classroom instruction.

(d) **Learning resource centers**—proposals should address more effective and unique library services for teachers and students consistent with the other priorities specified above.

.304. Distribution of Funds. Part C funds are considered to be "seed money": to establish projects which are within the capability of the applicant to continue after Part C assistance ceases. Procedures will be used which ensure that local education agencies have an opportunity to compete for available funds on an equitable basis. Personnel from each regional education service center have been thoroughly informed about the various aspects of the application process and are prepared to assist local school districts in the development of project applications. Substantial flexibility in the use of project funds is possible provided expenditures are necessary to the success of the project and are properly documented. Use of project funds for remodeling of facilities will have low priority. Projects which would require use of Part C funds to purchase or construct facilities will have lowest priority.

.305. Applicant Eligibility. A project proposal may be submitted only by a public local education agency. Although private nonprofit schools may not be awarded project funds, the law requires the applicant to give evidence that private nonprofit school representatives were involved in the development of the application and will be given an opportunity to participate in the project, or that no private nonprofit schools exist in the area to be served by the project.

.306. Assurance, Maintenance of Effort, Part C. The Texas Education Agency assures that the aggregate amount to be expended per student or the aggregate expenditure by the state, its local educational agencies, and private schools in the state from funds derived from nonfederal sources for programs described in Section 431(a) for the preceding fiscal year were not less than the amount per student or the aggregate expenditure for the second preceding year. The Texas Education Agency will collect and maintain data from each participating LEA and participating private school to ensure that the amount expended by the LEA for the preceding fiscal year is not less than the amount so expended for the second preceding fiscal year. Each local education agency desiring to participate under Title IV, Part C is responsible for collecting maintenance of effort data from participating non-public school(s) located within its boundaries.

.307. Indirect Cost. Indirect costs may be allowed for the operation of a project provided the costs do not exceed the restricted rate established with the Texas Education Agency for the current federal fiscal year.

.308. Criteria for Review and Approval of Projects. The following criteria will be used in reviewing project proposals submitted from local education agencies. The project proposals should address each criterion with attention and care to ensure that sufficient detail and explanation are provided. The criteria parallel the review process and are critical fac-

tors in developing an acceptable project proposal. The criteria are as follows:

(a) New projects only:

(1) Needs assessment—eight points. Needs assessment should determine what needs will be met for learners or other target populations or services. Information about what is needed should lead to a plan to attain the objectives. The proposal:

(A) states an identified need and describes how and why it has been identified,

(B) states how the proposal addresses local educational priorities and/or the priorities of the State Board of Education,

(C) tells how the needs were determined (questions, study of available information, collection of additional information, descriptions of discrepancies between what is and what should be),

(D) states how the needs assessment has involved appropriate school personnel (this may include students where appropriate and must include officials of nonprofit private schools within the boundaries of the district).

(E) indicates how the appropriate people from outside the school or service center have been involved in the needs assessment process.

(2) Objectives—six points. Objectives must flow directly from the needs assessment. They should include the results which the project will seek to achieve. These objectives:

(A) are meaningful, can be measured, and will attain progress toward meeting identified needs and include the following elements:

(i) population to be served,

(ii) behavior, action or performance that is expected at the end of the project,

(iii) time period during which the objectives are to be achieved,

(iv) criteria for measurement;

(B) clearly delineate that the project will

(i) develop new and creative approaches to meeting the identified needs, or

(ii) make use of validated programs or practices from another location;

(C) provide for tangible products or outcomes that can be effectively replicated (completed instruments, materials, course designs, models, programs).

(3) Activities—13 points. The activities must flow directly from the objectives. They must be appropriate, comprehensive, and directly related to the attainment of the objectives. This section:

(A) contains activities that clearly point out specifically what will be done to achieve successfully the objectives,

(B) makes use of practices that are programatically realistic and effective,

(C) describes practices that are economically feasible and effective, given the parameters of the project,

(D) provides for services within the project that give promise of measurable attainment,

(E) contains evidence of appropriate participation in planning and implementing the activities by including representatives from nonprofit private schools and students, parents, school personnel and other appropriate persons—such as those with low income—broadly representative of cultural and educational resources,

(F) reflects an awareness of similar or related practices and programs elsewhere.

(4) Project management—eight points. The project proposal should reflect clearly the relationship between program planning and budget to ensure the resources (personnel, materials, services) will be managed effectively. This section:

(A) identifies staff adequate to carry out activities, describes their major responsibilities and qualifications,

(B) includes a description of how the project will be managed and administered by the applicant agency,

(C) includes a description of how the project will be integrated with existing programs and resources to ensure mutual support,

(D) describes what information is to be collected for decisions relating to continuation,

(E) contains a programmatic description and a detailed budget by which to evaluate budget items.

(5) Evaluation—six points. Evaluation strategies based on the evaluation plan will determine the extent to which performance of the participants or provision of services has been improved. The proposal:

(A) has an evaluation plan which addresses the project's stated objectives,

(B) states limitations or parameters of the project,

(C) contains timeline which includes provisions for interim and final evaluations of both product and process,

(D) describes procedures and techniques for data collection,

(E) describes procedures for analyzing the data.

(6) Dissemination—five points. Dissemination includes ways of informing both the school and the community about the project and making available to other educators information relating to program operation and accomplishments. This information gathering includes documenting project operation. The proposal:

(A) describes how the campus, the district, and the community will be kept informed of the project,

(B) describes how the operation and accomplishments will be documented throughout the project period.

(7) Overall project value—nine points. The proposal taken as a whole presents clearly a concept or idea that has educational value in addressing needs in local education agencies.

(b) Continuation projects only.

(1) Needs assessment—two points. Original needs assessment findings, upon which the project was based, should be reviewed in light of the evaluation to reaffirm or refocus the needs and to ensure that the project objectives are appropriate. The proposal:

(A) describes how the project reaffirmed or refocused the needs described in the 1977-78 project,

(B) describes how the project ensures that the objectives for the 1978-79 project, as revised or continued from 1977-78, addresses the needs that were reaffirmed or refocused.

(2) Objectives—six points. Objectives must flow directly from the needs assessment. They should include the results which the project will seek to achieve. These objectives:

(A) are meaningful, can be measured, and will attain progress toward meeting identified needs and include the following elements:

- (i) population to be served;
- (ii) behavior, action or performance that is expected at the end of the project;
- (iii) time period during which the objectives are to be achieved;

(iv) criteria for measurement;

(B) clearly delineate that the project will develop new and creative approaches to meeting the identified needs or make use of validated programs or practices from another location

(C) provide for tangible products or outcomes that can be effectively replicated (completed instruments, materials, course designs, models, programs).

(3) Activities—13 points. The activities must flow directly from the objectives. They must be appropriate, comprehensive, and directly related to the attainment of the objectives. This section:

(A) contains activities that clearly point out specifically what will be done to achieve successfully the objectives,

(B) makes use of practices that are programatically realistic and effective,

(C) describes practices that are economically feasible and effective, given the parameters of the project,

(D) provides for services within the project that give promise of measureable attainment,

(E) contains evidence of appropriate participation in planning and implementing the activities by including representatives from nonprofit private schools and students, parents, school personnel and other appropriate persons—such as those with low income—broadly representative of cultural and educational resources

(F) reflects an awareness of similar or related practices and programs elsewhere.

(4) Project management—eight points. The project proposal should reflect clearly the relationship between program planning and budget to ensure the resources (personnel, materials, services) will be managed effectively. This section:

(A) identifies staff adequate to carry out activities, describes their major responsibilities and qualifications;

(B) includes a description of how the project will be managed and administered by the applicant agency;

(C) includes a description of how the project will be integrated with existing programs and resources to ensure mutual support;

(D) gives evidence of local commitment to continue the project (through use of local funds and other resources, involvement of staff and community in the continuation plans, etc.);

(E) contains a programmatic description and a detailed budget by which to evaluate budget times.

(5) Evaluation—12 points. Interim evaluation evidences. The approved 1977-78 project described an evaluation plan for measuring the degree of attainment of the objectives which serves as a basis for an interim evaluation of the project. This section:

(A) has an evaluation plan which addresses the project's stated objectives;

(B) states limitations or parameters of the project;

(C) contains timeline which includes provisions for interim and final evaluations of both product and process;

(D) lists each objective of the approved 1977-78 project and describes the specific parts that demonstrate the

degree of attainment of the objective at the interim date of January 1, 1978. Evidences are the tangible and observable products or processes described in the objectives that have been or will be accomplished as reported by district or ESC. Indicates if any objectives are to be deleted or modified for 1978-79 as a result of evaluation evidences;

(E) in addition the findings from the on-site review of this project by TEA staff should be examined by the reader and points awarded based on those findings.

(6) Dissemination and replication—nine points. Dissemination includes ways of informing both the school and the community about the project, and ways of making available to other educators information relating to program operation and accomplishments. Replication includes documenting project operation, packaging that information for educators interested in replicating the project, and, when appropriate, working with other agencies to make personnel and materials available to adopting districts or service centers. The proposal:

(A) describes how the campus, the district, and the community will be kept informed of the project;

(B) describes how operation and accomplishments will be documented and how that information will be packaged;

(C) contains evidence that the developing district or service center, when appropriate, will cooperate with other agencies to make personnel and/or materials available to educators interested in replication.

(7) Overall proposal value—five points. This proposal taken as a whole presents clearly a concept or idea that has educational value in addressing needs in local education agencies.

.309. *Evaluation.* Evaluation is required for each approved project. The evaluation plan may follow the design developed by Texas Education Agency, Appendix A: ESEA, Title IV Parts B and C Evaluation Plan, page 32. End-of-Project evaluation reports will be required of all projects.

.310. *Monitoring.* On-site monitoring visits will be a part of the overall project evaluation process.

.311. *Project Duration.* Projects will be approved for support for one year only. Developmental projects which give evidence of being successful and which require support beyond one year to achieve their objectives will be eligible to apply for a continuation grant. Generally, projects will not be supported for more than three years. Applicants seeking support for a third year of operation should prepare to support the project fully from other funds after Title IV support has been terminated.

.312. *Project Amendments.* Project amendments which may be necessary will be addressed to the Document Control Center, Texas Education Agency. Amendments will be reviewed by the Department of General Education for programmatic implications and by the Division of Federal Funding for legal and fiscal implications.

Issued in Austin, Texas, on March 8, 1978.

Doc. No. 781649

M. L. Broquette
Commissioner of Education

Effective Date: March 29, 1978

For further information, please call (512) 475-7077.

Texas Department of Human Resources

AFDC

Income 326.10.33

The Department of Human Resources adopts the amendment to Sections (c) and (d) of its rule about exemptions for work-related expenses in the Aid to Families with Dependent Children (AFDC) Program. This amendment was published in the December 27, 1977, issue of the *Register* (2 TexReg 5061). For applicants/recipients who use their own automobile or other vehicle for transportation to and from work, the following rule explains that expenses of transportation will be based on actual cost, not to exceed the maximum rate per mile currently paid to state employees. This amendment is necessary in order to delete references to the 16 cent mileage rate paid to state employees since this allowance was increased to 18 cents per mile in the last legislative session. All comments received on the proposed revision were favorable. Minor editorial changes have been made to the proposed text.

This amendment has been approved by the Texas Board of Human Resources and is adopted under the authority of Article 695c, Texas Revised Civil Statutes.

.008. Exemption of Work-Related Expenses.

(c) The expense of transportation, either public or when supplied by some private source other than his own, used by the client from residence to place of employment (one round trip each work day) is based on the actual cost not to exceed the maximum rate per mile currently paid to state employees. The actual cost of bus transportation, including transfers, is allowed without regard to the cost per mile limitation.

(d) If the client uses his or her own private motor vehicle, the rate allowed will be the maximum rate per mile currently paid to state employees. Car payments, upkeep, and any additional expenses are not deductible since these expenses are considered included within the mileage allowance.

Doc. No. 781623

Food Stamps

Non-PA Application 326.15.25

The Department of Human Resources adopts the amendment to Section (e) of its rule about the nonpublic assistance (PA) interview in the Food Stamp Program. The proposed amendment was published in the December 13, 1977, issue of the *Register* (2 TexReg 4756). All non-PA households must be interviewed to furnish the certification worker with facts needed to make a firm and reasonable eligibility decision. In addition, the worker explains the applicant's obligations and Food Stamp Program procedures. The following rule includes a list of items that are explained to all applicants during the interview. This amendment is necessary in order for the applicant to be advised that a lost authorization to purchase (ATP) card or lost coupons may be replaced only in the same month for which they were originally issued.

Several comments were received on the proposed amendment. One comment suggested a change in wording to emphasize more strongly that such ATP's or coupons may be replaced only in the month for which they were issued. This suggestion was adopted. Another comment suggested that all losses should be verified. The department already has existing procedures to verify such losses which are covered in other department rules. Other comments concerning items which are not being changed were received and have been retained for future consideration. The following rule is adopted with minor changes in the proposed text.

This amendment has been approved by the Texas Board of Human Resources and is adopted under the authority of Article 695c, Texas Revised Civil Statutes.

.003. Non-PA Interview.

(e) In addition to obtaining required identification, non-PA eligibility workers must ensure that all applicants are given a copy of the Explanation of Food Stamp Rights/Responsibilities form, and during the interview are:

(1) instructed in the proper use of the ATP card, ID card, and food coupons;

(2) advised that a lost or missing ATP or food coupons may be replaced only in the month for which they were originally issued. Loss or nonreceipt should be reported immediately to the food stamp office.

Doc. No. 781624

Definition of Income 326.15.41

The Department of Human Resources adopts the amendment to its rule about income in the Food Stamp Program as published in the December 13, 1977, issue of the *Register*. All payments, except for specific exclusions, received by or made on behalf of household members are income for food stamp purposes. Rule 326.15.41.004 lists those items that are included as income. The following amendment to Section (a)(10) clarifies the language contained in the item concerning vendor payments as income. This amendment was a request from the United States Department of Agriculture (USDA). No comments were received on the proposal, and, therefore, the amendment is adopted with no changes in the proposed text.

This amendment has been approved by the Texas Board of Human Resources and is adopted under the authority of Texas Revised Civil Statutes, Article 695c.

.004. Included as Income.

(a) For food stamp purposes income will mean the following:

(10) Vendor payments. Vendor payments are payments in money, except those for medical costs, made on behalf of the household by an agency or a person other than a member of the household. Vendor payments are countable income to a food stamp household.

(A) To qualify as a vendor payment, all of the following criteria must exist:

(i) There must be an identifiable payment to a third party on the household's behalf.

(ii) The major material benefit of the payment must accrue to the household.

If either of the above criteria does not exist, the benefits received should be considered as in-kind payments and excluded from income.

Doc. No. 781625

ATP System 326.15.92

The Department of Human Resources adopts the amendment to its rule about replacing lost or stolen authorization to purchase cards (ATP's). A computer-printed ATP card showing the amount of stamps the household is eligible for and the price the household must pay for them is mailed to the head of the household each month. This card and the necessary amount of money are redeemed at the issuing offices for the household's food coupon allotment. If a recipient's ATP is not received or is lost or stolen, it can be replaced. The following amendment adds a statement clarifying that a lost or stolen ATP can only be replaced during the same month for which the lost ATP was issued.

Several comments were received on the proposed amendment. One comment suggested that all losses be verified. The department already has existing procedures to verify such losses which are covered in other department rules. Other comments concerning items which are not changing were received and have been retained for future consideration. The following amendment is adopted with no changes in the proposed text.

This amendment is adopted under the authority of Texas Civil Statutes, Article 695c.

.012. Replacing Lost or Stolen ATP's.

(a) When a client reports nonreceipt of an ATP, the worker should examine facts such as recent address changes. If it appears the ATP is lost or stolen, the head of the household or spouse must complete an Affidavit for Replacing Lost or Stolen ATP's in the presence of the worker. On signing the affidavit, the client certifies that the ATP was not received, and if later received, the client will return it to the office. The worker must explain to the client the significance of the form and the client's responsibilities. If more than one ATP has been reported undelivered or stolen within a six-month period, an alternative mailing address should be considered.

(b) Recipients who redeem both the replacement ATP and the ATP reported lost will be charged with an overissuance and will be required to repay the overissuance. In this situation, the affidavit could serve in developing evidence in a suspected fraud case when a pattern of abuse or program violation by the household emerged. A replacement ATP can only be issued or redeemed during the same month for which the lost ATP was issued.

Issued in Austin, Texas, on March 7, 1978.

Doc. No. 781626 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: March 28, 1978

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

Child Welfare Services

The Department of Human Resources adopts the following amendments to its rules in the Child Welfare Services Program. The amendments are pursuant to a federal court decision, John Pleasant Sims, *et al. v. Raul Jimenez, et al.*, holding unconstitutional certain sections of Chapters 11, 17, and 34, Title 2, Texas Family Code. The ruling by a three-judge panel of the United States District Court for the Southern District of Texas, Houston Division, was effective March 6, 1978. The ruling permanently prohibits the Department of Human Resources and all persons acting in cooperation with the department, or at department direction, from applying or enforcing the provisions of the family code held unconstitutional.

The amendments involve the Child Abuse and Neglect Report and Inquiry System (CANRIS), attorneys *ad litem*, investigative examinations, and emergency removal of children. Major changes to current department rules include: the mandated appointment of an attorney *ad litem* for a child in any suits affecting the parent-child relationship within the context of these rules; client-identified information in the CANRIS system will now be limited to cases in which a judicial (civil or criminal) determination of abuse or neglect has been made; the requirement of an adversary hearing after notice to parents if a child is to be retained by the department beyond 10 days and/or if the department is seeking to obtain physical, psychological, or psychiatric examinations under Chapter 34 of the family code; and the requirement of an *ex parte* hearing immediately after the department takes possession of a child, with all reasonable efforts being made to notify the parents of the *ex parte* hearing.

Protective Services for Children 326.50.72

These amendments are adopted pursuant to a federal court decision, John Sims, *et al. v. Raul Jimenez, et al.*, under the authority of Articles 695a and 695c, Texas Revised Civil Statutes, effective March 6, 1978.

.036. Child Abuse and Neglect Report and Inquiry System (CANRIS).

(a) The Texas Family Code requires that DHR provide a central registry of child abuse and neglect reports. This requirement is fulfilled through the DHR's Child Abuse and Neglect Report and Inquiry System (CANRIS). CANRIS is an automated system which receives investigated reports of child abuse and neglect and collects and stores confidential information in the central registry. The registry is computerized for immediate retrieval of information about previous incidents. De-identified CANRIS information is entered for statistical and research purposes into a national child abuse and neglect central registry provided by the National Study on Child Abuse and Neglect Reporting.

(b) Only authorized DHR staff may make inquiries and reports to the CANRIS system.

(c) The worker must report all investigated reports of abuse and neglect to CANRIS. When the death of a child due to abuse or neglect is reported to DHR, a CANRIS report must be made of the child's death. Client-identifying information is entered into CANRIS only when a civil or criminal court has determined that child abuse/neglect occurred.

(d) The worker must make an inquiry about previous incidents on all complaints appearing to involve abuse or neglect, unless the case is currently active and the information has already been received. No initial report to CANRIS will be made at the time of inquiry. Workers make CANRIS reports when the investigation is completed. They update the report if court action is subsequently taken. The update is made at the time the county/district/criminal district attorney or court renders a decision on the request or referral for court action. The court order can be one issued after a 24-hour hearing, a 10-day hearing, when a court case is dismissed, when parental rights are terminated, or at any other appropriate time. There will no longer be initial reports, only finalized reports.

(e) CANRIS reports are made by completing a Children's Protective Service Intake and CANRIS Report form and sending it or calling the information to the local telecommunications site. The terminal operator enters the report into CANRIS. A CANRIS Feedback Report form, with a CANRIS incident number, will be printed by the computer from information entered by the terminal operator. The form is then mailed to the worker for filing or updating.

CANRIS reports are entered on the computer by the terminal operator in one of two formats. The terminal operator enters a client-identified report on only validated cases of abuse/neglect where conservatorship has been placed with DHR, conservatorship has been changed, or an individual has been convicted of a crime involving child abuse/neglect. On all other cases, the terminal operator enters a statistical report with no client-identifying information.

Local cross reference controls must be established between case names and CANRIS incident numbers to ensure that client-identified and client de-identified forms are filed in correct case folders.

(1) Invalidated is defined as a case in which abuse or neglect has been clearly ruled out.

(2) Validated is defined as a case in which actual abuse or neglect has been substantiated.

(3) Uncertain is defined as a case in which actual abuse or neglect cannot be substantiated or clearly ruled out, but there is enough evidence from the investigation to establish a reasonable doubt that there may be abuse or neglect.

(4) Potential is defined as those cases where actual abuse or neglect cannot be substantiated but there is sufficient evidence to identify that abuse or neglect is likely to occur as a result of existing conditions in the home which threaten the child's physical or emotional well-being.

(5) Moved is defined as a case where the family moved before any of the above dispositions were made.

(f) The DHR Investigation Division may make inquiries about child abuse and neglect cases referred to them providing assistance to protective services staff. If the Investigation Division becomes aware of an unreported case of abuse or neglect, it will refer the case to the appropriate protective services regional staff who must coordinate the investigation. The Special Services Division may also make inquiries to CANRIS when there are out-of-state inquiries about abuse or neglect incidents.

(g) If licensing or social services staff suspect during the course of a foster home or licensing study that the family or individual may have been involved in an abuse or neglect situation in the past, they may request a CANRIS inquiry on the family or individual.

(h) The decision about intervention by DHR may be shared with an agency or professional person making the report. Protective services staff should make themselves available to physicians or professional persons in hospitals, clinics, or schools who ask for information in CANRIS. The worker must verify the identity of the professional person before releasing confidential information. If the professional person does not make a report, the worker and supervisor must evaluate the possibility of abuse or neglect in the case, based on the information gained. If they believe a potential danger to the child exists, the worker must make further inquiry into the situation.

.037. Investigation of Reports of Abuse and Neglect.

(a) When a report falls within DHR's protective services responsibility, the worker must investigate to determine whether the child needs protective services. The investigation is made in a nonaccusatory and nonpunitive manner. Protection will be provided for the child when needed. The investigation should be completed within 30 days if possible.

(f) To determine the above information:

(5) The investigation currently required by Section 34.05(c), Texas Family Code, includes a visit to the child's home, a physical and psychological or psychiatric examination of all children in that home, and an interview with the referred child.

(A) If permission for admission to the home or for the examinations needed to protect the child cannot be obtained, an adversary hearing is required after notice to the parents whenever parents object to physical, psychological, or psychiatric examinations. An adversary hearing is one in which each party to the suit has been given the opportunity through service of citation and notice to be there and each party presents its side of the case. The adversary hearing during the investigation is initiated by filing a suit affecting the parent-child relationship and seeking appropriate action under Section 34.05(c), Texas Family Code. The required notice to the parents is satisfied by serving them citation, including a copy of the petition and notice of the time of the hearing. DHR must show that the required examinations are necessary to determine the existence of abuse or neglect.

(B) When the exams cannot be obtained due to lack of funds, this must be documented in the case record. When funding for physical, psychological, or psychiatric examinations is not available to DHR, necessary action to protect the child must proceed even without medical examination.

(C) If parental consent cannot be obtained, a licensed physician or dentist who has reasonable grounds to believe the child's physical or mental condition has been damaged by abuse or neglect may examine the child without consent. The physician or dentist may not examine the child without parental consent if the child is age 16 or over and refuses consent or if consent is refused by court order. The physician or dentist is not liable for damages except those resulting from his negligence.

(D) Examinations should be made when any of the following apply: the examinations are available without cost; local funds are available to pay for the examinations; the family is able to pay or is willing to use family insurance; the examinations are available through a Title XX interagency agreement with a community MH/MR center; Title IV-B project funds are available for psychiatric or psychological ex-

aminations or short-term treatment; the child is eligible for Medicaid, and has medical problems or injuries which require a medical examination and/or treatment, or has emotional problems which require a psychiatric examination and/or treatment, or may be taken for an EPSDT screening examination.

.038. Investigation of Reports of Abuse or Neglect in a Non-State Operated Child Caring Facility.

(b) Protective services staff proceed with the investigation of the allegation with the knowledge and assistance of the licensing staff. Also, protective services staff must provide whatever assistance is needed to licensing staff who are required to exercise enforcement of the licensing law and minimum standards.

.039. Investigation of Reports of Abuse or Neglect in a Facility Operated by a State Agency Other Than DHR.

(a) When a report is received of abuse or neglect allegedly perpetrated in a facility operated by the Texas Education Agency, Texas Department of Mental Health-Mental Retardation, Texas Department of Health, Texas Youth Council, or Texas Rehabilitation Commission, DHR protective services staff must notify the director of the facility of the report. The notification may initially be verbal or in person but must be confirmed in writing. The notification to the facility must offer the local DHR protective services unit's participation or consultation in the investigation. The notification must request a written report of the findings of the investigation. Copies of the notification must be sent to the regional director of social services, the regional administrator, the deputy commissioner for Financial and Social Services, and the director of the Licensing Division. At the discretion of DHR, the complainant's identity and the alleged perpetrator's or child's history may be shared with the facility.

(b) The results of the investigation must be shared with the complainant and reported to the regional director for social services, the regional administrator, the deputy commissioner for Financial and Social Services, and the director of the Licensing Division.

.040. Investigation of Reports of Child Abuse or Neglect in a DHR Foster Family or Adoptive Home.

(b) All children in the home must be examined and provided any needed care and protection. When the report is validated and involves children in DHR's managing conservatorship, the court having jurisdiction, and the child's parents, if parental rights have not been terminated, must be notified.

.042. Investigation of Reports That Public School Personnel Have Abused a Child.

(h) Complaints against personnel of schools other than public schools must be handled as is any complaint against an individual. If the school is subject to any regulatory laws, any validated, uncertain or potential complaint and its resolution must be reported to the appropriate regulatory authority.

Removal, Pre-Placement, and Legal Services 326.50.73

These amendments are adopted pursuant to a federal court decision, *John Sims, et al. v. Raul Jimenez et al.*, under the authority of Articles 695a and 695c, Texas Revised Civil Statutes, effective March 6, 1978.

.034. Legal Rights of Parents and Children.

(c) The child has a legal right to representation. The court must appoint an attorney *ad litem* or guardian *ad litem* to represent the child in all suits affecting the parent-child relationship in which DHR staff is seeking conservatorship or termination of the parent-child relationship.

.040. Emergency Removal.

(a) Before removing a child in an emergency, the department must consider the following courses of action in the priority of their listing. The worker and supervisor must document the reasons why a court action earlier on the following list is not taken before taking one later on the list.

(1) Court-ordered removal—Remove the child pursuant to a written court order which is based on a Texas Family Code, Chapter 14 or 15, suit filed by DHR and which is issued following an adversary hearing.

(2) *Ex Parte* court-ordered removal—Remove the child pursuant to a written *ex parte* court order, which is based on a Chapter 14 or 15 suit filed by DHR and which is issued under the authority of Texas Family Code, Section 11.11(a)(4). An adversary hearing must be scheduled within 10 days after the date of the court order and the parents served with citation and notified of the hearing. The *ex parte* order must be a written order; it cannot be a verbal order.

(3) Emergency removal—Remove the child pursuant to Texas Family Code, Chapter 17, without a court order, with an *ex parte* hearing to be held within 24 hours after removal. An adversary hearing must be scheduled within 10 days after the date of removal and the parents served a citation and notified of the hearing. This *ex parte* order must be a written order; it cannot be a verbal order.

(b) DHR defines emergency removal as removal of a child from his home or other place where he is receiving care without written parental consent and before a court order is obtained. Emergency removal can be made only as a last resort in protecting a child. Emergency removal can be made only when all of the following factors can be documented:

(1) The child is in a situation which is of immediate danger to his physical health or safety. Immediate physical danger does not include emotional, potential, nonemergency or nonphysical abuse or neglect.

(2) *Ex parte* court-ordered removal procedures cannot be carried out in sufficient time to protect the child from physical harm. That is, the worker has reasonable evidence, which he can verify and document, that the child would suffer physical harm between the time the worker could leave the child and the time he could return with the *ex parte* court order authorizing removal.

(3) Available resources to protect the child in his home have been considered and found to be insufficient.

(c) The Texas Family Code stipulates that the worker may remove the child without civil liability if the worker has reasonable cause when he removes the child to believe there was an immediate danger to the child's physical safety. The worker must verify whatever gave him "reasonable cause" to

believe the child was in immediate danger and must document his verification in the case record. If the worker and supervisor decide within the scope of the above factors that emergency removal of a child from his home is necessary, a law enforcement officer or Investigation Division staff person must accompany the worker when the child is removed from the home. If neither is available, the reason must be documented in the file and the concurrence of a Social Services Program director must be obtained to authorize the child's removal. In addition, a Protective Service supervisor or another worker or DHR employee must accompany the worker when the child is actually removed. The person who accompanies the worker should attend the 24-hour hearing. If the worker was not accompanied by a law enforcement officer or Investigation Division staff person, the worker or supervisor must report the circumstances of the removal to the regional director for Social Services within 24 hours of the removal. If the supervisor or program director does not have a master's degree in social work and two years experience in child placing, the removal must be reviewed within 30 days by a staff member with those qualifications.

(d) All of the following steps must be taken after removing a child from his home under Chapter 17:

(1) DHR must make every reasonable effort to serve notice on the parents. When the parents can be located, the worker must inform the parents orally or in writing that a hearing will be held within 24 hours, that they have the right to obtain the services of an attorney to represent them at that hearing, and of the location of the district court where the hearing will be held. DHR must document its efforts to inform the parents and should try to verify and document its efforts with witnesses.

(2) Immediately after removal, DHR must bring the child physically before the court. Immediately means within 24 hours of actual removal, barring unusual circumstances. A petition must be filed at or before the time the child is delivered to the court and a hearing is held. Oral authorization from the judge to remove the child cannot substitute for or eliminate the need for the 24-hour hearing required. If the hearing cannot be held because the district judge or county/district/criminal district attorney cannot attend, the worker must return the child to the home and provide whatever services are possible to protect the child from death or other permanent physical harm. In these instances, the worker must inform in writing the district judge, county/district/criminal district attorney, local law enforcement officials, the regional attorney, and the regional director for Social Services of the child's circumstances. The danger to the child must be clearly stated.

(3) Before or at the 24-hour hearing, DHR must file a Chapter 17 suit by and through the county/district/criminal district attorney and pursuant to Section 17.02, Texas Family Code. If evidence of the child's needs indicates possible need for continuing custody past the 10-day order, DHR should ask the county/district/criminal district attorney to join a Chapter 14 or 15 suit with the Chapter 17 suit. If the Chapter 17 suit is not filed in the county of the child's residence, a petition under Chapter 14 or 15 must be filed in the court of continuing jurisdiction. This should be done as soon as possible during the 10-day emergency order.

(4) Before or at the 24-hour hearing, the court must appoint an attorney *ad litem* for the child.

(5) At the 24-hour hearing, the court must determine whether the child is without support and is dependent on

society for protection or is in immediate danger of physical injury, as set out in Section 17.04, Texas Family Code. If the court finds that the child is in either situation, the court may issue a 10-day emergency order (dating from the time of actual removal), naming the department as temporary managing conservator. If the parents are present at the 24-hour hearing, they should be served while there with citation, including a copy of the petition, and with the show-cause order and notification for the 10-day hearing. If they are not present, the department must make every reasonable effort to locate them and arrange for service of citation and notice to be made before the 10-day show-cause hearing. When the Chapter 14 or 15 suit is joined with the Chapter 17 suit, or otherwise filed in the court of continuing jurisdiction, the court must:

(A) order a show-cause hearing on the Chapter 14 or 15 suit to be held before the 10-day emergency order expires;

(B) order service of citation and notice on the parents for the 10-day show-cause hearing;

(C) make other orders as necessary for the 10-day show-cause hearing, such as child support responsibilities of the parents or appointment of an interpreter for deaf parents.

(6) The worker must get a written copy of the 10-day emergency order as soon as the court makes it available. This order expires as soon as either:

(A) the child is returned to the parents; or

(B) a Chapter 14 or 15 order is entered at the 10-day show-cause hearing; or

(C) 10 calendar days have passed since the actual removal of the child.

(e) DHR may not retain custody of a child for more than 10 calendar days from actual removal without an adversary hearing, at which DHR must prove each of the following:

(1) that the child was and would be in physical danger in the home;

(2) that continued conservatorship is necessary to protect the child from such physical danger;

(3) that the action requested is in the best interest of the child.

(f) If the parents were not served for and failed to appear at the 10-day show-cause hearing, DHR must document its efforts to locate the parents. If the child is not returned to his parents after the 10-day show-cause hearing, a temporary order pursuant to Chapter 14 or 15 suit must be signed pending final adjudication. Such temporary orders signed after adversary hearings are generally indefinite unless limited to a specific time period. To keep a child continuously for more than 10 days, a Texas Family Code, Chapter 11, order may follow a Chapter 17 order only when an adversary hearing, that is, a hearing for which the parents received service of citation and notice, occurred within 10 days of the child's removal.

(g) DHR staff, under the direction of the county/district/criminal district attorney, must assess at each step in a Chapter 17 suit whether legal custody has or will become invalid because the Texas Family Code has not been or will not be followed. Legal advice must be immediately sought on any questions. DHR staff must document the legal counselor's response to their concern by filing in the child's case record correspondence to or from the legal counselor. If the attorney believes that DHR does not have valid legal custody of the child, DHR must immediately satisfy the legal

requirements for a valid court order, if that is within its power, or immediately return the child to the parents, regardless of the danger in which DHR believes this will place the child. If the attorney or court believes the court order is valid but the department disagrees because of one of the following or like reasons, department staff must immediately satisfy the requirement for a valid court order or return the child to his parent:

(1) There is not a written court order within 24 hours of the removal.

(2) More than 10 calendar days have passed since the child was removed and no other valid order has been obtained.

(3) DHR failed to make every reasonable effort to inform the parents of the 24-hour hearing.

(h) If DHR must return the child, a program director must approve the return and the regional attorney and regional director for Social Services must be advised before hand. Before returning the child, DHR must report to the court in writing its planned actions, the reasons why DHR believes it must take this action, the danger DHR believes the child will be in, and the documentation of the legal counselor's belief about the invalidity of the court order. A copy of this court report must be placed in the case record.

(i) If it is anticipated that the child may have to be returned because of a potentially invalid 24-hour order but evidence indicates the child would be in danger of physical harm in the home, DHR should ask the county/district/criminal district attorney to obtain a valid *ex parte* order for retaining the custody of the child. If this action is taken, the child cannot be kept in DHR custody for more than 10 days from the date the child was originally removed from the home. If the child is returned home because of an invalid court order, DHR must continue supervision of the child in the home.

(j) If removal again appears necessary, DHR must consider the effect of repeated removals on the child, especially repeated unplanned removals, and the protection of parents' due process rights. DHR must fully and clearly document why it believes removal is again necessary and why alternate actions were not taken.

(k) A child can be removed from his home through emergency removal procedures only with prior supervisory approval or with prior program director approval in the supervisor's absence. When emergency removal is necessary, the child and family must be prepared for the removal and placement just as though it were a planned placement, within the limitations of the emergency situation. Parents have the right to know of DHR's decision to remove the child from their home, and the reasons for the decision before the child is removed. The child must have a medical exam within seven days after placement if he has not had one within 30 days before the placement. A foster care intake study must be begun within five days after placement and completed within 30 days. A plan for work with the family after placement must be developed.

Issued in Austin, Texas on March 8, 1978.

Doc. No. 781656 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: March 6, 1978

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

Texas Commission on Jail Standards

New Construction 217.05.00

The Texas Commission on Jail Standards has adopted the repeal of Chapter 217.05.00, New Construction. The proposed repeal was published in the January 6, 1978, issue of the *Texas Register* (3 TexReg 44-45). The repeal was proposed and adopted because a revised version of New Construction rules, which incorporates pertinent substance of Inmate Housing rules, which in turn resulted in extensive changes in format and numbering, has been proposed and adopted.

Pursuant to the authority of Article 5115.1, Texas Civil Statutes, the Texas Commission on Jail Standards has repealed Chapter 217.05.00, New Construction.

Doc. No. 781600

The Texas Commission on Jail Standards adopts Rules 217.05.01.001-.004, 217.05.02.001-.087, 217.05.03.001-.082, and 217.05.04.001-.074, New Construction. These rules include some pertinent substance which was previously in 217.06, Inmate Housing. The combining of these chapters will be discussed in terms of the three normal county incarceration facilities, *i.e.*, jails, lockups, and low-risk facilities. The purpose of this adoption is to make easier the use of the rules by sheriffs, custodial personnel, and architects and to clarify previous ambiguities.

The change will save money for counties as several items of design or equipment which previously were mandatory are to become optional. There will be no additional cost involved in enforcing these rules.

General 217.05.01

This subchapter will pertain specifically to new jail construction.

This adoption is made under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Objectives.* Any county contemplating construction of, renovation of, or addition to a facility (jail, lockup, or low-risk facility) shall determine the present and future needs and possible expansion of the existing or proposed facility. A clear definition of the functions and objectives for the proposed new facility, renovation, or addition shall then be provided to the commission.

.002. *Analysis.* An analysis of facility population trends based on available data over a period of not less than the preceding five years should be made to determine anticipated capacity of the jail, lockup, or low-risk facility.

.003. *Unfinished Areas.* Planning may provide for the construction of space for future expansion to increase the capacity of the facility. These areas may be constructed "shell only" for future installation of interior walls, equipment, and appurtenances. Such areas shall not in any way compromise the security of the total facility.

.004. *Design Concepts.* Innovative architectural concepts are encouraged to reduce problems of security and maintenance while creating a safe, sanitary, and secure environment for staff and inmates. The facility shall be structurally sound, fire-resistive, and not connected to a building that is not fire-resistive and shall provide for adequate security and safety by having single and multiple-occupancy cells, dormitories, and day rooms of varying dimensions and capacities for inmates confined herein. Facility design should also provide for support functions and equipment to insure safe, secure, and efficient operations.

Doc. No. 781596

New Jail Design, Construction, and Furnishing Requirements 217.05.02

This subchapter will pertain specifically to new jail construction.

This adoption is made under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Jail Site.* The site should be of sufficient size to provide for the immediate facility and a reasonable projected expansion as well as possible space for indoor recreation. A buffer zone around the building is desirable. Where practical, separate jail buildings should be in near proximity to or connected to local courthouse by a secure means of pedestrian passage.

.002. *Jail Operation Concept.* Unlike a state or federal prison, where only sentenced and classified persons are received, processed, detained, and released on a scheduled basis, a county jail must be planned to receive unclassified persons, hold persons who are not tried or convicted, and allow for receiving, processing, classifying, and release of persons at all times. Design and construction of a jail and personnel assigned to it must permit efficient and secure performance of this type of operation if the best interests of the community and the inmates are to be served.

.003. *Jail Security Requirements.* Jail security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes.

.004. *Special Security.* A jail shall be designed and maintained as a special security unit. When built in conjunction with other governmental functions, the integrity of the security perimeter shall not be compromised.

.005. *Public Building.* A jail of more than 20 inmate capacity shall not be located under, in, or on top of another building which has not been designed for security purposes. This does not preclude the redesign and renovation of existing structures, not originally built for security purposes.

.006. *Inmate Movement into and out of Jail.* Construction should provide for movement of an inmate or detainee into and out of the jail being accomplished without unduly exposing the individual to contact with the public, avoiding the use of public corridors, public elevators, and other areas frequented by the public. Where possible, the same security should be provided in the courts building for movement of inmates to and from the court.

.007. *Inmate Movement inside Jail.* The design shall provide for the orderly flow of traffic through strategically located corridors or areas, eliminating all unnecessary cross traffic and undesirable contacts between differently classified types of inmates.

.008. *Segregation.* Jail design shall provide adequate segregation facilities for segregation of different classifications of inmates, in accordance with the facility classification plan. (See 217.12.)

.009. *Audible Communication.* Provision shall be made for voice communication between inmates and custodial personnel at all times.

.010. *Monitoring System.* Security areas may have an electronic monitoring system built in to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001.)

.011. *Television Monitoring.* Where closed-circuit television is not included but is planned or anticipated, space and conduits should be provided so that the equipment can be installed without need for alteration of the physical plant.

.012. *Control Areas.* Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;
- (b) inspection of housing areas;
- (c) control and protection of heating, ventilating, windows, louvers, and equipment;
- (d) location of floor drains outside inmate housing areas;
- (e) location and protection of lighting;
- (f) location and protection of fire-fighting equipment.

Control corridors and/or control areas for locating and protecting the controls for remote-operated doors should be provided where necessary. These areas are also for the purpose of providing safety and protection to operators of the equipment and for preventing unauthorized access to door controls.

.013. *Vermin Control.* Facility construction shall incorporate measures which protect against the entrance of vermin into the institution and breeding or presence of vermin on the premises and retention of objectionable odors in living areas. Choice of materials and construction design shall contribute to efficient maintenance and housekeeping.

.014. *Construction Materials.* Inmate living areas and day rooms shall be constructed of metal, masonry, concrete, or other comparable materials. The purpose of a particular wall or partition and the type of security sought to be achieved should determine the selection of appropriate materials.

.015. *Functions.* Space shall be allocated for, but not limited to, the following functions:

- (a) Inmate reception and holding (See 217.09; 217.12)
- (b) Inmate processing (See 217.09; 217.13)
- (c) Shakedown (See 217.10; 217.14)
- (d) Inmate detention (See 217.12; 217.14; 217.15; 217.18)
- (e) Adequate segregation of inmates (See 217.05; 217.07; 217.08; 217.09; 217.12)
- (f) Food service (See 217.07; 217.17)
- (g) Attorney interviews (See 217.09)
- (h) Storage (See 217.15; 217.16; 217.17)

- (i) Visiting (See 217.09)
- (j) Public areas (See 217.05)
- (k) Booking (See 217.09; 217.10; 217.11)
- (l) Identification (See 217.09)
- (m) Dressing in and out (See 217.09; 217.10)
- (n) Sally ports (See 217.12; 217.05;
- (o) Guard stations (See 217.14)
- (p) Line up (See 217.05)
- (q) Laundry (See 217.05; 217.09; 217.15)
- (r) Inmate programs and activities (See 217.19; 217.20; 217.21; 217.22)
- (s) Counseling (See 217.20)
- (t) Medical examination and treatment (See 217.05; 217.09; 217.13)
- (u) Jail administrative office(s) (See 217.05; 217.11; 217.12; 217.13; 217.14; 217.16)
- (v) Multipurpose rooms
- (w) Squad rooms (See 217.05)
- (x) Recreation and exercise

Space should be allocated for a kitchen, inmate commissary, and library if conditions warrant. It is permissible to use the same room or space allocation for more than one of the listed "functions" where such use will not deny any constitutional rights of inmates, custodial personnel, or the general public, and where such use will not impair the safety, security, sanitation, or segregation of the facility.

.016. Inmate Entrance. The inmate entrance shall be from the vehicular sally port through a safety vestibule into the processing area. This entrance shall allow for passage of a loaded ambulance cot between interlocking doors. The safety vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

.017. Processing Area. Jails shall have a processing area located inside the inmate occupied area, but away from the inmate living areas and day rooms. The processing area shall be designed to readily permit the booking, shakedown, identification, and dressing of inmates. A telephone shall be available for detainees to make the constitutionally recognized phone calls. Processing areas should be provided with drinking fountains and water closets.

.018. Kitchen. If food is to be prepared in the jail, a kitchen shall be provided. The kitchen shall be planned for efficient food preparation and receipt of supplies and storage. It shall be planned for removal of waste and garbage without seriously compromising the security of the facility.

.019. Kitchen Location. The kitchen shall be designed and located in the facility so it will not be used as a passageway for nonfood handling staff, persons not associated with kitchen or food handling assignments, or the public.

.020. Kitchen Operations. In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

(a) Issue areas. Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.

(b) Floor. The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.

(c) Ordinances. Kitchens shall comply with all state and local health ordinances. (See 217.04.010.)

(d) Light. Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.

(e) Ventilation. Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(f) Water. Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) Storage. Adequate storage requirements for all kitchen operations and needs shall be provided.

.021. Dining Space. Provisions may be made for group dining as well as segregated dining. Group dining should avoid concentrations of more than 24 inmates.

.022. Commissary. Space appropriate to capacity of the jail should be provided for an inmate commissary, or a written program shall be established for inmates to obtain supplies from nearby sources. (See Section 217.22.)

.023. Storage Area Capacities. Storage areas based upon facility capacity shall be provided as follows:

(a) For inmate property storage in jails, two cubic feet per inmate, excluding shelving, bins, and baskets.

(b) For inmate uniforms, towels, bedding, and linen: three cubic feet per inmate, excluding shelving, bins, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

(d) For evidence, adequate and secure storage of evidence shall be provided.

.024. Janitorial Storage Space. Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the jail shall be provided.

.025. Sinks. Sufficient mop sinks with hot and cold water shall be located to reduce excessive passage back and forth through the security perimeter during performance of janitorial service. Janitor closets and similar areas shall be provided with a lockable door.

.026. Faucets. Cold water faucets with standard hose connections shall be provided in plumbing access space or corridors.

.027. Visiting Areas. Visitor accommodations shall be designed to provide flexibility in the degree of physical security and supervision commensurate with security requirements of variously classified inmates. Means shall be provided for audible communication between visitors and inmates, designed to prevent passage of contraband where high and medium risk inmates are involved. Provisions shall be made for handicapped visitors. Additionally, a secure visiting area should be provided for contact visits from law en-

forcement officers, attorneys, clergy, and probation and parole officers.

.028. *Public Areas.* Public areas of the facility shall be located outside the security perimeter. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter the security perimeter. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions shall be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

.029. *Identification.* Space shall be provided for photographing, fingerprinting, and carrying out identification procedures for inmates.

.030. *Vehicular Sally Port.* A jail shall have a vehicular sally port located inside or abutting on the building so designed that inmates may board or disembark from a transportation vehicle inside. Space shall be sufficient to accommodate anticipated transportation vehicles, including buses, where applicable.

.031. *Guard Stations.* A guard station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

.032. *Guard Station Security.* Guard stations shall be locked and protected so as to be inaccessible to unauthorized persons. Where practical, a guard station should have a safe egress to a secure area.

.033. *Laundry Facilities.* A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with jail inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers. (See Section 217.15.) A water closet and lavatory should be provided nearby.

.034. *Emergency First Aid Storage.* Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

.035. *Medical Space and Equipment.* Space and equipment for medical examination, treatment, and convalescent care shall be provided in each jail, or a written program shall be established and implemented for medical care comparable to that available to the community where the jail is located. (See Section 217.13.)

.036. *Medical Supply Storage.* Adequate secure storage for medical supplies and drugs shall be provided.

.037. *Infirmary.*

(a) An infirmary is desirable and the construction of an infirmary should be considered for a jail having a capacity of 50 or more whenever it is anticipated that:

- (1) emergency services may have to be rendered frequently;
- (2) there is a high frequency of cases requiring recuperative or convalescent care;

(3) convalescent care cannot be provided by utilization of vacant single cells or dormitory units.

(b) *Infirmary components.* When an infirmary is constructed, the following minimum components shall be included:

- (1) nurses station;
- (2) locked medication station with storage for individually filled prescriptions;
- (3) utility room with sink and storage for nourishment, linen, and equipment;
- (4) utility room with double tub sink and clinical service sink with flushing rim;
- (5) 80 square feet of floor space per bed;
- (6) at least one single occupancy room or cell with 80 square feet of floor space;
- (7) doors, through which patients and equipment are to be moved, of adequate width to allow turning of wheeled chairs and tables normally used in medical facilities;
- (8) a lavatory with a gooseneck inlet and wrist controls accessible to each ward;
- (9) janitor closet;
- (10) water closet, lavatory, and shower for use of inmates in the infirmary;
- (11) additional elements as dictated by the health care program as required.

.038. *Administrative Space.* The jail shall provide sufficient space for administrative, program, and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

.039. *Multipurpose Rooms.* A jail shall have, in addition to any activity or day room area, one or more multipurpose rooms for group assembly of inmates. The multipurpose room(s) may be used for conferences, interrogation, contact visits, religious services, education, group counseling, or other special uses.

.040. *Squad Rooms.* Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel, and, if provided, shall be located outside the security perimeter. Consideration should also be given to including space for lounge areas and an education and training center.

.041. *Weapon Storage.* Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

.042. *Arsenal.* An arsenal and gun locker(s) for the issuance, storage, and care of weapons should be provided outside the security perimeter and shall be secure from access by unauthorized persons.

.043. *Exercise Area.* A secure exercise area shall be provided with all jails. This may be a rooftop exercise area, an outside exercise area, or included inside the jail.

.044. *Single Cells.* Single cells shall not be less than eight feet high from finished floor to ceiling and not less than five feet, six inches wide from wall to wall. They shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell. Single cells should

comprise at least 50 percent of the total inmate capacity of the facility, but in no event shall comprise less than 30 percent of the total capacity of the facility.

.045. Multiple-Occupancy Cells. Multiple-occupancy cells shall be constructed to accommodate two to eight inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates.

.046. Dormitories. Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates or increment thereof to be confined therein. Not more than 40 percent of the inmate capacity of the jail shall be designed for dormitories.

.047. Day Rooms. All inmate living areas except special purpose cells shall be provided with day rooms. Day rooms should be designed to accommodate not more than eight inmates, but shall not be designed to accommodate more than 24 inmates. It shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water available at all times for each group of eight inmates, or increment thereof, to be confined therein. A shower shall be available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room shall otherwise be suitably furnished with, but not limited to the following: seating and tables to accommodate the number of inmates to be confined therein, and may provide for visiting facilities, dining facilities, and other activities. Sufficient lighting shall be provided for reading, recreation, shaving, and other similar activities.

.048. Safety Vestibules. Safety vestibules shall be provided for each inmate living area and day room used for confinement of three or more inmates within the security perimeter.

(a) Safety vestibules shall have one or more interior doors and a main entrance door.

(b) All doors shall be arranged to be locked, unlocked, opened or closed by control means located outside of the inmate living area and safety vestibule.

.049. Remote Controls. Sliding doors, if used, for safety vestibules, dormitories, and day rooms shall be so arranged as to be locked, unlocked, opened to full-open position, and closed by control means located remote from the safety vestibule or inmate living area and day room. (See 217.24.)

.050. Emergency Operation of Doors. For emergency operation of all doors to single cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, reliable means shall be provided remote from the inmate living area for unlocking all cell doors. The reliable means should also provide for completely opening sliding cell doors. (See 217.24.)

.051. Dimensions. Single cells, separation cells, multiple-occupancy cells, dormitories, and day rooms shall be not less than eight feet from finished floor to ceiling. The minimum width dimension shall be not less than five feet six inches from wall to wall. Safety or inspection corridors shall be not less than four feet wide.

.052. Furnishings for Inmate Housing Areas.

(a) Bunks. A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined for more than 72 hours. Bunks shall be securely anchored and should have clothes hooks and shelves located nearby.

(b) Water closets and lavatories. Water closets and lavatories shall be constructed in such manner and of such material so as to resist vandalism. A combination toilet and lavatory constructed of vandal-resistant material is recommended.

(c) Showers. Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) Additional furnishings. Additional furnishings for single cells, multiple-occupancy cells and dormitories may include tables and seats (mandatory for single cells), lockers, mirrors, detention-type electric light fixtures, detention-type heating and ventilation grilles and showers. Where light fixtures or other appurtenances are recessed in or otherwise made an integral part of walls or ceilings, provisions should be made to prevent destruction or removal.

(e) Tables and seating. Tables and benches should be constructed of materials which will reduce maintenance. They shall be fire-resistive and securely anchored to floor or wall surfaces. Benches shall be not less than 12 inches wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) Shields. Toilet and shower modesty shields are not mandatory, except in holding areas. However, when provided they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

.053. Detoxification Cells. A jail shall provide one or more detoxification single cells, multiple-occupancy cells, or dormitories which shall be designed for detention of persons during the detoxification process only. These cells shall include the following features and equipment:

(a) Seating. The detoxification cell shall be equipped with stationary benches or bunks no higher than eight inches above the floor.

(b) Floor drain. The detoxification cell shall be provided with one or more vandal-resistive flushing floor drains. The floor shall be properly pitched to drains and drains shall have outside water shutoffs and controls. A water closet/lavatory/drinking fountain may be provided.

(c) Cell size. The size of detoxification cell shall be determined by the anticipated maximum number of persons received at any one time. A detoxification cell shall not accommodate more than 12 persons and shall have a minimum of 40 square feet of clear floor space for one person plus 18 square feet of clear floor space per additional person.

(d) The floor and wall materials shall be durable and easily cleaned.

(e) Supervision. The detoxification cell shall be constructed to facilitate supervision of the cell area and to materially reduce noise.

.054. Holding Rooms (or Cells). One or more holding rooms shall be provided to temporarily detain inmates pending booking, court appearance, identification, housing assignment, or discharge. Holding rooms shall include the following features and equipment:

(a) Floor areas. Minimum floor area of a holding room shall be 40 square feet (for single occupancy). For occupancy by more than one person, add a minimum of 18 square feet per additional person. The floor shall be constructed of material which is durable and easily cleaned.

(b) Seating. Seating shall be sufficient to provide not less than 24 linear inches per person at capacity.

(c) Plumbing. A vandal-resistive water closet and lavatory shall be provided for each eight inmates or increment thereof. Each holding room shall have at least one drinking fountain. Plumbing fixtures shall have outside water shutoffs and controls individually by cell. Permanent modesty shields shall be provided.

(d) Floor drains. A holding room shall have adequate floor drains.

.055. Separation Cells. A jail shall have one or more single-occupancy separation cells to temporarily house selected inmates for extended periods of time. Separation cells shall include the following features and equipment:

(a) Area. Separation cells shall contain a minimum of 40 square feet of clear floor space.

(b) Plumbing. Separation cells shall contain vandal-resistive water closet, lavatory, drinking fountain, and floor drain.

(c) Shower. Each separation cell shall contain a shower with outside shutoff and controls.

(d) Furnishings. Each separation cell shall have table, seating, mirror, bunk, and sufficient lighting to permit reading and shaving in the cell. Shelf and clothes hook may be provided.

.056. Violent Cells. A jail may have at least one and necessary additional single occupancy rooms or cells for temporary holding of violent persons or persons suspected of insanity. Violent cells shall include the following features and equipment:

(a) Size. The room or cell shall have not less than 40 square feet of clear floor space and a ceiling height of not less than eight feet.

(b) Furnishings. The cell shall be equipped with hammock, not less than two feet, three inches wide and six feet, three inches long, made of an elastic or fibrous fabric designed to minimize its use to inflict self injury. A shelf the length of the cell at least two feet, three inches wide and not more than eight inches above the floor covered with padding material identical to that of the floor may be used in lieu of the hammock. A flushing type floor drain with control outside the cell shall also be provided.

(c) Padding. Walls shall be completely padded to the ceiling and the floor shall be covered with a material to protect the inmate from self injury. The type of quality of materials used for padding and floor covering shall be designed to prevent self injury and have the capability of

being cleaned. It must be fire-resistive and nontoxic in accordance with Section 217.08.

.057. Lighting. Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living area. Light controls, conduit, and light fixtures shall be out of reach of inmates. Light fixtures should be designed and constructed so as to permit servicing from outside the cell, dormitory, or day room. Light switches which cannot be controlled from outside the inmate area should be key front type. Housing and control areas shall be variably illuminated at all times to permit continuous observation of inmates and to permit custodial personnel to perform necessary functions. Exteriors of buildings shall be lighted at night sufficiently to observe a person approaching the entrance.

.058. Detention Doors. Hollow metal doors shall be constructed of 12 to 14 gauge steel in security areas. Eighteen gauge hollow metal doors may be used in nonsecurity areas. Plate doors, where used, shall be constructed of material not less than three-sixteenths inch thick. Tool-resisting steel plate doors, where used, shall be constructed of material not less than one-fourth inch thick. Grating doors shall be constructed of the same type grillwork as the walls in which they are installed. Consideration shall be given in the design of all doors so that the direction of opening and the material of which these are constructed will not reduce or compromise the security sought to be achieved. Detention-type doors shall be equipped with detention-type hardware and accessories.

.059. Electro-Mechanical Locks. Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical control unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

.060. Keys. Keys for detention-type locks shall be heavy-duty and of a sufficient size to prevent easy concealment and/or unauthorized duplication.

.061. Key Locks. Where used, detention-type keyed locks shall be manufactured especially for detention use.

.062. Key Cabinets. Secured key cabinets should be provided at suitable locations.

.063. Hinges. Hinges for heavy-duty detention doors shall be heavy-duty ball-bearing type designed especially for such doors.

.064. Hand Pulls. Hand pulls shall be securely anchored to the door.

.065. Door Stops. Door stops shall be provided for detention-type doors so as to prevent accidental or purposeful injury to inmates or custodial personnel.

.066. Door Closers. Where used, door closers for all detention-type swinging doors shall be heavy-duty types.

.067. Windows and Screens. Operable windows shall be equipped with insect and/or security screens. Security level of window materials in inmate occupied areas shall be equal to or greater than perimeter walls of the inmate occupied

area to which windows might provide ingress or egress. Window and/or skylights should be provided.

.068. *Vision into Inmate Areas.* Architectural design shall preclude direct vision into inmate-occupied areas from the outside public.

.069. *Walls.* Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved. Open decorative grillwork may be used to facilitate ventilation, temperature control, observation, and audible communication. In all instances where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

.070. *Floors.* Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals. Where hollow metal, grillwork, or plate walls join the floor, their supports should be treated so as not to react to water or floor cleaning chemicals. Equally acceptable is a curb approximately three inches high provided underneath such walls.

.071. *Ceilings.* Ceilings should be constructed of material not easily damaged by vandalism.

.072. *Paint.* Washable paint may be used for untiled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

.073. *Emergency Access.* Multistory facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

.074. *Dropcords.* Dropcords or extension cords shall not be permitted within the security perimeter. Appliances must plug directly into a fixed wall receptacle.

.075. *Vent Grilles.* Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application. Vent grilles shall be securely welded or riveted to steel plate construction and securely anchored where used on concrete, masonry, or other construction.

.076. *Food Passes.* Where used, food passes should not be less than 15 inches wide and four and one-half inches high. Lockable shutters should be provided to prevent passage of contraband.

.077. *Observation Panels.* When used, observation panels shall provide a clear opening of not less than five inches by eight inches and be glazed with appropriate thickness security glass or equivalent. They should be provided with a shutter.

.078. *Mirrors.* Mirrors shall be constructed of unbreakable material.

.079. *Electrical Power.* Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, a jail shall have sufficient electrical outlets for heated food carts if heated food carts are to be used in food service. If electrical appliances shall be permitted in cells or day rooms, fixed wall receptacles shall be furnished.

.080. *Emergency Electrical Power.* An emergency electrical power system for quick recovery to maintain essential services, security, and safety shall be provided to meet the life safety requirements. (See 217.08.) Such systems shall be tested operationally not less than monthly, and a record kept of this testing.

.081. *Temperature Level.* All mechanical equipment for heating, cooling, or air movement shall be designed to provide a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

.082. *Air Flow.* Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

.083. *Plumbing and Drainage.* Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, shower, and lavatories used by high-risk inmates shall be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. All plumbing to inmate areas shall have a quick shutoff valve or other approved means to prevent flooding.

.084. *Flooding Protection.* Floor drains in inmate housing areas shall be located to reduce the incidence of malicious tampering and flooding. Where practical, a drain shall be located in security corridors and not inside cells or day rooms. Drain covers shall be securely anchored with vandal-proof screws to prevent inmates from using them as assault weapons.

.085. *Access Doors.* Plumbing space, or any other mechanical space, shall have a lockable access door.

.086. *Maintenance.* Maintenance of detention equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor of such equipment.

.087. *Inmate Maintenance Prohibited.* Maintenance of locking systems and other security detention devices shall not be performed by inmates.

Doc. No. 781597

New Lockup Design, Construction, and Furnishing Requirements 217.05.03

This subchapter will pertain specifically to new lockup construction.

This adoption is made under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Lockup Site.* The site should be of sufficient size to provide for the immediate facility and a reasonable projected

expansion. A buffer zone around the building is desirable. Where practical, the separate lockup facility should be in near proximity to or connected to local courthouse by a secure means of pedestrian passage.

.002. *Lockup Operation Concept.* Unlike a state or federal prison, where only sentenced and classified persons are received, processed, detained, and released on a scheduled basis, a county lockup must be planned to receive unclassified persons, hold persons who are not tried or convicted, and allow for receiving, processing, transportation, or release of persons at all times. Design and construction of a lockup and personnel assigned to it must permit efficient and secure performance of this type of operation if the best interests of the community and the inmates are to be served.

.003. *Lockup Security Requirements.* Lockup security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes.

.004. *Special Security.* A lockup shall be designed and maintained as a special security unit. When built in conjunction with other governmental functions, the integrity of the security perimeter shall not be compromised.

.005. *Public Building.* A lockup of more than 20 inmate capacity shall not be located under, in, or on top of another building which has not been designed for security purposes. This does not preclude the redesign and renovation of existing structures, not originally built for security purposes.

.006. *Inmate Movement into and out of Lockup.* Construction should provide for movement of an inmate or detainee into and out of the lockup being accomplished without unduly exposing the individual to contact with the public, avoiding the use of public corridors, public elevators, and other areas frequented by the public. Where possible, the same security should be provided in the courts building for movement of inmates to and from the court.

.007. *Inmate Movement inside Lockup.* The design shall provide for the orderly flow of traffic through strategically located corridors or areas, eliminating all unnecessary cross traffic and undesirable contacts between differently classified types of inmates.

.008. *Segregation.* Lockup design shall provide adequate segregation facilities for segregation of different classifications of inmates, in accordance with the facility classification plan. (See 217.12.)

.009. *Audible Communication.* Provision shall be made for voice communication between inmates and custodial personnel at all times.

.010. *Monitoring System.* Security areas may have an electronic monitoring system built in to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001.)

.011. *Television Monitoring.* Where closed-circuit television is not included but is planned or anticipated, space and conduits should be provided so that the equipment can be installed without need for alteration of the physical plant.

.012. *Control Areas.* Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;

- (b) inspection of housing areas;
- (c) control and protection of heating, ventilating, windows, louvers, and equipment;
- (d) location of floor drains outside inmate housing areas;
- (e) location and protection of lighting;
- (f) location and protection of fire-fighting equipment.

Control corridors and/or control areas for locating and protecting the controls for remote-operated doors should be provided where necessary. These areas are also for the purpose of providing safety and protection to operators of the equipment and for preventing unauthorized access to door controls.

.013. *Vermin Control.* Facility construction shall incorporate measures which protect against the entrance of vermin into the institution and breeding or presence of vermin on the premises and retention of objectionable odors in living areas. Choice of materials and construction design shall contribute to efficient maintenance and housekeeping.

.014. *Construction Materials.* Inmate living areas and day rooms shall be constructed of metal, masonry, concrete, or other comparable materials. The purpose of a particular wall or partition and the type of security sought to be achieved should determine the selection of appropriate materials.

.015. *Lockup Facilities.* A lockup shall consist of one or more single cells and may include multiple-occupancy cells, or dormitories, for the temporary custody of inmate (not to exceed 72 hours) awaiting court appearance or transfer to jail. It shall be of a size sufficient to accommodate the needs of its daily operation. Food for inmates may be prepared in other than a lockup kitchen, but shall be in the amount prescribed by rules governing jails. Space shall be allocated for, but not limited to, the following functions:

- (a) Inmate reception and holding (See 217.09; 217.12)
- (b) Inmate processing (See 217.09; 217.13)
- (c) Shakedown (See 217.10; 217.14)
- (d) Inmate detention (See 217.12; 217.14; 217.15; 217.18)
- (e) Adequate segregation of inmates (See 217.05; 217.07; 217.08; 217.09; 217.12)
- (f) Food service (See 217.07; 217.17)
- (g) Attorney interviews or conference area (See 217.09)
- (h) Storage (See 217.15; 217.16; 217.17)
- (i) Visiting (See 217.09)
- (j) Public areas (See 217.05)
- (k) Booking (See 217.09; 217.10; 217.11)
- (l) Identification (See 217.09)
- (m) Dressing in and out (See 217.09; 217.10)
- (n) Guard stations (See 217.14)
- (o) Line up
- (p) Lockup administration

Space should be allocated for a kitchen, inmate commissary, and sally port if conditions warrant. It is permissible to use the same room or space allocation for more than one of the listed "functions" where such use will not deny any constitutional rights of inmates, custodial personnel, or the general public, and where such use will not impair the safety, security, sanitation, or segregation of the facility.

.016. *Inmate Entrance.* The inmate entrance should be through a safety vestibule into the processing area. This

entrance shall allow for passage of a loaded ambulance cot between interlocking doors. The safety vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

.017. *Processing Areas.* Lockups shall have a processing area located inside the inmate occupied area, but away from the inmate living areas and day rooms. The processing area shall be designed to readily permit the booking, shakedown, identification, and dressing in and out of inmates. A telephone shall be available for detainees to make the constitutionally recognized phone calls. Processing areas should be provided with drinking fountains and water closets.

.018. *Kitchen.* If food is to be prepared in the lockup, the kitchen shall be provided. The kitchen shall be planned for efficient food preparation, and receipt of supplies and storage. It shall be planned for removal of waste and garbage without seriously compromising the security of the facility.

.019. *Kitchen Location.* The kitchen shall be designed and located in the facility so it will not be used as a passageway for nonfood-handling staff, persons not associated with kitchen or food handling assignments, or the public.

.020. *Kitchen Operations.* In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

(a) *Issue areas.* Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.

(b) *Floor.* The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.

(c) *Ordinances.* Kitchens shall comply with all state and local health ordinances. (See 217.04.010.)

(d) *Light.* Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.

(e) *Ventilation.* Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(f) *Water.* Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) *Storage.* Adequate storage requirements for all kitchen operations and needs shall be provided.

.021. *Dining Space.* Provisions may be made for group dining as well as segregated dining. Group dining should avoid concentrations of more than 24 inmates.

.022. *Commissary.* Space appropriate to capacity of the lockup should be provided for an inmate commissary, or a written program established for inmates to obtain supplies from a nearby store. (See Section 217.22.)

.023. *Storage Area Capacities.* Storage areas based upon facility capacity shall be provided as follows:

(a) For inmate property storage in lockups, two cubic feet per inmate, excluding shelving, bins, and baskets.

(b) For inmate uniforms, towels, and bedding and linen: three cubic feet per inmate, excluding shelving, bins, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

(d) For evidence, adequate and secure storage shall be provided.

.024. *Janitorial Storage Space.* Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the lockup shall be provided.

.025. *Sinks.* Sufficient mop sinks with hot and cold water shall be located to reduce excessive passage back and forth through the security perimeter during performance of janitorial service. Janitor closets and similar areas shall be provided with a lockable door.

.026. *Faucets.* Cold water faucets with standard hose connections shall be provided in plumbing access space or corridors.

.027. *Visiting Areas.* Visitor accommodations shall be designed to provide flexibility in the degree of physical security and supervision commensurate with security requirements of variously classified inmates. Means shall be provided for audible communication between visitors and inmates, designed to prevent passage of contraband where high and medium risk inmates are involved. Additionally, a secure visiting area or conference room should be provided for contact visits from law enforcement officers, attorneys, clergy, and probation and parole officers.

.028. *Public Areas.* Public areas of the facility shall be located outside the security perimeter. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter the security perimeter. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions shall be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

.029. *Identification.* Space shall be provided for photographing, fingerprinting, and carrying out identification procedures for inmates.

.030. *Vehicular Sally Port.* A lockup may have a vehicular sally port located inside or abutting on the building so designed that inmates may board or disembark from a transportation vehicle inside. Space shall be sufficient to accommodate anticipated transportation vehicles, including buses, where applicable.

.031. *Guard Stations.* A guard station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

.032. *Guard Station Security.* Guard stations shall be locked and protected so as to be inaccessible to unauthorized persons. Where practical, a guard station should have a safe egress to a secure area.

.033. Laundry Facilities. A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with lockup inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers. (See Section 217.15.) A water closet, lavatory should be provided nearby.

.034. Emergency First Aid Storage. Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

.035. Medical Supply Storage. Adequate secure storage for medical supplies and drugs shall be provided.

.036. Administrative Space. The lockup shall provide sufficient space for administrative, program, and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

.037. Squad Rooms. Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel, and, if provided, shall be located outside the security perimeter.

.038. Weapon Storage. Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

.039. Arsenal. An arsenal and gun locker(s) for the issuance, storage, and care of weapons should be provided outside the security perimeter and shall be secure from access by unauthorized persons.

.040. Single Cells. Single cells shall not be less than eight feet high from finished floor to ceiling and not less than five feet, six inches wide from wall to wall. They shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell.

.041. Multiple-Occupancy Cells. Multiple-occupancy cells shall be constructed to accommodate two to eight inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of eight inmates. Table and seating will be provided therein unless otherwise provided for in day rooms.

.042. Dormitories. Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of eight inmates or increment thereof to be confined therein. Table and seating will be provided therein unless otherwise provided for in day rooms.

.043. Day Rooms. Inmate living areas except special purpose cells may be provided with day rooms. Day rooms should

be designed to accommodate not more than eight inmates, but shall not be designed to accommodate more than 24 inmates. It shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water available at all times for each group of eight inmates, or increment thereof, to be confined therein. A shower shall be available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room shall otherwise be suitably furnished with, but not limited to the following: tables and seating to accommodate the number of inmates to be confined therein, and may provide for visiting facilities and other activities. Sufficient lighting shall be provided for reading, recreation, shaving, and other similar activities.

.044. Safety Vestibules. Safety vestibules may be provided for each inmate living area and day room used for confinement of three or more inmates within the security perimeter.

(a) Safety vestibules shall have one or more interior doors and a main entrance door.

(b) All doors shall be arranged to be locked, unlocked, opened, or closed by control means located outside of the inmate living area and safety vestibule.

.045. Remote Controls. Sliding doors, if used, for safety vestibules, dormitories, and day rooms shall be so arranged as to be locked, unlocked, opened to full-open position, and closed by control means located remote from the safety vestibule or inmate living area and day room. (See 217.24.)

.046. Emergency Operation of Doors. For emergency operation of all doors to single cells, separation cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, reliable means shall be provided remote from the inmate living area for unlocking all cell doors. The reliable means should also provide for completely opening sliding cell doors. (See 217.24.)

.047. Dimensions. Single cells, multiple-occupancy cells, dormitories and day rooms shall be not less than eight feet from finished floor to ceiling and not less than five feet, six inches from wall to wall. Safety or inspection corridors shall be not less than four feet wide.

.048. Furnishings for Inmate Housing Areas.

(a) **Bunks.** A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined for more than 72 hours. Bunks shall be securely anchored and should have clothes hooks and shelves located nearby.

(b) **Water closets and lavatories.** Water closets and lavatories shall be constructed in such manner and of material so as to resist vandalism. A combination toilet and lavatory constructed of vandal-resistive material is recommended.

(c) **Showers.** Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) **Additional furnishings.** Additional furnishings for single cells, multiple-occupancy cells, and dormitories may

include tables and seating (mandatory for single cells), lockers, mirrors, detention-type electric light fixtures, detention-type heating and ventilation grilles, and showers. Where light fixtures or other appurtenances are recessed in or otherwise made an integral part of walls or ceilings, provisions should be made to prevent destruction or removal.

(e) Tables and seating. Tables and seating should be constructed of materials which will reduce maintenance. They shall be fire-resistive and securely anchored to floor or wall surfaces. Benches shall be not less than 12 inches wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) Shields. Toilet and shower modesty shields are not mandatory, except in holding areas. However, when provided they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

.049. Detoxification Cells. A lockup shall provide one or more detoxification single cells, multiple-occupancy cells, or dormitories which shall be designed for detention of persons during the detoxification process only. These cells shall include the following features and equipment:

(a) Seating. The detoxification cell shall be equipped with stationary benches or bunks no higher than eight inches above the floor.

(b) Floor drain. The detoxification cell shall be provided with one or more vandal-resistive flushing floor drains. The floor shall be properly pitched to drains and drains shall have outside water shutoffs and controls. A water closet/lavatory/drinking fountain may be provided.

(c) Cell size. The size of detoxification cell shall be determined by the anticipated maximum number of persons received at any one time. A detoxification cell shall not accommodate more than 12 persons and shall have a minimum of 40 square feet of clear floor space for one person plus 18 square feet of clear floor space per additional person.

(d) The floor and wall materials shall be durable and easily cleaned.

(e) Supervision. The detoxification cell shall be constructed to facilitate supervision of the cell area and to materially reduce noise.

.050. Holding Rooms (or Cells). One or more holding rooms may be provided to temporarily detain inmates pending booking, court appearance, identification, housing assignment, or discharge. Holding rooms shall include the following features and equipment:

(a) Floor areas. Minimum floor area of a holding room shall be 40 square feet (for single occupancy). For occupancy by more than one person, add a minimum of 18 square feet per additional person. The floor shall be constructed of material which is durable and easily cleaned.

(b) Seating. Seating shall be sufficient to provide not less than 24 linear inches per person at capacity.

(c) Plumbing. A vandal-resistive water closet and lavatory shall be provided for each eight inmates or increment thereof. Each holding room shall have at least one drinking fountain. Plumbing fixtures shall have outside water shutoffs and controls individually by cell. Permanent modesty shields shall be provided.

(d) Floor drains. A holding room shall have adequate floor drains.

.051. Separation Cells. A lockup may have one or more single-occupancy separation cells to temporarily house selected inmates for required periods of time. Separation cells shall include the following features and equipment:

(a) Area. Separation cells shall contain a minimum of 40 square feet of clear floor space.

(b) Plumbing. Separation cells shall contain vandal-resistive water closet, lavatory, drinking fountain, and floor drain.

(c) Shower. Each separation cell shall contain a shower with outside shutoff and controls.

(d) Furnishings. Each separation cell shall have table, seating, mirror, bunk, and appropriate lighting to permit reading and shaving in the cell. Shelf and clothes hooks may be provided.

.052. Lighting. Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living area. Light controls, conduit, and light fixtures shall be out of reach of inmates. Light fixtures should be designed and constructed so as to permit servicing from outside the cell, dormitory, or day room. Receptacles which cannot be controlled from outside the inmate area should be key front type. Housing and control areas shall be sufficiently illuminated at all times to permit continuous observation of inmates and to permit custodial personnel to perform necessary functions. Building entrances shall be lighted at night.

.053. Detention Doors. Hollow metal doors shall be constructed of 12 to 14 gauge steel in security areas. Eighteen gauge hollow metal doors may be used in nonsecurity areas. Plate doors, where used, shall be constructed of material not less than three-sixteenths inch thick. Tool-resisting steel plate doors, where used, shall be constructed of material not less than one-fourth inch thick. Grating doors shall be constructed of the same type grillwork as the walls in which they are installed. Consideration shall be given in the design of all doors so that the direction of opening and the material of which these are constructed will not reduce or compromise the security sought to be achieved. Detention-type doors shall be equipped with detention-type hardware and accessories.

.054. Electro-Mechanical Locks. Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical control unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

.055. Keys. Keys for detention-type locks shall be heavy-duty and of a sufficient size to prevent easy concealment and/or unauthorized duplication.

.056. Key Locks. Where used, detention-type keyed locks shall be manufactured especially for detention use.

.057. Key Cabinets. Secured key cabinets should be provided at suitable locations.

.058. Hinges. Hinges for heavy-duty detention doors shall be heavy-duty ball-bearing type designed especially for such doors.

.059. *Hand Pulls.* Hand pulls shall be securely anchored to the door.

.060. *Door Stops.* Door stops shall be provided for detention-type doors so as to prevent accidental or purposeful injury to inmates or custodial personnel.

.061. *Door Closers.* Where used, door closers for all detention-type swinging doors shall be heavy-duty types.

.062. *Windows and Screens.* Operable windows shall be equipped with insect and/or security screens. Security level of window materials in inmate-occupied areas shall be equal to or greater than perimeter walls of the inmate-occupied area to which windows might provide ingress or egress. Window and/or skylights should be provided.

.063. *Vision into Inmate Areas.* Architectural design shall preclude direct vision into inmate-occupied areas from the outside public.

.064. *Walls.* Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved. Open decorative grillwork may be used to facilitate ventilation, temperature control, observation, and audible communication. In all instances where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

.065. *Floors.* Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals. Where hollow metal, grillwork, or plate walls join the floor, their supports should be treated so as not to react to water or floor cleaning chemicals. Equally acceptable is a curb approximately three inches high provided underneath such walls.

.066. *Ceilings.* Ceilings should be constructed of material not easily damaged by vandalism.

.067. *Paint.* Washable paint may be used for untilled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

.068. *Emergency Access.* Multistory facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

.069. *Dropcords.* Dropcords or extension cords shall not be permitted within the security perimeter. Appliances must plug directly into a fixed wall receptacle.

.070. *Vent Grilles.* Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application. Vent grilles shall be securely welded or riveted to steel plate construction and securely anchored where used on concrete, masonry, or other construction.

.071. *Food Passes.* Where used, food passes should not be less than 15 inches wide and four and one-half inches high. Lockable shutters should be provided to prevent passage of contraband.

.072. *Observation Panels.* When used, observation panels shall provide a clear opening of not less than five inches by

eight inches and be glazed with appropriate thickness security glass or equivalent. They should be provided with a shutter.

.073. *Mirrors.* Mirrors shall be constructed of unbreakable material.

.074. *Electrical Power.* Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, a lockup shall have sufficient electrical outlets for heated food carts if heated food carts are to be used in food service. If electrical appliances shall be permitted in cells and day rooms, fixed wall receptacles shall be furnished.

.075. *Emergency Electrical Power.* An emergency electrical power system for quick recovery to maintain essential services, security, and safety shall be provided to meet the life safety requirements. (See 217.08.) Such a system shall be tested operationally not less than monthly, and a record kept of this testing.

.076. *Temperature Level.* All mechanical equipment for heating, cooling, or air movement shall be designed to provide a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

.077. *Air Flow.* Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

.078. *Plumbing and Drainage.* Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, showers, and lavatories used by high-risk inmates shall be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. All plumbing to inmate areas shall have a quick shutoff valve or other approved means to prevent flooding.

.079. *Flooding Protection.* Floor drains in inmate housing areas shall be located to reduce the incidence of malicious tampering and flooding. Where practical, a drain shall be located in security corridors and not inside cells or day rooms. Drain covers shall be securely anchored with vandal-proof screws to prevent inmates from using them as assault weapons.

.080. *Access Doors.* Plumbing space, or any other mechanical space, shall have a lockable access door.

.081. *Maintenance.* Maintenance of detention equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor.

.082. *Inmate Maintenance Prohibited.* Maintenance of locking systems and other security detention devices shall not be performed by inmates.

Doc. No. 781598

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

This subchapter will pertain specifically to new low-risk facility construction.

This adoption is made under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Low-Risk Facility Site.* The site should be of sufficient size to provide for the immediate facility and a reasonable projected expansion. A buffer zone around the building is desirable.

.002. *Low-Risk Facility Operation Concept.* Inmates housed in the low-risk facility shall be male or female inmates sentenced to work release, school release, or weekend detention programs or inmates who require minimal supervision. Unlike a jail or lockup, a low-risk facility does not require a security perimeter. It does, however, require segregation of male and female inmates.

.003. *Low-Risk Facility Security Requirements.* Low-Risk facility security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes; however, the stringent security measure of jails and lockups are not required.

.004. *Special Security.* A low-risk facility need not be designed and maintained as a special security unit. When built in conjunction with other jail or lockup functions, the integrity of the security perimeter of the higher facility shall not be compromised.

.005. *Public Building.* A low-risk facility may be located under, in, or on top of another building which has not been designed for security purposes.

.006. *Inmate Movement Into and Out of Low-Risk Facility.* Construction should provide for movement of an inmate into and out of the facility without unduly exposing the individual to contact with the public.

.007. *Segregation.* Low-risk facility design shall provide adequate male-female segregation facilities in accordance with the facility classification plan. (See 217.12.) Additional segregation is not required since all inmates will have the same classification.

.008. *Audible Communication.* Provision shall be made for voice communication between inmates and custodial personnel at all times.

.009. *Monitoring System.* An electronic monitoring system may be built in to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001.)

.010. *Television Monitoring.* Where closed-circuit television is not included but is planned or anticipated, space and conduits should be provided so that the equipment can be installed without need for alteration of the physical plant.

.011. *Control Areas.* Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;
- (b) inspection of housing areas;
- (c) control and protection of heating and ventilating equipment;
- (d) location and protection of security lighting;
- (e) location and protection of fire-fighting equipment.

.012. *Construction Materials.* Inmate living areas and day rooms may be constructed of conventional construction materials.

.013. *Low-Risk Facilities.* A low-risk facility shall consist of single cells (rooms) or multiple occupancy cells (rooms) or dormitories for the custody of inmates who are considered to be not dangerous or likely to escape and who may be involved in some type of "release" program. It shall be of sufficient size to accommodate the needs of its daily operation. Minimum dimensions and areas for housing and activity space shall be allocated for, but not limited to the following functions:

- (a) inmate reception;
- (b) inmate detention;
- (c) food service;
- (d) administration;
- (e) storage;
- (f) visiting;
- (g) public areas;
- (h) guard stations;
- (i) laundry;
- (j) inmate programs and activities, counseling and interviews;
- (k) counseling;
- (l) medical examination;
- (m) multipurpose rooms;
- (n) squad rooms;
- (o) recreation and exercise.

Space should be allocated for a kitchen, inmate commissary, and library if conditions warrant. It is permissible to use the same rooms or space allocation for more than one of the listed "functions" where such use will not deny any constitutional right of inmates, custodial personnel, or the general public, and where such use will not impair the safety, security, or sanitation of the facility.

.014. *Inmate Entrance.* The inmate entrance may be through a conventional vestibule into the receiving area. This entrance shall allow for passage of a loaded ambulance cot. The vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

.015. *Inmate Reception.* Low-risk facilities shall have a receiving area. The receiving area shall be designed to readily permit the administrative processing of inmates. Receiving areas should be provided with drinking fountains and water closets.

.016. *Kitchen.* If food is to be prepared in the low-risk facility, a kitchen shall be provided. The kitchen shall be planned for efficient food preparation and receipt of supplies and storage.

.017. Kitchen Location. The kitchen shall be designed and located in the facility so it will not be used as a passageway for nonfood handling staff, persons not associated with kitchen or food handling assignments, or the public.

.018. Kitchen Operations. In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

(a) **Issue areas.** Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.

(b) **Floor.** The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.

(c) **Ordinances.** Kitchens shall comply with all state and local health ordinances. (See 217.04.010.)

(d) **Light.** Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.

(e) **Ventilation.** Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(f) **Water.** Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) **Storage.** Adequate storage requirements for all kitchen operations and needs shall be provided.

.019. Dining Space. Provisions may be made for group dining. Group dining need not avoid concentrations of more than 24 inmates.

.020. Commissary. Space appropriate to capacity of the facility should be provided for an inmate commissary, or a written program established for inmates to obtain supplies from a nearby store. (See Section 217.22.)

.021. Storage Area Capacities. Storage areas based upon facility capacity shall be provided as follows:

(a) For inmate property storage, four cubic feet per inmate, excluding shelving, bins, and baskets, unless personal property will be maintained in another facility.

(b) For inmate uniforms, towels, bedding, and linen: three cubic feet per inmate, excluding shelving, bins, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

.022. Janitorial Storage Space. Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the facility shall be provided.

.023. Sinks. Sufficient mop sinks with hot and cold water shall be located throughout the facility. Janitor closets and similar areas shall be provided with a lockable door.

.024. Faucets. Cold water faucets with standard hose connections shall be provided in plumbing access space or corridors.

.025. Visiting Areas. Visitor accommodations shall be provided. Contact visiting may be appropriate but is optional. Provisions shall be made for handicapped visitors.

.026. Public Areas. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter inmate areas. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions shall be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

.027. Guard Stations. A guard station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

.028. Laundry Facilities. A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers. (See Section 217.15.) A water closet/lavatory should be available at all times.

.029. Exercise Area. An exercise area shall be provided. This may be a rooftop exercise area, an outside exercise area, or included inside the facility.

.030. Emergency First Aid Storage. Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

.031. Medical Space and Equipment. Space and equipment for medical examination, treatment, and convalescent care shall be provided in each facility, or a written program shall be established and implemented for medical care comparable to that available to the community where the facility is located. (See Section 217.13.)

.032. Medical Supply Storage. Adequate secure storage for medical supplies and drugs shall be provided.

.033. Infirmary.

(a) An infirmary is desirable and the construction of an infirmary should be considered for a low-risk facility having a capacity of 50 or more whenever it is anticipated that:

(1) emergency services may have to be rendered frequently;

(2) there is a high frequency of cases requiring recuperative or convalescent care;

(3) convalescent care cannot be provided by utilization of vacant single cells or dormitory units.

(b) Infirmary components. When an infirmary is constructed, the following minimum components shall be included:

(1) nurses station;

(2) locked medication station with storage for individually filled prescriptions;

- (3) utility room with sink and storage for nourishment, linen, and equipment;
- (4) utility room with double tub sink and clinical service sink with flushing rim;
- (5) 80 square feet of floor space per bed;
- (6) at least one single-occupancy room or cell with 80 square feet of floor space;
- (7) doors, through which patients and equipment are to be moved, of adequate width to allow turning of wheeled chairs and tables normally used in medical facilities;
- (8) a lavatory with a gooseneck inlet and wrist controls accessible to each ward;
- (9) janitor closet;
- (10) water closet, lavatory, and shower for use of inmates in the infirmary;

.034. Administrative Space. The facility shall provide sufficient space for administrative, program, and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

.035. Multipurpose Rooms. A low-risk facility shall have, in addition to any activity or day room area, one or more multipurpose rooms for group assembly of inmates. The multipurpose room may be used for conferences, interrogations, contact visits, religious services, education, group counseling, or other special uses.

.036. Squad Rooms. Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel.

.037. Weapon Storage. Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

.038. Single Cells. Single cells, if used, shall not be less than eight feet high from finished floor to ceiling and not less than five feet, six inches wide from wall to wall. They shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell.

.039. Multiple-Occupancy Cells. Multiple-occupancy cells shall be constructed to accommodate two to eight inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates.

.040. Dormitories. Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory (capable of providing drinking water) for each group of eight inmates or increment thereof to be confined therein. More than 40 percent of the inmate capacity of the low-risk facility may be designed for dormitories.

.041. Day Rooms. All inmate living areas shall be provided with day rooms. Day rooms should be designed to accommodate not more than eight inmates, but shall not be

designed to accommodate more than 24 inmates. It shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water available at all times for each group of eight inmates, or increment thereof, to be confined therein. A shower shall be available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room shall otherwise be suitably furnished with, but not limited to the following: seating and tables to accommodate the number of inmates to be confined therein, and may provide for visiting facilities, dining facilities, and other activities. Sufficient lighting shall be provided for reading, recreation, and other similar activities.

.042. Remote Controls. Sliding doors, if used, shall be so arranged as to be locked, unlocked, opened to full-open position, and closed by control means located remote from the inmate area. (See 217.24.)

.043. Emergency Operation of Doors. For emergency operation of all doors to single cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, reliable means should be provided remote from the inmate living area for unlocking all cell doors. The reliable means should also provide for completely opening sliding cell doors. (See 217.24.)

.044. Dimensions. Single cells, multiple-occupancy cells, dormitories, and day rooms shall be not less than eight feet from finished floor to ceiling and shall be not less than five feet, six inches from wall to wall. Safety or inspection corridors shall be not less than four feet wide.

.045. Furnishings for Inmate Housing Areas.

(a) *Bunks.* A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined. Bunks should have clothes hooks and shelves located nearby.

(b) *Water closets and lavatories.* Water closets and lavatories need not be vandal resistive.

(c) *Showers.* Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) *Additional furnishings.* Additional furnishings for single cells, multiple-occupancy cells, and dormitories may include tables and seating (mandatory for single cells), lockers, mirrors, light fixtures, and showers.

(e) *Tables and seating.* Tables and seating should be constructed of materials which will reduce maintenance. They shall be fire-resistive. Benches shall be not less than 12 inches wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) *Shields.* Toilet and shower modesty shields are not mandatory. However, when provided they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

.046. Lighting. Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living

area. Exteriors of buildings shall be lighted at night sufficiently to observe a person approaching the entrance.

.047. *Doors.* Doors may be of any material commensurate with the degree of security sought. Doors shall be equipped with appropriate hardware and accessories to achieve the degree of security sought.

.048. *Electro-Mechanical Locks.* Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical control unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

.049. *Key Locks.* Conventional locks may be used in lieu of detention-type locks.

.050. *Keys.* Conventional type keys may be used in lieu of detention keys.

.051. *Key Cabinets.* Secured key cabinets should be provided at suitable locations.

.052. *Hinges.* Hinges for doors need not be heavy-duty ball-bearing type but shall be adequate for the weight of the door.

.053. *Hand Pulls.* Hand pulls shall be securely anchored to the door.

.054. *Door Stops.* Door stops shall be provided for doors so as to prevent accidental or purposeful injury to inmates or custodial personnel.

.055. *Door Closers.* Where used, door closers for all swinging doors shall be appropriate to the weight of the door.

.056. *Windows and Screens.* Operable windows shall be equipped with insect screens. Window and/or skylights should be provided. Window area shall be commensurate with the architectural expression of the facility, its location, and other related factors.

.057. *Vision into Inmate Areas.* Architectural design shall preclude direct vision into inmate-occupied areas from the outside public.

.058. *Walls.* Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved.

.059. *Floors.* Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals. In all instances where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

.060. *Ceilings.* Ceilings should be constructed of material not easily damaged by vandalism.

.061. *Paint.* Washable paint may be used for untilled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

.062. *Emergency Access.* Multistory facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

.063. *Dropcords.* Dropcords or extension cords shall not be permitted within the facility. Appliances must plug directly into a fixed wall receptacle.

.064. *Vent Grilles.* Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application.

.065. *Observation Panels.* When used, observation panels shall provide a clear opening of not less than five inches by eight inches and be glazed with appropriate thickness security glass or equivalent.

.066. *Mirrors.* Mirrors need not be constructed of unbreakable material.

.067. *Electrical Power.* Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, the facility shall have sufficient electrical outlets for heated food carts if heated food carts are to be used in food service. If electrical appliances will be permitted in cells and day rooms, fixed wall receptacles shall be furnished.

.068. *Emergency Electrical Power.* An emergency electrical power system for quick recovery to maintain essential services, security, and safety shall be provided to meet the life safety requirements. (See 217.08.) Such systems shall be tested operationally monthly and a record kept of this testing.

.069. *Temperature Level.* All mechanical equipment for heating, cooling, or air movement shall be designed to provide a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

.070. *Air Flow.* Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

.071. *Plumbing and Drainage.* Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, shower, and lavatories need not be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. Plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

.072. *Access Doors.* Plumbing space, or any other mechanical space, shall have a lockable access door.

.073. *Maintenance.* Maintenance of detention equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor of such equipment.

.074. Inmate Maintenance Prohibited. Maintenance of locking systems and other security detention devices shall not be performed by inmates.

Doc. No. 781599

Inmate Housing 217.06.00

The Texas Commission on Jail Standards has adopted the repeal of Chapter 217.06.00, Inmate Housing. The proposed repeal was published in the January 6, 1978, issue of the *Texas Register* (3 TexReg 55). The repeal was proposed and is adopted because the substance of Inmate Housing rules was incorporated into revisions of Chapters 217.05.00, New Construction, and 217.07.00, Existing Facilities.

Pursuant to the authority of Article 5115.1, Texas Civil Statutes, the Texas Commission on Jail Standards has repealed Chapter 217.06.00, Inmate Housing.

Doc. No. 781601

Existing Facilities 217.07.00

The Texas Commission on Jail Standards has adopted the repeal of Chapter 217.07.00, Existing Facilities. The proposed repeal was published in the January 6, 1978, issue of the *Texas Register* (3 TexReg 55-56). The repeal was proposed and adopted because a revised version of Existing Facilities rules, which incorporates pertinent substance of Inmate Housing rules, which in turn resulted in extensive changes in format and numbering, has been proposed and adopted.

Pursuant to the authority of Article 5115.1, Texas Civil Statutes, the Texas Commission on Jail Standards has repealed Chapter 217.07.00, Existing Facilities.

Doc. No. 781602

The Texas Commission on Jail Standards adopts Rules 217.07.01.001-.088, 217.07.02.001-.083, and 217.07.03.001-.075, Existing Facilities Rules. These rules include some pertinent substance which was previously in 217.06, Inmate Housing Rules. The combining of these chapters will be discussed in terms of the three normal county incarceration facilities, *i.e.*, jails, lockups, and low-risk facilities. The purpose of this adoption is to make easier the use of the rules by sheriffs, custodial personnel, and architects and to clarify previous ambiguities.

The change will save money for counties as several items of design or equipment which previously were mandatory are to become optional. There will be no additional cost involved in enforcing these rules.

Existing Jail Design, Construction, and Furnishing Requirements 217.07.01

This subchapter will pertain specifically to existing jail construction.

This adoption is made under the authority of Article 5115.1, Texas Civil Statutes.

.001. Design Concepts. The facility shall be structurally sound, fire-resistive, and not connected to a building that is not fire-resistive and shall provide adequate security and safety by having single and multiple-occupancy cells, dormitories, and day rooms of varying dimensions and capacities for inmates confined therein. The facility shall contain necessary space for administrative personnel, areas designated for booking, identification, consultation and visitation, and where applicable, space for storage facilities for fresh, dry, and frozen foods, and a multipurpose room.

.002. Jail Operation Concept. Unlike a state or federal prison, where only sentenced and classified persons are received, processed, detained, and released on a scheduled basis, a county jail must be planned to receive unclassified persons, hold persons who are not tried or convicted, and allow for receiving, processing, classifying, and release of persons at all times. Design and construction of a jail and personnel assigned to it must permit efficient and secure performance of this type of operation if the best interests of the community and the inmates are to be served.

.003. Jail Security Requirements. Jail security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes.

.004. Special Security. A jail shall be designed and maintained as a special security unit. When built in conjunction with other governmental functions, the integrity of the security perimeter shall not be compromised.

.005. Public Building. A jail of more than 20 inmate capacity should not be located under, in, or on top of another building which has not been designed for security purposes. This does not preclude the redesign and renovation of existing structures not originally built for security purposes.

.006. Inmate Movement into and out of Jail. Construction should provide for movement of an inmate or detainee into and out of the jail being accomplished without unduly exposing the individual to contact with the public, avoiding the use of public corridors, public elevators, and other areas frequented by the public. Where possible, the same security should be provided in the courts building for movement of inmates to and from the court.

.007. Inmate Movement inside Jail. The design should provide for the orderly flow of traffic through strategically located corridors or areas, eliminating all unnecessary cross traffic and undesirable contacts between differently classified types of inmates.

.008. Segregation. Jail design shall provide adequate segregation facilities for segregation of different classifications of inmates, in accordance with the facility classification plan. (See 217.12.)

.009. Audible Communication. Provision shall be made for voice communication between inmates and custodial personnel at all times.

.010. Monitoring System. Security areas may have an electronic monitoring system built in to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001.)

.011. Control Areas. Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;
- (b) inspection of housing areas;
- (c) control and protection of heating, ventilating, windows, louvers, and equipment;
- (d) location of floor drains outside inmate housing areas;
- (e) location and protection of lighting;
- (f) location and protection of fire-fighting equipment.

Control corridors and/or control areas for locating and protecting the controls for remote-operated doors should be provided where necessary. These areas are also for the purpose of providing safety and protection to operators of the equipment and for preventing unauthorized access to door controls.

.012. Vermin Control. Facility construction shall incorporate measures which protect against the entrance of vermin into the institution and breeding or presence of vermin on the premises and retention of objectionable odors in living areas. Choice of materials and construction design shall contribute to efficient maintenance and housekeeping.

.013. Construction Materials. Inmate living areas and day rooms shall be constructed of metal, masonry, concrete, or other comparable materials. The purpose of a particular wall or partition and the type of security sought to be achieved should determine the selection of appropriate materials.

.014. Functions. Space should be allocated for, but not limited to, the following functions:

- (a) Inmate reception and holding (See 217.09; 217.12)
- (b) Inmate processing (See 217.09; 217.23)
- (c) Shakedown (See 217.10; 217.14)
- (d) Inmate detention (See 217.12; 217.14; 217.15; 217.18)
- (e) Adequate segregation of inmates (See 217.05; 217.07; 217.08; 217.09; 217.12)
- (f) Food service (See 217.07; 217.17)
- (g) Attorney interviews (See 217.09)
- (h) Storage (See 217.15; 217.16; 217.17)
- (i) Visiting (See 217.09)
- (j) Public areas (See 217.05)
- (k) Booking (See 217.09; 217.10; 217.11)
- (l) Identification (See 217.09)
- (m) Dressing in and out (See 217.09; 217.10)
- (n) Sally ports (See 217.02; 217.05)
- (o) Guard stations (See 217.14)
- (p) Line up (See 217.05)
- (q) Laundry (See 217.05; 217.09; 217.15)
- (r) Inmate programs and activities (See 217.19; 217.20; 217.21; 217.22)
- (s) Counseling (See 217.20)
- (t) Medical examination and treatment (See 217.05; 217.09; 217.13)
- (u) Jail administrative office(s) (See 217.05; 217.11; 217.12; 217.13; 217.14; 217.16)
- (v) Multipurpose rooms (See 217.05)
- (w) Squad rooms (See 217.05)
- (x) Recreation and exercise

Space should be allocated for a kitchen, inmate commissary, and library, if conditions warrant. It is permissible to use the same room or space allocation for more than one of the listed "functions" where such use will not deny any constitutional rights of inmates, custodial personnel, or the general public,

and where such use will not impair the safety, security, sanitation, or segregation of the facility.

.015. Inmate Entrance. The inmate entrance should be (from the vehicular sally port) through a safety vestibule into the processing area. This entrance shall allow for passage of a loaded ambulance cot between interlocking doors. The safety vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

.016. Processing Area. Jails shall have a processing area located inside the inmate occupied area, but away from the inmate living areas and day rooms. The processing area shall be designed to readily permit the booking, shakedown, identification, and dressing in and out of inmates. A telephone shall be available for detainees to make the constitutionally recognized phone calls. Processing areas should be provided with drinking fountains and water closets.

.017. Kitchen. If food is to be prepared in the jail, a kitchen shall be provided. The kitchen shall be planned for efficient food preparation and receipt of supplies and storage. It shall be planned for removal of waste and garbage without seriously compromising the security of the facility.

.018. Kitchen Location. The kitchen should be designed and located in the facility so it will not be used as a passageway for nonfood handling staff, persons not associated with kitchen or food handling assignments, or the public.

.019. Kitchen Operations. In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

(a) Issue areas. Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.

(b) Floor. The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.

(c) Ordinances. Kitchens shall comply with all state and local health ordinances. (See 217.04.010.)

(d) Light. Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.

(e) Ventilation. Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(f) Water. Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) Storage. Adequate storage requirements for all kitchen operations and needs shall be provided.

.020. Dining Space. Provisions may be made for group dining as well as segregated dining. Group dining should avoid concentrations of more than 24 inmates.

.021. *Commissary.* Space appropriate to capacity of the jail should be provided for an inmate commissary, or a written program shall be established for inmates to obtain supplies from a nearby source. (See Section 217.22.)

.022. *Storage Area Capacities.* Storage areas based upon facility capacity should be provided as follows:

(a) For inmate property storage in jails, two cubic feet per inmate, excluding shelving, bins, and baskets.

(b) For inmate uniforms, towels, bedding, and linen: three cubic feet per inmate, excluding shelving, bins, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

(d) For evidence, adequate and secure storage of evidence shall be provided.

.023. *Janitorial Storage Space.* Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the jail should be provided.

.024. *Sinks.* Sufficient mop sinks with hot and cold water should be located to reduce excessive passage back and forth through the security perimeter during performance of janitorial service. Janitor closets and similar areas shall be provided with a lockable door.

.025. *Faucets.* Cold water faucets with standard hose connections should be provided in plumbing access space or corridors.

.026. *Visiting Areas.* Visitor accommodations shall be designed to provide flexibility in the degree of physical security and supervision commensurate with security requirements of variously classified inmates. Means shall be provided for audible communication between visitors and inmates, designed to prevent passage of contraband where high and medium risk inmates are involved. Provisions shall be made for handicapped visitors. Additionally, a secure visiting area or conference room should be provided for contact visits from law enforcement officers, attorneys, clergy, and probation and parole officers.

.027. *Public Areas.* Public areas of the facility shall be located outside the security perimeter. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter the security perimeter. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions should be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

.028. *Identification.* Space shall be provided for photographing, fingerprinting, and carrying out identification procedures for inmates.

.029. *Vehicular Sally Port.* A jail should have a vehicular sally port located inside or abutting on the building so designed that inmates may board or disembark from a transportation vehicle inside. Space should be sufficient to accommodate anticipated transportation vehicles, including buses, where applicable.

.030. *Guard Stations.* A guard-station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

.031. *Guard Station Security.* Guard stations should be locked and protected so as to be inaccessible to unauthorized persons. Where practical, a guard station should have a safe egress to a secure area.

.032. *Laundry Facilities.* A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with jail inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers. (See Section 217.15.) A water closet and lavatory should be provided nearby.

.033. *Emergency First Aid Storage.* Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

.034. *Medical Space and Equipment.* Space and equipment for medical examination, treatment, and convalescent care shall be provided in each jail, or a written program shall be established and implemented for medical care comparable to that available to the community where the jail is located. (See Section 217.13.)

.035. *Medical Supply Storage.* Adequate secure storage for medical supplies and drugs shall be provided.

.036. *Infirmary.*

(a) An infirmary is desirable and the operation of an infirmary should be considered for a jail having a capacity of 50 or more whenever it is anticipated that:

(1) emergency services may have to be rendered frequently;

(2) there is a high frequency of cases requiring recuperative or convalescent care;

(3) convalescent care cannot be provided by utilization of vacant single cells or dormitory units.

(b) Infirmiry components. When an infirmary is constructed, the following minimum components shall be included:

- (1) nurses station;
- (2) locked medication station with storage for individually filled prescriptions;
- (3) utility room with sink and storage for nourishment, linen, and equipment;
- (4) utility room with double tub sink and clinical service sink with flushing rim;
- (5) 80 square feet of floor space per bed;
- (6) at least one single occupancy room or cell with 80 square feet of floor space;
- (7) doors, through which patients and equipment are to be moved, of adequate width to allow turning of wheeled chairs and tables normally used in medical facilities;
- (8) a lavatory with a gooseneck inlet and wrist controls accessible to each ward;
- (9) janitor closet;
- (10) water closet, lavatory, and shower for use of inmates in the infirmary;
- (11) additional elements as dictated by the health care program as required.

.037. *Administrative Space.* The jail shall provide sufficient space for administrative, program, and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces should be located outside the inmate occupied areas.

.038. *Multipurpose Rooms.* A jail should have, in addition to any activity or day room area, one or more multipurpose rooms for group assembly of inmates. The multipurpose room(s) may be used for conferences, interrogation, contact visits, religious services, education, group counseling, or other special uses.

.039. *Squad Rooms.* Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel and, if provided, shall be located outside the security perimeter.

.040. *Weapon Storage.* Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

.041. *Arsenal.* An arsenal and gun locker(s) for the issuance, storage, and care of weapons should be provided outside the security perimeter and shall be secure from access by unauthorized persons.

.042. *Exercise Area.* A secure exercise area shall be provided for all jails. This may be a rooftop exercise area, an outside exercise area, or included inside the jail.

.043. *Single Cells.* Single cells shall not be less than eight feet high from finished floor to ceiling and not less than five feet wide from wall to wall. They shall contain not less than 40 square feet of floor space. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell. Single cells should comprise at least 50 percent of the total inmate capacity of the jail, but in no event shall comprise less than 30 percent of the total capacity of the jail.

.044. *Multiple-Occupancy Cells.* Multiple-occupancy cells shall be constructed to accommodate two to eight inmates and shall contain not less than 40 square feet of floor space for one inmate, plus 18 square feet of floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of eight inmates.

.045. *Dormitories.* Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of floor space for one inmate, plus 18 square feet of floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of 12 inmates or increment thereof to be confined therein. Not more than 40 percent of the inmate capacity of the jail shall be designed for dormitories.

.046. *Day Rooms.* All inmate living areas except special purpose cells shall be provided with day rooms. Day rooms should be designed to accommodate not more than eight inmates, but shall not be designed to accommodate more than 24 inmates. It shall contain not less than 40 square feet of floor space for one inmate plus 18 square feet of floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water and

shower available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room shall otherwise be suitably furnished with, but not limited to the following: seating and tables to accommodate the number of inmates to be confined therein, and may provide for visiting facilities, dining facilities, and other activities. Sufficient lighting shall be provided for reading, recreation, shaving, and other similar activities.

.047. *Safety Vestibules.* Safety vestibules shall be provided for each inmate living area and day room used for confinement of three or more inmates within the security perimeter.

(a) Safety vestibules shall have one or more interior doors and a main entrance door.

(b) All doors shall be arranged to be locked, unlocked, opened or closed by control means located outside of the inmate living area and safety vestibule.

.048. *Remote Controls.* Sliding doors, if used, for safety vestibules, dormitories, and day rooms shall be so arranged as to be locked, unlocked, opened to full-open position, and closed by control means located remote from the safety vestibule or inmate living area and day room. (See 217.24.)

.049. *Emergency Operation of Doors.* For emergency operation of all doors to single cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, reliable means shall be provided remote from the inmate living area for unlocking all cell doors. The reliable means should also provide for completely opening sliding cell doors. (See 217.24.)

.050. *Dimensions.* Single cells, multiple-occupancy cells, dormitories, and day rooms shall be not less than eight feet from finished floor to ceiling and not less than five feet from wall to wall. Safety or inspection corridors should not be less than four feet wide.

.051. *Furnishings for Inmate Housing Areas.*

(a) *Bunks.* A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined for more than 72 hours. Bunks shall be securely anchored and should have clothes hooks and shelves located nearby.

(b) *Water closets and lavatories.* Water closets and lavatories shall be constructed in such manner and of such material as to resist vandalism. A combination toilet and lavatory constructed of vandal-resistant material is recommended.

(c) *Showers.* Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) *Additional furnishings.* Additional furnishings for single cells, multiple-occupancy cells, and dormitories may include tables and seating (mandatory for single cells), lockers, mirrors, detention-type electric light fixtures, detention-type heating and ventilation grilles and showers. Where light fixtures or other appurtenances are recessed in or otherwise made an integral part of walls or ceilings, provisions should be made to prevent destruction or removal.

(e) Tables and seating. Tables and benches should be constructed of materials which will reduce maintenance. They shall be fire-resistant and securely anchored to floor or wall surfaces. Benches shall be not less than 12 inches wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) Shields. Toilet and shower modesty shields are not mandatory, except in holding areas. However, when provided, they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

.052. Detoxification Cells. A jail should provide one or more detoxification single cells, multiple-occupancy cells, or dormitories which shall be designed for detention of persons during the detoxification process only. These cells shall include the following features and equipment:

(a) Seating. The detoxification cell shall be equipped with stationary benches or bunks no higher than eight inches above the floor.

(b) Floor drain. The detoxification cell should be provided with one or more vandal-resistant flushing floor drains. The floor shall be properly pitched to drains and drains should have outside water shutoffs and controls. A water closet/lavatory/drinking fountain may be provided.

(c) Cell size. The size of detoxification cell shall be determined by the anticipated maximum number of persons received at any one time. A detoxification cell shall not accommodate more than 12 persons and shall have a minimum of 40 square feet of floor space for one person plus 18 square feet of floor space per additional person.

(d) The floor and wall materials shall be durable and easily cleaned.

(e) Supervision. The detoxification cell shall be constructed to facilitate supervision of the cell area and to materially reduce noise.

.053. Holding Rooms (or Cells). One or more holding rooms should be provided to temporarily detain inmates pending booking, court appearance, identification, housing assignment, or discharge. Holding rooms shall include the following features and equipment:

(a) Floor areas. Minimum floor area of a holding room shall be 40 square feet (for single occupancy). For occupancy by more than one person, add a minimum of 18 square feet per additional person. The floor shall be constructed of material which is durable and easily cleaned.

(b) Seating. Seating shall be sufficient to provide not less than 24 linear inches per person at capacity. It shall be fire resistant and anchored securely to the floor.

(c) Plumbing. A vandal-resistant water closet and lavatory shall be provided for each 12 inmates or increment thereof. Each holding room shall have at least one drinking fountain. Plumbing fixtures shall have outside water shutoffs and controls individually by cell. Permanent modesty shields shall be provided.

(d) Floor drains. A holding room shall have adequate floor drains.

.054. Separation Cells. A jail shall have one or more single-occupancy separation cells to temporarily house selected inmates for extended periods of time. Separation cells shall include the following features and equipment:

(a) Area. Separation cells shall contain a minimum of 40 square feet of floor space.

(b) Plumbing. Separation cells shall contain vandal-resistant water closet, lavatory, drinking fountain, and floor drain.

(c) Shower. Each separation cell shall contain a shower with outside shutoff and controls.

(d) Furnishings. Each separation cell shall have table, seating, mirror, bunk, and appropriate lighting to permit reading and shaving in the cell. Shelf and clothes hooks may be provided.

.055. Violent Cells. A jail may have at least one and necessary additional single occupancy rooms or cells for temporary holding of violent persons or persons suspected of insanity. Violent cells shall include the following features and equipment:

(a) Size. The room or cell shall have not less than 40 square feet of floor space and a ceiling height of not less than eight feet.

(b) Furnishings. The cell shall be equipped with hammock, not less than two feet, three inches wide and six feet, three inches long, made of an elastic or fibrous fabric designed to minimize its use to inflict self injury. A shelf the length of the cell at least two feet, three inches wide and not more than eight inches above the floor covered with padding material identical to that of the floor may be used in lieu of the hammock. A flushing-type floor drain with control outside the cell shall also be provided.

(c) Padding. Walls shall be completely padded to the ceiling and the floor shall be covered with a material to protect the inmate from self injury. The type and quality of materials used for padding and floor covering shall be designed to prevent self injury and have the capability of being cleaned. It must be fire-resistant and nontoxic in accordance with Section 217.08.

.056. Lighting. Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living area. Light controls, conduit, and light fixtures shall be out of reach of inmates. Light fixtures should be designed and constructed so as to permit servicing from outside the cell, dormitory, or day room. Light switches which cannot be controlled from outside the inmate area should be key front type. Housing and control areas shall be variably illuminated at all times to permit continuous observation of inmates and to permit custodial personnel to perform necessary functions. Exteriors of buildings shall be lighted at night sufficiently to observe a person approaching the entrance.

.057. Detention Doors. Hollow metal doors shall be constructed of 12 to 14 gauge steel in security areas. Eighteen gauge hollow metal doors may be used in nonsecurity areas. Plate doors, where used, shall be constructed of material not less than three-sixteenths inch thick. Tool-resisting steel plate doors, where used, shall be constructed of material not less than one-fourth inch thick. Grating doors shall be constructed of the same type grillwork as the walls in which they are installed. Consideration shall be given in the design of all doors so that the direction of opening and the material of which these are constructed will not reduce nor compromise the security sought to be achieved. Detention-type doors shall be equipped with detention-type hardware and accessories.

.058. *Electro-Mechanical Locks.* Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical control unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

.059. *Keys.* Keys for detention-type locks shall be heavy-duty and of a sufficient size to prevent easy concealment and/or unauthorized duplication.

.060. *Key Locks.* Where used, detention-type keyed locks shall be manufactured especially for detention use.

.061. *Key Cabinets.* Key cabinets should be provided at suitable locations.

.062. *Hinges.* Hinges for heavy-duty detention doors shall be heavy-duty ball-bearing type designed especially for such doors.

.063. *Hand Pulls.* Hand pulls shall be securely anchored to the door.

.064. *Door Stops.* Door stops shall be provided so as to prevent accidental or purposeful injury to inmates and custodial personnel.

.065. *Door Closers.* Where used, door closers for all detention-type swinging doors shall be heavy-duty types.

.066. *Windows and Screens.* Operable windows shall be equipped with insect and/or security screens. Security level of window materials in inmate occupied areas shall be equal to or greater than perimeter walls of the inmate occupied area to which windows might provide ingress or egress. Window and/or skylights should be provided.

.067. *Vision into Inmate Areas.* Direct public vision into inmate occupied areas from the outside is prohibited.

.068. *Walls.* Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved. Open decorative grillwork may be used to facilitate ventilation, temperature control, observation, and audible communication. In all instances where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

.069. *Floors.* Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals. Where hollow metal, grillwork, or plate walls join the floor, their supports should be treated so as not to react to water or floor cleaning chemicals. Equally acceptable is a curb approximately three inches high provided underneath such walls.

.070. *Ceilings.* Ceilings should be constructed of material not easily damaged by vandalism.

.071. *Paint.* Washable paint may be used for untiled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

.072. *Emergency Access.* Multistory facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

.073. *Dropcords.* Dropcords or extension cords shall not be permitted within the security perimeter. Appliances shall plug directly into a fixed receptacle.

.074. *Vent Grilles.* Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application. Vent grilles shall be securely welded or riveted to steel plate construction and securely anchored where used on concrete, masonry, or other construction.

.075. *Food Passes.* Where used, food passes should not be less than 15 inches wide and four and one-half inches high. Where deemed necessary, lockable shutters should be provided to prevent passage of contraband.

.076. *Observation Panels.* When used, observation panels shall provide a clear opening of not less than five inches by eight inches and be glazed with appropriate thickness security glass or equivalent. They should be provided with a shutter.

.077. *Mirrors.* Mirrors shall be constructed of unbreakable material.

.078. *Electrical Power.* Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, a jail shall have sufficient electrical outlets for heated food carts if used in food service. If electrical appliances shall be permitted in cells or day rooms, fixed receptacles shall be provided.

.079. *Emergency Electrical Power.* An emergency electrical power system for quick recovery to maintain essential services, security, and safety should be provided to meet the life safety requirements. (See 217.08.) If installed, such systems shall be tested operationally not less than monthly and a record kept of this testing.

.080. *Temperature Level.* All mechanical equipment for heating, cooling, or air movement shall be designed to reasonably maintain a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

.081. *Air Flow.* Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

.082. *Plumbing and Drainage.* Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, shower, and lavatories used by high-risk inmates shall be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. All plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

.083. *Flooding Protection.* Floor drains should be located to reduce the incidence of malicious tampering and flooding.

Kitchens, corridors, dormitories, cell areas, day rooms, detoxification cells, and violent cells shall have floor drains in good working condition. Where practical, a drain shall be located in security corridors and not inside cells or day rooms. Drain covers should be securely anchored with vandal-proof screws to prevent inmates from using them as assault weapons.

.084. *Access Doors.* Plumbing space, or any other mechanical space, shall have a lockable access door.

.085. *Maintenance.* Maintenance of detention equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor of such equipment.

.086. *Inmate Maintenance Prohibited.* Maintenance of locking systems and other security detention devices shall not be performed by inmates.

.087. *Variances.* In existing facilities (those operating prior to December 23, 1976) where specific standards cannot be complied with because of alleged difficulty or undue hardship, exceptions to specific physical plant provisions of the standards may be made where clearly justified if the intent of the standard is met and the security or supervision of inmates, established programs, and the safe, healthful, sanitary, and efficient operation of the facility is not seriously affected. The procedure for requesting and granting variances shall be the same as that prescribed under Rule 217.26.

.088. *Applicability.* The provisions of this Rule 217.07 apply only to facilities existing and being operated as county jails, lockups, or low-risk facilities on December 23, 1976.

Doc. No. 781593

Existing Lockup Design, Construction, and Furnishing Requirements 217.07.02

This subchapter will pertain specifically to existing lockup construction.

This adoption is made under the authority of Article 5115.1, Texas Civil Statutes.

.001. *Lockup Facilities.* A lockup shall consist of one or more single cells and may include multiple-occupancy cells, or dormitories, for the temporary custody of inmates (not to exceed 72 hours) awaiting court appearance or transfer to jail. It shall be of a size sufficient to accommodate the needs of its daily operation and shall be in proximity to the principal administrative office of the administrator. Food for inmates may be prepared in other than a lockup kitchen, but shall be in the amount prescribed by rules governing jails.

.002. *Lockup Security Requirements.* Lockup security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes.

.003. *Special Security.* A lockup shall be designed and maintained as a special security unit. When built in conjunction with other governmental functions, the integrity of the security perimeter shall not be compromised.

.004. *Public Building.* A lockup of more than 20 inmate capacity should not be located under, in, or on top of another building which has not been designed for security purposes. This does not preclude the redesign and renovation of existing structures not originally built for security purposes.

.005. *Inmate Movement into and out of Lockup.* Construction should provide for movement of an inmate or detainee into and out of the lockup being accomplished without unduly exposing the individual to contact with the public, avoiding the use of public corridors, public elevators, and other areas frequented by the public. Where possible, the same security should be provided in the courts building for movement of inmates to and from the court.

.006. *Inmate Movement inside Lockup.* The design shall provide for the orderly flow of traffic through strategically located corridors or areas, eliminating all unnecessary cross traffic and undesirable contacts between differently classified types of inmates.

.007. *Segregation.* Lockup design shall provide adequate segregation facilities for segregation of different classifications of inmates, in accordance with the facility classification plan. (See 217.12.)

.008. *Audible Communication.* Provisions shall be made for voice communication between inmates and custodial personnel at all times.

.009. *Monitoring System.* Security areas may have an electronic monitoring system built in to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001.)

.010. *Television Monitoring.* Where closed-circuit television is not included but is planned or anticipated, space and conduits should be provided so that the equipment can be installed without need for alteration of the physical plant.

.011. *Control Areas.* Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;
- (b) inspection of housing areas;
- (c) control and protection of heating, ventilating, windows, louvers, and equipment;
- (d) location of floor drains outside inmate housing areas;
- (e) location and protection of lighting;
- (f) location and protection of fire-fighting equipment.

Control corridors and/or control areas for locating and protecting the controls for remote-operated doors should be provided where necessary. These areas are also for the purpose of providing safety and protection to operators of the equipment and for preventing unauthorized access to door controls.

.012. *Vermin Control.* Facility construction shall incorporate measures which protect against the entrance of vermin into the institution and breeding or presence of vermin on the premises and retention of objectionable odors in living areas. Choice of materials and construction design shall contribute to efficient maintenance and housekeeping.

.013. *Construction Materials.* Inmate living areas and day rooms shall be constructed of metal, masonry, concrete, or other comparable materials. The purpose of a particular wall

or partition and the type of security sought to be achieved should determine the selection of appropriate materials.

.014. *Functions.* Space shall be allocated for, but not limited to, the following functions:

- (a) Inmate reception and holding (See 217.09; 217.12)
- (b) Inmate processing (See 217.09; 217.23)
- (c) Shakedown (See 217.10; 217.14)
- (d) Inmate detention (See 217.12; 217.14; 217.15; 217.18)
- (e) Adequate segregation of inmates (See 217.05; 217.07; 217.08; 217.09; 217.12)
- (f) Food service (See 217.07; 217.17)
- (g) Attorney interviews (See 217.09)
- (h) Storage (See 217.15; 217.16; 217.17)
- (i) Visiting (See 217.09)
- (j) Public areas (See 217.05)
- (k) Booking (See 217.09; 217.10; 217.11)
- (l) Identification (See 217.09)
- (m) Dressing in and out (See 217.09; 217.10)
- (n) Sally ports (See 217.02; 217.05)
- (o) Guard stations (See 217.14)
- (p) Line up (See 217.05)

Space should be allocated for a kitchen and inmate commissary, if conditions warrant. It is permissible to use the same room or space allocation for more than one of the listed "functions" where such use will not deny any constitutional rights of inmates, custodial personnel, or the general public, and where such use will not impair the safety, security, sanitation, or segregation of the facility.

.015. *Inmate Entrance.* The inmate entrance should be through a safety vestibule into the processing area. This entrance shall allow for passage of a loaded ambulance cot between interlocking doors. The safety vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

.016. *Processing Areas.* Lockups should have a processing area located inside the inmate occupied area, but away from the inmate living areas and day rooms. The processing area shall be designed to readily permit the booking, shakedown, identification, and dressing in and out of inmates. A telephone shall be available for detainees to make the constitutionally recognized phone calls. Processing areas should be provided with drinking fountains and water closets.

.017. *Kitchen.* If food is to be prepared in the lockup, a kitchen shall be provided. The kitchen shall be planned for efficient food preparation, and receipt of supplies and storage. It shall be planned for removal of waste and garbage without seriously compromising the security of the facility.

.018. *Kitchen Location.* The kitchen shall be designed and located in the facility so it will not be used as a passageway for nonfood handling staff, persons not associated with kitchen or food handling assignments, or the public.

.019. *Kitchen Operations.* In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

(a) *Issue areas.* Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.

(b) *Floor.* The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.

(c) *Ordinances.* Kitchens shall comply with all state and local health ordinances. (See 217.04.010.)

(d) *Light.* Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.

(e) *Ventilation.* Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(f) *Water.* Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) *Storage.* Adequate storage requirements for all kitchen operations and needs shall be provided.

.020. *Dining Space.* Provisions may be made for group dining as well as segregated dining. Group dining should avoid concentrations of more than 24 inmates.

.021. *Commissary.* Space appropriate to capacity of the lockup should be provided for an inmate commissary, or a written program shall be established for inmates to obtain supplies from a nearby store. (See Section 217.22.)

.022. *Storage Area Capacities.* Storage areas based upon facility capacity should be provided as follows:

(a) For inmate property storage in lockups, two cubic feet per inmate, excluding shelving, bins, and baskets.

(b) For inmate uniforms, towels, bedding, and linen: three cubic feet per inmate, excluding shelving, bins, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

(d) For evidence, adequate and secure storage of evidence shall be provided.

.023. *Janitorial Storage Space.* Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the lockup should be provided.

.024. *Sinks.* Sufficient mop sinks with hot and cold water should be located to reduce excessive passage back and forth through the security perimeter during performance of janitorial service. Janitor closets and similar areas shall be provided with a lockable door.

.025. *Faucets.* Cold water faucets with standard hose connections should be provided in plumbing access space or corridors.

.026. *Visiting Areas.* Visitor accommodations shall be designed to provide flexibility in the degree of physical security and supervision commensurate with security requirements of variously classified inmates. Means shall be provided for audible communication between visitors and inmates, designed to prevent passage of contraband where high and medium risk inmates are involved. Provisions should be

made for handicapped visitors. Additionally, a secure visiting area or conference room should be provided for contact visits from law enforcement officers, attorneys, clergy, and probation and parole officers.

.027. *Public Areas.* Public areas of the facility shall be located outside the security perimeter. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter the security perimeter. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions should be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

.028. *Identification.* Space shall be provided for photographing, fingerprinting, and carrying out identification procedures for inmates.

.029. *Vehicular Sally Port.* A lockup may have a vehicular sally port located inside or abutting on the building so designed that inmates may board or disembark from a transportation vehicle inside. Space should be sufficient to accommodate anticipated transportation vehicles, including buses, where applicable.

.030. *Guard Stations.* A guard station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

.031. *Guard Station Security.* Guard stations should be locked and protected so as to be inaccessible to unauthorized persons. Where practical, a guard station should have a safe egress to a secure area.

.032. *Laundry Facilities.* A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with jail inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers. (See Section 217.15.) A water closet and lavatory should be provided nearby.

.033. *Emergency First Aid Storage.* Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

.034. *Medical Supply Storage.* Adequate secure storage for medical supplies and drugs shall be provided.

.035. *Administrative Space.* The lockup shall provide sufficient space for administrative and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

.036. *Squad Rooms.* Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel and, if provided, shall be located outside the security perimeter.

.037. *Weapon Storage.* Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

.038. *Arsenal.* An arsenal and gun locker(s) for the issuance, storage, and care of weapons should be provided outside the security perimeter and shall be secure from access by unauthorized persons.

.039. *Single Cells.* Single cells shall not be less than eight feet high from finished floor to ceiling and not less than five feet wide from wall to wall. They shall contain not less than 40 square feet of floor space. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell.

.040. *Multiple-Occupancy Cells.* Multiple-occupancy cells shall be constructed to accommodate two to eight inmates and shall contain not less than 40 square feet of floor space for one inmate, plus 18 square feet of floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of eight inmates. Tables and seating provided therein unless otherwise provided in a day room.

.041. *Dormitories.* Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of floor space for one inmate, plus 18 square feet of floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of 12 inmates or increment thereof to be confined therein. Not more than 40 percent of the inmate capacity of the facility shall be designed for dormitories. Tables and seating shall be provided therein unless otherwise provided for in day rooms.

.042. *Day Rooms.* All inmate living areas except special purpose cells may be provided with day rooms. Day rooms should be designed to accommodate not more than eight inmates, but shall not be designed to accommodate more than 24 inmates. It shall contain 40 square feet of floor space for one inmate plus 18 square feet of floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water and a shower available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room shall otherwise be suitably furnished with, but not limited to the following: seating and tables to accommodate the number of inmates to be confined therein, and may provide for visiting facilities and other activities. Sufficient lighting shall be provided for reading, recreation, shaving, and other similar activities.

.043. *Safety Vestibules.* Safety vestibules shall be provided for each inmate living area and day room used for confinement of three or more inmates within the security perimeter.

(a) Safety vestibules shall have one or more interior doors and a main entrance door.

(b) All doors shall be arranged to be locked, unlocked, opened or closed by control means located outside of the inmate living area and safety vestibule.

.044. *Remote Controls.* Sliding doors, if used, for safety vestibules, dormitories, and day rooms shall be so arranged as to be locked, unlocked, opened to full-open position, and closed by control means located remote from the safety vestibule or inmate living area and day room. (See 217.24.)

.045. Emergency Operation of Doors. For emergency operation of all doors to single cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, reliable means shall be provided remote from the inmate living area for unlocking all cell doors. The reliable means should also provide for completely opening sliding cell doors. (See 217.24.)

.046. Dimensions. Single cells, multiple-occupancy cells, dormitories, and day rooms shall be not less than eight feet from finished floor to ceiling and not less than five feet from wall to wall. Safety or inspection corridors should be not less than four feet wide.

.047. Furnishings for Inmate Housing Areas.

(a) **Bunks.** A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined for more than 72 hours. Bunks shall be securely anchored and should have clothes hooks and shelves located nearby.

(b) **Water closets and lavatories.** Water closets and lavatories shall be constructed in such manner and of material so as to resist vandalism. A combination toilet and lavatory constructed of vandal-resistant material is recommended.

(c) **Showers.** Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) **Additional furnishings.** Additional furnishings for single cells, multiple-occupancy cells, and dormitories may include tables and seating (mandatory for single cells), lockers, mirrors, detention-type electric light fixtures, detention-type heating and ventilation grilles and showers. Where light fixtures or other appurtenances are recessed in or otherwise made an integral part of walls or ceilings, provisions should be made to prevent destruction or removal.

(e) **Tables and seating.** Tables and benches should be constructed of materials which will reduce maintenance. They shall be fire-resistant and securely anchored to floor or wall surfaces. Benches shall be not less than 12 inches wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) **Shields.** Toilet and shower modesty shields are not mandatory, except in holding areas. However, when provided they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

.048. Detoxification Cells. A lockup should provide one or more detoxification single cells, multiple-occupancy cells, or dormitories which shall be designed for detention of persons during the detoxification process only. These cells shall include the following features and equipment:

(a) **Seating.** The detoxification cell shall be equipped with stationary benches or bunks no higher than eight inches above the floor.

(b) **Floor drain.** The detoxification cell should be provided with one or more vandal-resistant flushing floor drains. The floor shall be properly pitched to drains and drains

should have outside water shutoffs and controls. A water closet/lavatory/drinking fountain may be provided.

(c) **Cell size.** The size of detoxification cell shall be determined by the anticipated maximum number of persons received at any one time. A detoxification cell shall not accommodate more than 12 persons and shall have a minimum of 40 square feet of clear floor space for one person plus 18 square feet of clear floor space per additional person.

(d) The floor and wall materials shall be durable and easily cleaned.

(e) **Supervision.** The detoxification cell shall be constructed to facilitate supervision of the cell area and to materially reduce noise.

.049. Holding Rooms (or Cells). One or more holding rooms may be provided to temporarily detain inmates pending booking, court appearance, identification, housing assignment, or discharge. Holding rooms shall include the following features and equipment:

(a) **Floor areas.** Minimum floor area of a holding room shall be 40 square feet (for single occupancy). For occupancy by more than one person, add a minimum of 18 square feet per additional person. The floor shall be constructed of material which is durable and easily cleaned.

(b) **Seating.** Seating shall be sufficient to provide not less than 24 linear inches per person at capacity.

(c) **Plumbing.** A vandal-resistant water closet and lavatory shall be provided for each 12 inmates or increment thereof. Each holding room shall have at least one drinking fountain. Plumbing fixtures shall have outside water shutoffs and controls individually by cell. Permanent modesty shields shall be provided.

(d) **Floor drains.** A holding room shall have adequate floor drains.

.050. Separation Cells. A lockup may have one or more single-occupancy separation cells to temporarily house selected inmates for required periods of time. Separation cells shall include the following features and equipment:

(a) **Area.** Separation cells shall contain a minimum of 40 square feet of clear floor space.

(b) **Plumbing.** Separation cells shall contain vandal-resistant water closet, lavatory, drinking fountain, and floor drain.

(c) **Shower.** Each separation cell shall contain a shower with outside shutoff and controls.

(d) **Furnishings.** Each separation cell shall have table, seating, mirror, bunk, and appropriate lighting to permit reading and shaving in the cell. Shelf and clothes hook may be provided.

.051. Lighting. Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living area. Light controls, conduit, and light fixtures shall be out of reach of inmates. Light fixtures should be designed and constructed so as to permit servicing from outside the cell, dormitory, or day room. Receptacles which cannot be controlled from outside the inmate area should be key front type. Housing and control areas shall be sufficiently illuminated at all times to permit continuous observation of inmates and to permit custodial personnel to perform necessary functions. Building entrances shall be lighted at night.

.052. Detention Doors. Hollow metal doors shall be constructed of 12 to 14 gauge steel in security areas. Eighteen gauge hollow metal doors may be used in nonsecurity areas.

Plate doors, where used, shall be constructed of material not less than three-sixteenths inch thick. Tool-resisting steel plate doors, where used, shall be constructed of material not less than one-fourth inch thick. Grating doors shall be constructed of the same type grillwork as the walls in which they are installed. Consideration shall be given in the design of all doors so that the direction of opening and the material of which these are constructed will not reduce nor compromise the security sought to be achieved. Detention-type doors shall be equipped with detention-type hardware and accessories.

.053. *Electro-Mechanical Locks.* Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical control unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

.054. *Keys.* Keys for detention-type locks shall be heavy-duty and of a sufficient size to prevent easy concealment and/or unauthorized duplication.

.055. *Key Locks.* Where used, detention-type keyed locks shall be manufactured especially for detention use.

.056. *Key Cabinets.* Key cabinets should be provided at suitable locations.

.057. *Hinges.* Hinges for heavy-duty detention doors shall be heavy-duty ball-bearing type designed especially for such doors.

.058. *Hand Pulls.* Hand pulls shall be securely anchored to the door.

.059. *Door Stops.* Door stops shall be provided so as to prevent accidental or purposeful injury to inmates and custodial personnel.

.060. *Door Closers.* Where used, door closers for all detention-type swinging doors shall be heavy-duty types.

.061. *Windows and Screens.* Operable windows shall be equipped with insect and/or security screens. Security level of window materials in inmate occupied areas shall be equal to or greater than perimeter walls of the inmate occupied area to which windows might provide ingress or egress. Window and/or skylights should be provided.

.062. *Vision into Inmate Areas.* Direct public vision into inmate occupied areas from the outside is prohibited.

.063. *Walls.* Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved. Open decorative grillwork may be used to facilitate ventilation, temperature control, observation, and audible communication. In all instances where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

.064. *Floors.* Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance

chemicals. Where hollow metal, grillwork, or plate walls join the floor, their supports should be treated so as not to react to water or floor cleaning chemicals. Equally acceptable is a curb approximately three inches high provided underneath such walls.

.065. *Ceilings.* Ceilings should be constructed of material not easily damaged by vandalism.

.066. *Paint.* Washable paint may be used for un tiled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

.067. *Emergency Access.* Multistory facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

.068. *Dropcords.* Dropcords or extension cords shall not be permitted within the security perimeter. Appliances shall plug directly into a fixed receptacle.

.069. *Vent Grilles.* Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application. Vent grilles shall be securely welded or riveted to steel plate construction and securely anchored where used on concrete, masonry, or other construction.

.070. *Food Passes.* Where used, food passes should not be less than 15 inches wide and four and one-half inches high. Where deemed necessary, lockable shutters should be provided to prevent passage of contraband.

.071. *Observation Panels.* When used, observation panels shall provide a clear opening of not less than five inches by eight inches and be glazed with appropriate thickness security glass or equivalent. They should be provided with a shutter.

.072. *Mirrors.* Mirrors shall be constructed of unbreakable material.

.073. *Electrical Power.* Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, a lockup should have sufficient electrical outlets for heated food carts if used in food service. If appliances shall be permitted in cells and day rooms, fixed receptacles shall be provided.

.074. *Emergency Electrical Power.* An emergency electrical power system for quick recovery to maintain essential services, security, and safety should be provided to meet the life safety requirements. (See 217.08.) Such system, if installed, shall be tested operationally not less than monthly, and a record kept of this testing.

.075. *Temperature Level.* All mechanical equipment for heating, cooling, or air movement shall be designed to reasonably maintain a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

.076. *Air Flow.* Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

.077. Plumbing and Drainage. Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, shower, and lavatories used by high-risk inmates shall be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. All plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

.078. Flooding Protection. Floor drains should be located to reduce the incidence of malicious tampering and flooding. Kitchens, corridors, dormitories, cell areas, detoxification cells, and violent cells shall have floor drains in good working condition. Where practical, a drain should be located in security corridors and not inside cells or day rooms. Drain covers should be securely anchored with vandal-proof screws to prevent inmates from using them as assault weapons.

.079. Access Doors. Plumbing space, or any other mechanical space, shall have a lockable access door.

.080. Maintenance. Maintenance of detention equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor of such equipment.

.081. Inmate Maintenance Prohibited. Maintenance of locking systems and other security detention devices shall not be performed by inmates.

.082. Variances. In existing facilities (those operating prior to December 23, 1976) where specific standards cannot be complied with because of alleged difficulty or undue hardship, exceptions to specific physical plant provisions of the standards may be made where clearly justified if the intent of the standard is met and the security or supervision of inmates, established programs, and the safe, healthful, sanitary, and efficient operation of the facility is not seriously affected. The procedure for requesting and granting variances shall be the same as that prescribed under Rule 217.26.

.083. Applicability. The provisions of this Rule 217.07 apply only to facilities existing and being operated as county jails, lockups, or low-risk facilities on December 23, 1976.

Doc. No. 781594

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

This subchapter will pertain specifically to existing low-risk facility construction.

This adoption is made under the authority of Article 5115.1, Texas Civil Statutes.

.001. Low-Risk Facility Site. The site should be of sufficient size to provide for the immediate facility. A buffer zone around the building is desirable.

.002. Low-Risk Facility Operation Concept. Inmates housed in the low-risk facility shall be male or female inmates sentenced to work release, school release, or weekend detention programs or inmates who require minimal supervi-

sion. Unlike a jail or lockup, a low-risk facility does not require a security perimeter. It does, however, require segregation of male and female inmates.

.003. Low-Risk Facility Security Requirements. Low-Risk facility security should be planned to protect inmates from one another, protect custodial personnel from inmates, and deter or prevent escapes; however, the stringent security measure of jails and lockups are not required.

.004. Special Security. A low-risk facility need not be designed and maintained as a special security unit. When operated in conjunction with other jail or lockup functions, the integrity of the security perimeter of the higher facility shall not be compromised.

.005. Public Building. A low-risk facility may be located under, in, or on top of another building which has not been designed for security purposes.

.006. Inmate Movement Into and Out of Low-Risk Facility. Construction should provide for movement of an inmate into and out of the facility without unduly exposing the individual to contact with the public.

.007. Segregation. Low-risk facility design shall provide adequate male-female segregation facilities in accordance with the facility classification plan. (See 217.12.) Additional segregation is not required since all inmates will have the same classification.

.008. Audible Communication. Provision shall be made for voice communication between inmates and custodial personnel at all times.

.009. Monitoring System. An electronic monitoring system may be used to assist in inmate supervision and so an inmate can advise the officer of emergency needs. (See Section 217.14.001.)

.010. Control Areas. Facilities should be designed to provide a means for:

- (a) control and supervision of inmates;
- (b) inspection of housing areas;
- (c) control and protection of heating and ventilating equipment;
- (d) location and protection of security lighting;
- (e) location and protection of fire-fighting equipment.

.011. Construction Materials. Inmate living areas and day rooms may be constructed of conventional construction materials.

.012. Low-Risk Facilities Rules. A low-risk facility shall consist of single cells (rooms) or multiple occupancy cells (rooms) or dormitories for the custody of inmates who are considered to be not dangerous or likely to escape and who may be involved in some type of "release" program. It shall be of sufficient size to accommodate the needs of its daily operation. Minimum dimensions and areas for housing and activity space shall be identical to those for jails. Space should be allocated for, but not limited to the following functions:

- (a) inmate reception;
- (b) inmate detention;
- (c) food service;
- (d) administration;
- (e) storage;
- (f) visiting;

- (g) public areas;
- (h) guard stations;
- (i) laundry;
- (j) inmate programs and activities, counseling and interviews;
- (k) counseling;
- (l) medical examination;
- (m) multipurpose rooms;
- (n) squad rooms;
- (o) recreation and exercise.

Space should be allocated for a kitchen, inmate commissary, and library if conditions warrant. It is permissible to use the same rooms or space allocation for more than one of the listed "functions" where such use will not deny any constitutional right of inmates, custodial personnel, or the general public, and where such use will not impair the safety, security, or sanitation of the facility.

.013. Inmate Entrance. The inmate entrance may be through a conventional vestibule into the receiving area. This entrance shall allow for passage of a loaded ambulance cot. The vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance. Electronic surveillance equipment may be used.

.014. Inmate Reception. Low-risk facilities shall have a receiving area. The receiving area shall be designed to readily permit the administrative processing of inmates. Receiving areas should be provided with drinking fountains and water closets.

.015. Kitchen. If food is to be prepared in the low-risk facility, a kitchen shall be provided. The kitchen shall be planned for efficient food preparation and receipt of supplies and storage.

.016. Kitchen Location. The kitchen shall be designed and located in the facility so it will not be used as a passageway for nonfood handling staff, persons not associated with kitchen or food handling assignments, or the public.

.017. Kitchen Operations. In designing a food preparation and service area, planning shall allow for the following operations: receiving, storage, processing, preparation, cooking and baking, serving, dishwashing, cleaning, menu preparation, record keeping, staff personal hygiene, and maintenance. The following kitchen facilities and features shall be provided:

- (a) Issue areas. Issue areas for fresh, dry, and frozen food shall be adjacent to the kitchen.
- (b) Floor. The kitchen floor shall be properly pitched to one or more floor drains. The junction between floors and walls shall be covered. Walls and ceilings shall be finished with smooth, washable light-colored surfaces.
- (c) Ordinances. Kitchens shall comply with all state and local health ordinances. (See 217.04.010.)
- (d) Light. Adequate natural or artificial light shall be provided on work surfaces in the kitchen where food is prepared and cooking and eating utensils are washed.
- (e) Ventilation. Food service rooms shall be adequately ventilated to control disagreeable odors and moisture. Any opening to the outside shall be effectively screened and secured.

(f) **Water.** Adequate hot and cold running water under pressure shall be provided in the kitchen area. Hot water equipment shall be of sufficient size and capacity to meet the kitchen and other facility needs and consistent with public health standards.

(g) **Storage.** Adequate storage requirements for all kitchen operations and needs shall be provided.

.018. Dining Space. Provisions may be made for group dining. Group dining need not avoid concentrations of more than 24 inmates.

.019. Commissary. Space appropriate to capacity of the facility should be provided for an inmate commissary, or a written program shall be established for inmates to obtain supplies from a nearby store. (See Section 217.22.)

.020. Storage Area Capacities. Storage areas based upon facility capacity should be provided as follows:

- (a) For inmate property storage, four cubic feet per inmate, excluding shelving, bins, and baskets, unless personal property will be maintained in another facility.
- (b) For inmate uniforms, towels, bedding, and linen: three cubic feet per inmate, excluding shelving, bins, and baskets.

(c) For inmate mattresses, off-floor storage in the amount of five and one-fourth cubic feet per mattress for 25 percent of total beds.

.021. Janitorial Storage Space. Adequate storage for janitorial and other supplies and adequate storage for equipment necessary to the operation of the facility should be provided.

.022. Sinks. Sufficient mop sinks with hot and cold water should be located throughout the facility. Janitor closets and similar areas shall be provided with a lockable door.

.023. Faucets. Cold water faucets with standard hose connections should be provided in plumbing access space or corridors.

.024. Visiting Areas. Visitor accommodations shall be provided. Contact visiting may be appropriate but is optional. Provisions should be made for handicapped visitors.

.025. Public Areas. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter inmate areas. A public lobby or waiting area with appropriate information signs should be provided for the comfort and convenience of the public, including sufficient seating, water closets, lavatories, drinking fountains, and public telephones. Provisions should be made for handicapped visitors. Public lobby location shall be so situated that it does not interfere with general office routine.

.026. Guard Stations. A guard station shall be provided on each floor of the facility where 10 or more inmates will be housed overnight.

.027. Laundry Facilities. A laundry, or an acceptable laundry vendor contract, or both, shall be maintained to provide clean clothing, bedding, and supplies. Adequate separated space, commensurate with inmate capacity, shall be provided for soiled clothing storage, clean laundry storage, and laundry supply storage. Where applicable, space shall be provided for washers, extractors, and dryers. (See Section 217.15.) A water closet and lavatory should be provided nearby.

.028. Exercise Area. An exercise area shall be provided. This may be a rooftop exercise area, an outside exercise area, or included inside the facility.

.029. Emergency First Aid Storage. Storage shall be provided for a litter stretcher and first aid equipment. Litters and fresh first aid equipment shall be kept on hand at all times.

.030. Medical Space and Equipment. Space and equipment for medical examination, treatment, and convalescent care shall be provided in each facility, or a written program shall be established and implemented for medical care comparable to that available to the community where the facility is located. (See Section 217.13.)

.031. Medical Supply Storage. Adequate secure storage for medical supplies and drugs shall be provided.

.032. Infirmary.

(a) An infirmary is desirable and the operation of an infirmary should be considered for a low-risk facility having a capacity of 50 or more whenever it is anticipated that:

(1) emergency services may have to be rendered frequently;

(2) there is a high frequency of cases requiring recuperative or convalescent care;

(3) convalescent care cannot be provided by utilization of vacant single cells or dormitory units.

(b) Infirmary components. When an infirmary is constructed, the following minimum components shall be included:

(1) nurses station;

(2) locked medication station with storage for individually filled prescriptions;

(3) utility room with sink and storage for nourishment, linen, and equipment;

(4) utility room with double tub sink and clinical service sink with flushing rim;

(5) 80 square feet of floor space per bed;

(6) at least one single-occupancy room or cell with 80 square feet of floor space;

(7) doors, through which patients and equipment are to be moved, of adequate width to allow turning of wheeled chairs and tables normally used in medical facilities;

(8) a lavatory with a gooseneck inlet and wrist controls accessible to each ward;

(9) janitor closet;

(10) water closet, lavatory, and shower for use of inmates in the infirmary;

.033. Administrative Space. The facility shall provide sufficient space for administrative, program, and clerical personnel. Adequate space for equipment and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

.034. Multipurpose Rooms. A low-risk facility should have, in addition to any activity or day room area, one or more multipurpose rooms for group assembly of inmates. The multipurpose room may be used for conferences, interrogation, contact visits, religious services, education, interviewing, group counseling, or other special uses.

.035. Squad Rooms. Locker space, water closets, lavatories, showers, and dressing rooms may be provided for custodial personnel.

.036. Weapon Storage. Separate secure storage space shall be provided for disposition of weapons at all entrances to all areas where the carrying of weapons is prohibited.

.037. Single Cells. Single cells, if used, shall not be less than eight feet high from finished floor to ceiling and not less than five feet wide from wall to wall. They shall contain not less than 40 square feet of floor space. They shall have a bunk, water closet, lavatory capable of providing drinking water for inmate, table, and seating. Lighting shall be provided to permit reading, shaving, and normal activities within the cell.

.038. Multiple-Occupancy Cells. Multiple-occupancy cells shall be constructed to accommodate two to eight inmates and shall contain not less than 40 square feet of floor space for one inmate, plus 18 square feet of floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of eight inmates.

.039. Dormitories. Dormitories shall be designed to accommodate nine to 24 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of floor space per each additional inmate. Dormitories shall have a bunk for each inmate and a water closet and lavatory capable of providing drinking water for each group of 12 inmates or increment thereof to be confined therein. More than 40 percent of the inmate capacity of the low-risk facility may be designed for dormitories.

.040. Day Rooms. All inmate living areas shall be provided with day rooms. Day rooms should be designed to accommodate not more than eight inmates, but shall not be designed to accommodate more than 24 inmates. It shall contain 40 square feet of floor space for one inmate and 18 square feet of floor space for each additional inmate. Day rooms shall have a water closet and lavatory capable of providing drinking water, and a shower shall be available at all times for each group of 12 inmates, or increment thereof, to be confined therein. Each day room may otherwise be suitably furnished with, but not limited to the following: seating and tables to accommodate the number of inmates to be confined therein, and may provide for visiting facilities, dining facilities, and other activities. Sufficient lighting shall be provided for reading, recreation, shaving, and other similar activities.

.041. Remote Controls. Sliding doors, if used, shall be so arranged as to be locked, unlocked, opened to full open position, and closed by control means located remote from the inmate area. (See 217.24.)

.042. Emergency Operation of Doors. For emergency operation of all doors to single cells, multiple-occupancy cells, and dormitories, and to permit quick and orderly release of inmates in the event of electrical malfunction, fire, smoke, or other emergency, reliable means shall be provided remote from the inmate living area for unlocking all cell doors. The reliable means should also provide for completely opening sliding cell doors. (See 217.24.)

.043. Dimensions. Single cells, multiple-occupancy cells, dormitories and day rooms shall not be less than eight feet from finished floor to ceiling and be not less than five feet from wall to wall. Safety or inspection corridors should be not less than four feet wide.

.044. Furnishings for Inmate Housing Areas.

(a) **Bunks.** A bunk not less than two feet, three inches wide and six feet, three inches long shall be provided for each inmate confined. Bunks should have clothes hooks and shelves located nearby.

(b) **Water closets and lavatories.** Water closets and lavatories need not be vandal resistive.

(c) **Showers.** Shower areas shall be not less than two feet, six inches square per showerhead and not less than seven feet high. Construction should be of materials which resist the action of soap and water and which cannot be easily damaged by acts of vandalism. Drying areas of not less than two feet, six inches square sloped to a drain should be provided adjoining the shower entrance.

(d) **Additional furnishings.** Additional furnishings for single cells, multiple-occupancy cells, and dormitories may include tables and seating (mandatory for single cells), lockers, mirrors, light fixtures, and showers.

(e) **Tables and seating.** Tables and seating should be constructed of materials which will reduce maintenance. They shall be fire-resistive. Benches shall be not less than 12 inches wide, and linear seating dimensions shall be not less than 18 inches per person to be seated at any one time. Stools shall not be less than 12 inches in diameter.

(f) **Shields.** Toilet and shower modesty shields are not mandatory. However, when provided, they should extend from about 15 inches above the finished floor to a height of about five feet, six inches and shall be securely anchored.

.045. Lighting. Lighting shall be provided to permit reading, shaving, and normal activities within the inmate living area. Exteriors of buildings shall be lighted at night sufficiently to observe a person approaching the entrance.

.046. Doors. Doors may be of any material commensurate with the degree of security sought. Doors shall be equipped with appropriate hardware and accessories to achieve the degree of security sought.

.047. Electro-Mechanical Locks. Electro-mechanical keyed locks, where used, shall be motor or solenoid type, providing electrical control unlocking, key unlocking by manual operation, and automatic mechanical deadlocking of door upon closing. Electric control, indicator light, door position switch shall be provided for all doors equipped with electro-mechanical locks. Heavy-duty detention-type door closers shall be provided on all swinging doors equipped with electro-mechanical locks.

.048. Key Locks. Conventional locks may be used in lieu of detention-type locks.

.049. Keys. Conventional type keys may be used in lieu of detention keys.

.050. Key Cabinets. Secured key cabinets should be provided at suitable locations.

.051. Hinges. Hinges for doors need not be heavy-duty ball-bearing type but shall be adequate for the weight of the door.

.052. Hand Pulls. Hand pulls shall be securely anchored to the door.

.053. Door Stops. Door stops shall be provided for doors so as to prevent accidental or purposeful injury to inmates or custodial personnel.

.054. Door Closers. Where used, door closers for all swinging doors shall be appropriate to the weight of the door.

.055. Windows and Screens. Operable windows shall be equipped with insect screens. Window and/or skylights should be provided.

.056. Vision into Inmate Areas. Architectural design shall preclude direct vision into inmate-occupied areas from the outside public.

.057. Walls. Walls should be constructed so as to resist vandalism. Walls shall be designed with due consideration to the security and other functions sought to be achieved. In all instances where walls join floors, the joint should be at such a curve or angle as to permit easy cleaning.

.058. Floors. Floors should provide a high resistance to wear from normal use. The surface should be so finished as to present a reasonably uniform appearance under conditions of normal wear and maintenance. Floors should be constructed of materials which withstand ordinary floor maintenance chemicals.

.059. Ceilings. Ceilings should be constructed of material not easily damaged by vandalism.

.060. Paint. Washable paint may be used for untiled walls and metal work. Light colors with occasional bright accents are desirable. Paint shall be in accord with Section 217.08.

.061. Emergency Access. Multistory facilities shall have an elevator or other passageway large enough to accommodate an ambulance cot.

.062. Dropcords. Dropcords or extension cords shall not be permitted within the facility. Appliances must plug directly into a fixed receptacle.

.063. Vent Grilles. Vent grilles in walls and ceilings of cells, dormitories, and day rooms shall be commensurate with security application.

.064. Observation Panels. When used, observation panels shall provide a clear opening of not less than five inches by eight inches and be glazed with appropriate thickness security glass or equivalent.

.065. Mirrors. Mirrors need not be constructed of unbreakable material.

.066. Electrical Power. Electrical installation shall meet the requirements set by the state or by any city, village, or township permitted by statute to adopt an ordinance providing standards for electrical work. In addition, the facility shall have sufficient electrical outlets for heated food carts if heated food carts are to be used in food service. If electrical appliance will be permitted in cells or day rooms, fixed receptacles shall be provided.

.067. Emergency Electrical Power. An emergency electrical power system for quick recovery to maintain essential services, security, and safety shall be provided to meet the life safety requirements. (See 217.08.) Such systems shall be tested operationally monthly and a record kept of this testing.

.068. Temperature Level. All mechanical equipment for heating and cooling or air movement shall be designed to reasonably maintain a temperature level between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas

at all times. Mechanical equipment should be properly designed to offset rapid changes in temperature in communities where such changes are known to occur.

.069. *Air Flow.* Ventilation must be sufficient to admit fresh air and remove disagreeable odors. A sufficient number of windows capable of being opened, or an emergency mechanical ventilation unit, shall be provided in order to allow for sufficient ventilation in case of breakdown in the normal ventilation system or power failure.

.070. *Plumbing and Drainage.* Plumbing work shall meet the requirements of state and local commercial plumbing codes. Water closets, shower, and lavatories need not be of vandal-resistive type. Hot water shall not exceed 110 degrees Fahrenheit at a lavatory or shower in the inmate living area. Plumbing to inmate areas should have a quick shutoff valve or other approved means to prevent flooding.

.071. *Access Doors.* Plumbing space, or any other mechanical space, shall have a lockable access door.

.072. *Maintenance.* Maintenance of detention equipment should be accomplished by experienced personnel designated by the sheriff, or contracted for by the county, or both, to maintain all detention equipment in safe, secure, and fully operative condition at all times. Maintenance should be performed in accordance with methods recommended by manufacturer or vendor of such equipment.

.073. *Inmate Maintenance Prohibited.* Maintenance of locking systems and other security detention devices shall not be performed by inmates.

.074. *Variances.* In existing facilities (those operating prior to December 23, 1976) where specific standards cannot be complied with because of alleged difficulty or undue hardship, exceptions to specific physical plant provisions of the standards may be made where clearly justified if the intent of the standards is met and the security or supervision of inmates, established programs, and the safe, healthful, sanitary, and efficient operation of the facility is not seriously affected. The procedure for requesting and granting variances shall be the same as that prescribed under Rule 217.26.

.075. *Applicability.* The provisions of this Rule 217.07 apply only to facilities existing and being operated as county jails, lockups, or low-risk facilities on December 23, 1976.

Issued in Austin, Texas, on March 3, 1978.

Doc. No. 781595 Steve Suttle
 Chairman
 Texas Commission on Jail Standards

Effective Date: March 27, 1978

For further information, please call (512) 475-2780.

Texas Board of Licensure for Nursing Home Administrators

Examination 391.03.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Rule 391.03.00.002, "Pre-Examination Requirements; Conditions Precedent," as follows:

.002. *Pre-Examination Requirements; Conditions Precedent.*

(a) No person shall be admitted to or be permitted to take an examination for a nursing home administrator unless he shall have first submitted evidence satisfactory to the board that he meets the qualifications for licensure provided by law. Senate Bill 388, Section 9, Paragraphs 1 and 2.

(b) No person shall be admitted to or be permitted to take an examination for a nursing home administrator unless he has a completed application on file with the board office a minimum of one week prior to the scheduled examination. Applications submitted after the one week deadline will be held for the next scheduled exam.

(1) Candidates for the N.A.B. examination must complete an application for exam, submit their \$70 application fee, and proof that they have completed the 200-hour course in nursing home administration.

(2) Candidates for the state standards and orals examination must have a complete application on file with the board office and must have submitted their first quarterly report.

Issued in Austin, Texas, on March 6, 1978.

Doc. No. 781648 E. M. Lawrence, Jr.
 Executive Secretary
 Texas Board of Licensure for Nursing
 Home Administrators

Effective Date: March 29, 1978

For further information, please call (512) 926-9530.

Education 391.04.00

Under the authority of Article 4442d, Vernon's Annotated Civil Statutes, the Texas Board of Licensure for Nursing Home Administrators has amended Section (a), Rule 391.04.00.003, "Continuing Education Programs of Study," to read as follows:

.003. *Continuing Education Programs of Study.*

(a) All licensed nursing home administrators are required to have a minimum of 40 hours of continuing education for each two-year licensure period in a continuing education program approved by the board in order to obtain license renewal. At the time of making application for license renewal, each licensed nursing home administrator is responsible for informing the board of the total number of hours spent in continuing education, and such reports may be made on forms promulgated by the board. The following are recog-

nized by the board as acceptable continuing education requirement programs.

Issued in Austin, Texas, on March 6, 1978.

Doc. No. 781647 E. M. Lawrence, Jr.
Executive Secretary
Texas Board of Licensure for Nursing
Home Administrators

Effective Date: July 1, 1978

For further information, please call (512) 926-9530.

State Securities Board Transactions Exempt from Registration 065.05.00

The State Securities Board has amended Rule 065.05.00.009 by substituting new language for Section (c) of Rule .009, which changes the method of computing the number of purchasers or security holders of securities claimed to be exempt under Section 5.1 of the Securities Act. One change from the amended rule as originally proposed adds the words "or security holders" in the introductory language of Section (c), to make the language of Section (c) consistent throughout. The remainder of Rule .009 has not been amended. No comments from the public were received concerning this amendment.

This amendment to Section (c) of Rule 065.05.00.009 has been adopted pursuant to Sections 5.1 and 28-1, Article 581, Vernon's Annotated Texas Statutes.

.009. *Public Solicitation or Advertisements.*

(c) Number of "persons" or "security holders." In computing the number of purchasers or security holders for Section 5.1, the following criteria shall be used:

(1) There shall be counted as one purchaser or security holder any purchaser or security holder together with:

(A) any relative or spouse of such purchaser or security holder who has the same home as such purchaser or security holder; any relative of such spouse who has the same home as such purchaser or security holder; any relative or spouse or relative of such spouse who is a dependent of such security holder;

(B) any trust or estate in which such purchaser or security holder or any of the persons related to him as specified in paragraphs (A) or (C) of this subsection (1) collectively have 100 percent of the beneficial interest (excluding contingent interests); and

(C) any corporation or other organization of which such purchaser or security holder or any of the persons related to him as specified in paragraphs (A) or (B) of this subsection (1) collectively are the beneficial owners of all the equity securities (excluding directors' qualified shares) or equity interest.

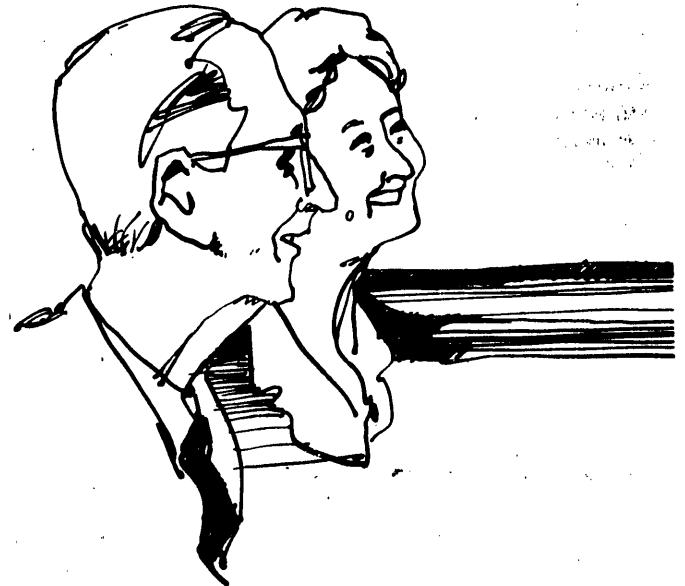
(2) There shall be counted as one purchaser or security holder any corporation, partnership, association, joint stock company, trust, or unincorporated association, organized and existing other than for the purpose of acquiring securities of the issuer for which the exemption is claimed under Section 5.1.

Issued in Austin, Texas, on March 6, 1978.

Doc. No. 781592 Richard D. Latham
Securities Commissioner
State Securities Board

Effective Date: March 27, 1978

For further information, please call (512) 475-4561.



This section includes summarized opinions in cases on appeal from administrative decisions of local, state, and federal governments and agencies. The section contains opinions of the U.S. Supreme Court, U.S. Circuit Courts of Appeals, U.S. District Courts, the Texas Supreme Court, and Texas Courts of Civil Appeals. Selected opinions of particular importance dealing with other than administrative appeals may also be included here from time to time. State court opinions are cited in the *Texas Lawyers' Weekly Digest*. Opinions from federal courts are cited in *The United States Law Week*.

5th U.S. Circuit Court of Appeals

In re 1975-2 Grand Jury Investigation of Associated Milk Producers, Inc.

The district court's refusal to quash subpoenas *duces tecum* or to stay the grand jury investigation pending an evidentiary hearing and in-camera inspection of requested documents, and its transfer of grand jury materials to another district court considering related civil actions, are not final, appealable orders within the meaning of Section 1291 of the Judicial Code.

This protracted litigation began in 1972 when the Justice Department filed a civil antitrust suit in Texas charging the nation's largest dairy cooperative with monopolizing the milk industry. Some 15 treble-damage actions against the cooperative were consolidated for pretrial proceedings in Missouri. In August, 1974, the government's civil suit was settled. Subsequently, however, it launched a grand jury investigation of the cooperative's alleged obstruction of justice in the discovery stages of the various civil antitrust suits. The investigation was terminated in August, 1976, without the return of an indictment.

During the course of the grand jury proceedings, the Texas court issued the challenged orders refusing to quash the subpoenas or stay the proceedings, transferring a list of grand jury materials to the Missouri court for in-camera inspection to determine whether it had a "compelling need" for any of the materials, and approving a private claimant's request to intervene in the proceedings relating to transfer of the grand jury materials.

A review of the case law interpreting the finality requirement of 28 United States Code, Section 1291, leads this court to observe that the case falls within "the 'twilight zone' of finality." In light of the fact that the Missouri court has not yet ruled on the disclosure issues raised by the cooperative, the orders denying the motions to quash and to stay the grand jury proceedings, "though 'fully consummated decisions,' are 'but steps toward final judgment.'" The order transferring a listing of materials to Missouri simply allows the presiding judge to determine whether the documents should be disclosed in that proceeding. "This is precisely the type of 'tentative, informal [and] incomplete' interlocutory decision that Congress in passing [Section 1291] intended to preclude from immediate review." Finally, it is "well settled," in *re Estelle*, 516 F.2d 480 (CA5 1975), cert. denied, 426 U.S. 925 (1976), that an order allowing intervention "is interlocutory and may not be appealed immediately." (46 USLW 2437)

Filed: February 6, 1978, New Orleans
Doc. No. 3C13

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Coordinating Board, Texas College and University System

Friday, March 17, 1978, 9:30 a.m. The Research Group of the Advisory Committee of the Coordinating Board, Texas College and University System, will meet in Room 1-105, Bayou Building, University of Houston/Clear Lake City, Houston. The group will discuss and select the basic medical and hospitalization insured benefits coverage from employees of higher education to be recommended to the full Advisory Committee.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: March 8, 1978, 10:27 a.m.
Doc. No. 781645

Friday, March 17, 1978, 10:30 a.m. The Research Group of the Advisory Committee of the Coordinating Board, Texas College and University System, will meet in the Dining Room A, 10th floor, University of Houston-Downtown College, One Main Plaza, Houston. The group will discuss the basic insured benefits coverage standards for long and short term disability; review coverage currently in effect, and to prepare a preliminary report to be presented to the Steering Committee of the Advisory Committee.

Additional information may be obtained from Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, telephone (512) 475-4361.

Filed: March 9, 1978, 10:04 a.m.
Doc. No. 781670

Texas County and District Retirement System

Thursday, March 23, 1978, 9 a.m. The Board of Trustees of the Texas County and District Retirement System will meet in the Palacio Del Rio, 200 South Alamo, San Antonio. As summarized, the agenda will include: consideration of applications for service retirement and disability retirement; review of financial statements; reports from the actuary, director, legal counsel, and investment counsel; consideration of actuarial reports; adopt mortality and other experience tables; consideration and fixing of contribution rates of participating subdivisions; discussion of other business; and setting of date for June meeting.

Additional information may be obtained from the Texas County and District Retirement System, 802 Perry Brooks Building, Austin, Texas 78701, telephone (512) 476-6651.

Filed: March 9, 1978, 10:30 a.m.
Doc. No. 781682



Texas Commission for the Deaf

Saturday, March 18, 1978, 10 a.m. The board of the Texas Commission for the Deaf will meet at the Tyler Rhodeway Inn, Highway 69 at Loop 323, Tyler. The board will consider the following items: TCD Advisory Council; long-range goals; legal advocacy plans; various state office reports concerning current service provision; future plans concerning overall TCD program; approval of minutes for January 28th Corpus Christi meeting and February 18th Austin meeting; role of board members in public hearings; and next TCD board meeting.

Additional information may be obtained from Joann Boerger Fowler, P.O. Box 12904, Austin, Texas 78711, telephone (512) 475-2492.

Filed: March 6, 1978, 1:37 p.m.
Doc. No. 781590

Texas State Board of Dental Examiners

Friday and Saturday, March 24-25, 1978, 9 a.m. The Texas State Board of Dental Examiners will meet in the board hearing room, 718 Southwest Tower, 7th and Brazos Streets, Austin, to conduct disciplinary hearings before a hearing officer, as summarized in the agenda.

Additional information may be obtained from Carl C. Hardin, Jr., 718 Southwest Tower, 7th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-2443.

Filed: March 7, 1978, 10:25 a.m.

Doc. No. 781616

State Board of Education

Saturday, March 11, 1978, 8:30 a.m. The State Board of Education of the Texas Education Agency made an emergency addition to the agenda of a meeting held at 150 East Riverside Drive, Austin, to include consideration of revision of agenda operating plans/budget for 1977-78.

Additional information may be obtained from M. L. Brockett, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3271.

Filed: March 9, 1978, 10:58 a.m.

Doc. No. 781684

Employees Retirement System of Texas

Thursday, March 16, 1978, 9:30 a.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet at 1705 San Jacinto, Austin, to consider benefits, rates, and proposed rules for the Uniform Group Insurance Program.

Additional information may be obtained from Joseph N. Murphy, Jr., Box 12337, Austin, Texas 78711, telephone (512) 476-6431.

Filed: March 8, 1978, 3:30 p.m.

Doc. No. 781659

Monday, March 20, 1978, 9 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at 1705 San Jacinto, Austin. The agenda, as summarized, will include the following: appointment of member to Group Insurance Advisory Committee; report on Group Insurance Premium, consideration of health insurance coverage for active employees age 65 and older, and proposed insurance premium rates for 1978-79; report on retirement of members, occupational deaths, occupational disabilities, and Article 6228f beneficiaries; report on investment of retirement funds; adoption of proposed permanent rules; review of attorney general opinions; discussion of audit of insurance carrier's records; actuary report, eight-year investigation, and valuation for 1977; and budget adjustments.

Additional information may be obtained from Joseph N. Murphy, Jr., P.O. Box 12337, Austin, Texas 78711, telephone (512) 476-6431.

Filed: March 8, 1978, 11:44 a.m.

Doc. No. 781653

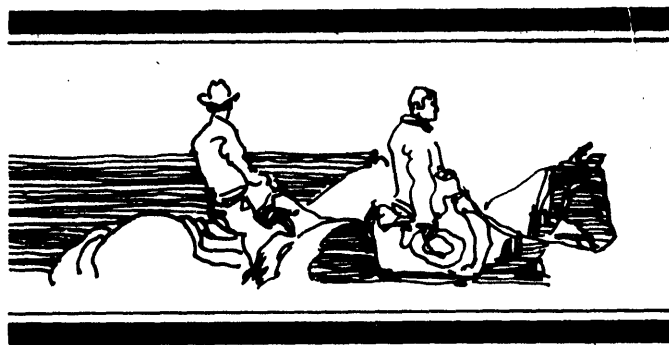
Commission on Fire Protection Personnel Standards and Education

Tuesday, April 18, 1978, 10 a.m. The Commission on Fire Protection Personnel and Standards and Education will conduct a public hearing in the Fire Department Auditorium, 1622 Festival Beach Road, Austin. As summarized, the commission will conduct this hearing on the proposed revision of standards for certification of fire and arson investigative personnel. Recommendations include a revision of allocated hours in certain subjects, elimination of three subjects adequately covered in law enforcement courses that are required as a prerequisite, thus allowing an additional nine new subjects that are more applicable to the investigator.

Additional information may be obtained from Garland W. Fulbright, Suite 122, 8330 Burnet Road, Austin, Texas 78758, telephone (512) 459-8701.

Filed: March 7, 1978, 10:25 a.m.

Doc. No. 781615



General Land Office

Monday, March 13, 1978, 1:30 p.m. The Approval Board of the Texas Department of Corrections met in emergency session in the district court room, Brown County, Brownwood, to consider approval of acquisition of land by the Department of Corrections, as summarized in the agenda.

Additional information may be obtained from H. E. White, Room 749, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6491.

Filed: March 7, 1978, 4:51 p.m.

Doc. No. 781638

Monday, March 13, 1978, 2 p.m. The Board for Lease of the Texas Department of Corrections met in emergency session in the district court room, Brown County, Brownwood, to consider the following, as summarized: seismic permit applications; approval of nominations, terms, conditions, and procedures for the June 6, 1978, oil and gas lease sale.

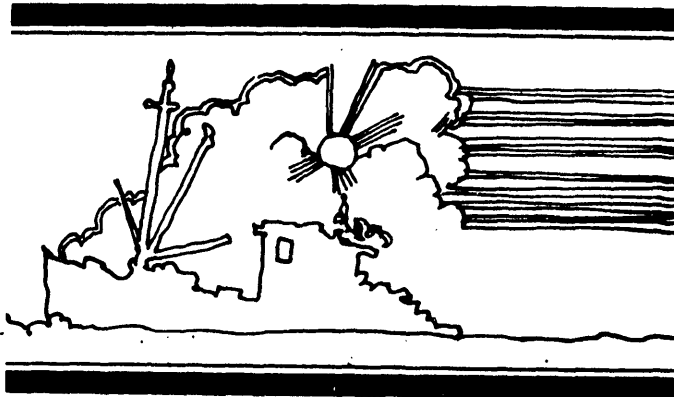
Additional information may be obtained from H. E. White, Room 749, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6491.

Filed: March 7, 1978, 4:51 p.m.
Doc. No. 781637

Friday, March 31, 1978, 1:30 p.m. The Board for Lease of Pan American University Lands of the General Land Office will meet in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin. The board, as summarized, will consider and approve nominations, terms, conditions, and procedures for the June 6, 1978, oil and gas lease sale.

Additional information may be obtained from H. E. White, Room 749, Stephen F. Austin Building, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6491.

Filed: March 9, 1978, 11:12 a.m.
Doc. No. 781686



Office of the Governor

Friday, March 17, 1978, 9 a.m. The Greater South Texas Cultural Basin Commission of the Governor's Office will meet in the Holiday Inn Emerald Beach, 1102 South Shoreline, Corpus Christi. The summarized agenda includes the following: welcome by Mayor Gabe Lozano, Sr.; address by members of the Texas Legislature from the Coastal Bend region; luncheon address by Councilwoman Ruth Gill; proposed recommendations for inclusion in a human resources development plan for 40 South Texas counties; Basinwide Title IX Application to EDA; report on South Texas Business and Industrial Fair; executive director's report; and GSTCBC financial report.

Additional information may be obtained from Stella H. Patton, Room 104, Sam Houston Building, Austin, Texas 78701, telephone (512) 475-2182.

Filed: March 9, 1978, 10:10 a.m.
Doc. No. 781685

Friday, March 17, 1978, 10 a.m. The Task Force on Speedy Trial in Criminal Cases of the Governor's Criminal Justice Division will meet in the Board of Directors' conference room, Texas Law Center, 14th and Colorado Streets, Austin. As summarized, the agenda will include: presentation of Committee V report; meetings of Committees VI and VIII; and new business.

Additional information may be obtained from Willis Whatley, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-6065.

Filed: March 8, 1978, 3:02 p.m.
Doc. No. 781657

Texas Department of Health

Friday, March 17, 1978, 1 p.m. The Texas Statewide Health Coordinating Council of the Texas Department of Health will meet in Room 3-120, Joe C. Thompson Conference Center, 26th and Red River Streets, Austin. As summarized, the agenda will include the following committee reports: Monitoring and Assessment; State Medical Facilities Plan Review; State Health Plan Review; Annual Implementation Plans Review; and Application, Budget, and Project Review. The meeting will also include: Preliminary State Health Plan update; State Medical Facilities Plan update; and project development by State Health Planning and Development Agency.

Additional information may be obtained from George R. Anderson, M.D., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7261.

Filed: March 9, 1978, 10:04 a.m.
Doc. No. 781671

Texas Health Facilities Commission

Thursday, March 16, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The commission will consider the following applications, as summarized:

St. Luke's Episcopal and Texas Children's Hospital, Houston—certificate of need

Harris Hospital, Fort Worth—certificate of need

Alief General Hospital, Houston—certificate of need

Family and Individual Services of Tarrant County, Inc., Fort Worth—certificate of need, enforcement

South Limestone Hospital District, Groesbeck—
exemption certificate

Island Dialysis Center, Galveston—exemption certificate

Hugh Roy and Lille Cullen Residence Hall, Houston—
declaratory ruling

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: March 8, 1978, 11:29 a.m.

Doc. No. 781651

Thursday, March 23, 1978, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. The commission will consider the following applications, as summarized:

Southland Villa Nursing Center, Temple—certificate of need
Manor Estates Nursing Home, Haltom City—
certificate of need

Visiting Nurse Association of El Paso, Inc., El Paso—
certificate of need

Cambio House, Houston—certificate of need

Mexia State School, Mexia—certificate of need

Home Health-Home Care, Inc., Orange—certificate of need

Home Health-Home Care, Inc., Center—certificate of need

Heritage Manor Nursing Home, Sherman—
certificate of need

Memorial Hospital of Garland, Garland—exemption
certificate

St. Luke's Episcopal and Texas Children's Hospital,
Houston—exemption certificate

Medical Center Hospital, Tyler—exemption certificate

Additional information may be obtained from William D. Darling, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: March 8, 1978, 11:29 a.m.

Doc. No. 781652



State Board of Insurance

Tuesday, March 14, 1978, 10 a.m. The State Board of Insurance has made an addition to the agenda of a meeting to be held in Room 408, 1110 San Jacinto, Austin, to discuss Central National Insurance Company of Omaha and aircraft title insurance policy.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 1:37 p.m.

Doc. No. 781587

Wednesday, March 15, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application for initial certificate of authority from NTA Life Insurance Company, Dallas.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 4:27 p.m.

Doc. No. 781604

Wednesday, March 15, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider a request of Commonwealth Lloyd's Insurance Company, Dallas, to amend certificate of authority.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 4:27 p.m.

Doc. No. 781605

Monday, March 20, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application for original articles of incorporation for Metroplex Life Insurance Company, Arlington.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 4:27 p.m.

Doc. No. 781606

Tuesday, March 21, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an initial certificate of authority for Texas South Life Insurance Company, La Grange.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 4:27 p.m.

Doc. No. 781607

Tuesday, March 21, 1978, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application for admission to Texas from Commonwealth Mortgage Assurance Company, Philadelphia, Pennsylvania.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 4:27 p.m.
Doc. No. 781608

Wednesday, March 22, 1978, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 343, 1110 San Jacinto, Austin, to consider an application for admission to Texas from Continental Guaranty Life Insurance Company, Phoenix, Arizona.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 4:27 p.m.
Doc. No. 781609

Thursday, March 23, 1978, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 343, 1110 San Jacinto, Austin, regarding Kenneth Wayne Bullard, doing business as Tanglepoint Insurance Agency, Plano. The board will consider whether addressee's Group II Insurance Agent's License should be revoked or suspended and whether any and all authority of addressee to engage in the business of insurance should be revoked or suspended.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed: March 6, 1978, 4:27 p.m.
Doc. No. 781610

Texas Advisory Commission on Intergovernmental Relations

Thursday, March 9, 1978, 9 p.m. The Project Committee on Evaluation of Title I Community Service Program of the Texas Advisory Commission in Intergovernmental Relations met in emergency session in the Caucus Room, 21st floor, American Bank Tower, 6th and Colorado Streets, Austin. As summarized, the committee reviewed the draft of final report for the Evaluation of Title I Community Service Program. This meeting was rescheduled from February 27, because of conflicting schedules among committee members.

Additional information may be obtained from Patricia Corbin, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3728.

Filed: March 8, 1978, 4:48 p.m.
Doc. No. 781668



Lamar University

Monday, March 13, 1978, 2 p.m. The Building Committee of the Board of Regents of Lamar University met in the board room, Plummer Administration Building, Lamar University main campus, Beaumont. As summarized, the committee reviewed bids and contracts for university buildings and facilities and received a status report on the University Master Plan for the decade 1978-79.

Additional information may be obtained from Dr. Andrew J. Johnson, Box 10014, LUS, Beaumont, Texas 77710, telephone (713) 838-7533.

Filed: March 7, 1978, 10:24 a.m.
Doc. No. 781619

Monday, March 13, 1978, 2:30 p.m. The Athletic Committee of the Board of Regents of Lamar University met in the board room, Plummer Administration Building, Lamar University main campus, Beaumont. As summarized, the committee reviewed the status of the university and its relationship to the Southland Conference intercollegiate athletics.

Additional information may be obtained from Dr. Andrew J. Johnson, Box 10014, LUS, Beaumont, Texas 77710, telephone (713) 838-7533.

Filed: March 7, 1978, 10:24 a.m.
Doc. No. 781620

Thursday, March 23, 1978, 9 a.m. The Board of Regents of Lamar University will meet in the Spindletop Room, Mary and John Gray Library, Lamar University main campus, Beaumont. The agenda will include: review of bids for building and grounds projects; approval of journal entries and monthly financial reports; review of general use fees for 1978-79; report of the Athletic Committee regarding Southland Conference and N.C.A.A.; review of invitations to hold April meeting in Orange; review of admission charges for Brown Center; consideration of resolution regarding acceptance of Gates Memorial Library; proposal to name the Ruby Ruth Fuller Educational Building at Lamar University-Port Arthur; review of recommendations regarding the Master planning Program; and executive session to review personnel matters.

Additional information may be obtained from Dr. Andrew Johnson, Box 10014 LUS, Beaumont, Texas 77710, telephone (713) 838-7533.

Filed: March 7, 1978, 10:24 a.m.
Doc. No. 781681

Texas Department of Mental Health and Mental Retardation

Thursday, March 16, 1978, 1 p.m. The Texas State Mental Health Advisory Council will meet in the La Lanca Room, Holiday Inn, Alamo Area, Durango Street at Santa Rosa Street, San Antonio. The summarized agenda includes: review of task force report on services to emotionally disturbed children; consideration of list of priorities for planning and budgeting for the next three years; review of position statement on flexibility between appropriated line items; and Aftercare/Outreach, a plan of action and timetable.

Additional information may be obtained from James A. King, P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761, extension 321.

Filed: March 8, 1978, 4:26 p.m.
Doc. No. 781665

Friday, March 17, 1978, 10 a.m. The Texas State Mental Health Advisory Council will meet in the board room, San Antonio Children's Center, 2939 West Woodlawn Avenue, San Antonio. The summarized agenda includes: review of task force report on services to emotionally disturbed children; consideration of list of priorities for planning and budgeting for the next three years; review of position statement on flexibility between appropriated line items; and Aftercare/Outreach, a plan of action and timetable.

Additional information may be obtained from James A. King, P.O. Box 12668, Austin, Texas 78711, telephone (512) 454-3761, extension 321.

Filed: March 8, 1978, 4:26 p.m.
Doc. No. 781666

Texas Optometry Board

Wednesday, March 15, 8:30 p.m. and Thursday, March 16, 1978, 9 a.m. The Texas Optometry Board will meet in the Satellite Room, Airport Marina Hotel, Dallas/Fort Worth Airport. As summarized, the agenda will include: discussion of old business; reports of secretary-treasurer, legal counsels, and committees; appearance of representative of National Center for Health Statistics; discussion regarding grades of recent candidate for examination; and meetings of all committees following the business meeting. The Continuing Education Committee will meet at 7 p.m., and the Examination Guidelines Committee will meet at 7:30 p.m. Two formal hearings will be held on the following morning beginning at 9 and 10 a.m. The Investigation-Enforcement Subcommittee for the Dallas area will hold an informal conference with an optometrist/licensee at 8:30 a.m. on March 16th.

Additional information may be obtained from Lois Ewald, Suite H-101, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-2141.

Filed: March 7, 1978, 4:34 p.m.
Doc. No. 781636



Board of Pardons and Paroles

Monday through Friday, March 20-24, 1978, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. The board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole and procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by the agency; and take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, Room 711, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3363.

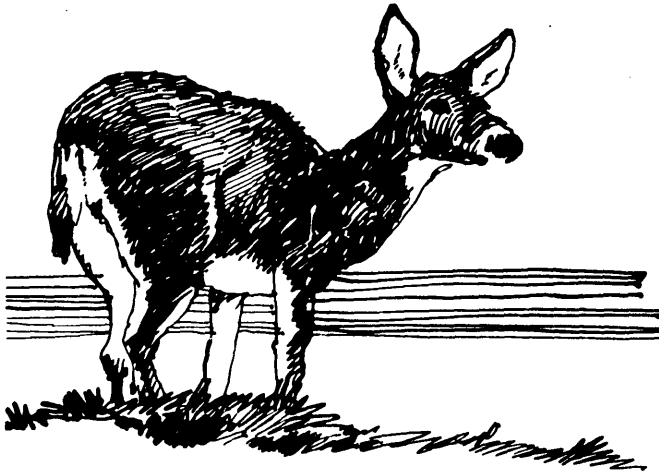
Filed: March 7, 1978, 10:25 a.m.
Doc. No. 781613

Texas Parks and Wildlife Department

Thursday, April 13, 1978, 2 p.m. The Parks Division of the Texas Parks and Wildlife Department will meet in Room A-100, Headquarters Building, 4200 Smith School Road, Austin, to hold a public hearing regarding a revised Development Concept Plan on the Fulton Mansion State Historic Site, Aransas County (as authorized by the provisions of Article 5421q, Vernon's Civil Statutes), as summarized in the agenda.

Additional information may be obtained from Dr. Harold D. Toy, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

Filed: March 7, 1978, 4:10 p.m.
Doc. No. 781635



Texas Private Employment Agency Regulatory Board

Thursday, March 30, 1978, 9 a.m. The Texas Private Employment Agency Regulatory Board will meet in the City Hall Annex Conference Room, 901 Bagby, Houston. As summarized, the board will consider the following items: Rule 398.01.00.011; Rule 398.01.00.004(b); Rule 398.01.00.009(a); Rule 398.01.00.010; Article 5221a-6, Section 13(a)(5); Article 5221a-6, Section 13(a)(2); and Article 5221a-6, Section 2.

Additional information may be obtained from Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, telephone (512) 475-7026.

Filed: March 6, 1978, 3:38 p.m.
Doc. No. 781603

Texas State Board of Examiners of Psychologists

Thursday through Sunday, March 16-19, 1978, 9 a.m. daily. The Texas State Board of Examiners of Psychologists will meet in Suite 126, Building H, 5555 North Lamar, Austin. As summarized, the board will consider: application requests; letters for board opinion; continuing education; examination; legislative matters; specialty certification; rules and regulations; administrative matters; qualifications of psychological associates; investigation and consultant possibilities; and ethical matters. The board will also hold interviews.

Additional information may be obtained from Patti Smith, Suite 126, Building H, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-3295.

Filed: March 7, 1978, 4:51 p.m.
Doc. No. 781639

State Board of Registration for Public Surveyors

Saturday, March 18, 1978, 2 p.m. The State Board of Registration for Public Surveyors will meet in Suite H-109, 5555 North Lamar, Austin, to prepare statements to be given at a public hearing of the Sunset Commission, as summarized in the agenda.

Additional information may be obtained from the State Board of Registration for Public Surveyors, Suite H-1098, 5555 North Lamar, Austin, Texas 78751, telephone (512) 452-9427.

Filed: March 7, 1978, 10:24 a.m.
Doc. No. 781618

Public Utility Commission of Texas

Tuesday, March 14, 1978, 9:30 a.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing regarding an application of Southwestern Bell Telephone Company to amend its certificate of convenience and necessity in Bell County (Docket No. 967), as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: March 6, 1978, 1:37 p.m.
Doc. No. 781588

Wednesday, March 22, 1978, 9:30 a.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a hearing regarding an application of Southwestern Bell Telephone Company to amend its certificate of convenience and necessity within Lubbock County (Docket No. 917), as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: March 7, 1978, 10:25 a.m.
Doc. No. 781614

Monday, March 27, 1978, 2 p.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a pre-hearing regarding an application of Tel-A-Voice for a certificate of convenience and necessity for radio telephone services in Victoria and appropriate surrounding counties (Docket No. 1620), as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: March 8, 1978, 9:55 a.m.
Doc. No. 781640

Thursday, March 30, 1978, 11 a.m. The Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding an application of Pendleton Water Supply Corporation for a rate increase within Bell County (Docket No. 1392), as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: March 8, 1978, 9:55 a.m.
Doc. No. 781642

Monday, April 10, 1978, 10 a.m. The Public Utility Commission of Texas will meet in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to conduct a pre-hearing regarding an application of Shalimar Water Corporation for a rate increase within Atascosa County (Docket No. 1659), as summarized in the agenda.

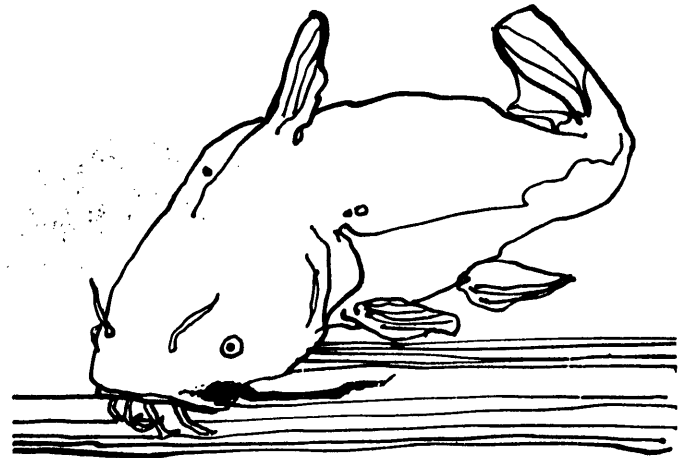
Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: March 6, 1978, 1:37 p.m.
Doc. No. 781589

Wednesday, April 26, 1978, 9:30 a.m. The Public Utility Commission of Texas will conduct a pre-hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, regarding a complaint of Sharyland Water Supply Corporation regarding the extension of water utility service by the City of Mission into certain areas of Hidalgo County (Docket No. 1069), as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: March 8, 1978, 9:55 a.m.
Doc. No. 781641



University of Texas at Austin

Wednesday, March 8, 1978, 3 p.m. The Athletics Council for Men of the University of Texas at Austin held an emergency meeting in Room 224, Belmont Hall, UT campus, Austin. As summarized, the council considered the budget for 1978-79 and other miscellaneous items. An executive session was also held.

Additional information may be obtained from Haila Kauffman, P.O. Box 7399, Austin, Texas 78712, telephone (512) 471-5757.

Filed: March 6, 1978, 1:37 p.m.
Doc. No. 781586

Texas Turnpike Authority

Monday, March 13, 1978, 2:30 p.m. The Board of Directors of the Texas Turnpike Authority made an emergency addition to the agenda of a meeting held in the Cottonwood Room, Hyatt Regency Hotel, 1200 Louisiana Street, Houston. The agenda included Item 10, concerning the consideration of authorizing Howard, Needles, Tammen, and Bergendoff to perform additional preliminary engineering services requested by Houston Ship Channel Bridge underwriters.

Additional information may be obtained from Harry Kabler, P.O. Box 5547, Arlington, Texas 76011, telephone (817) 261-3151.

Filed: March 9, 1978, 8:19 a.m.
Doc. No. 781669

Veterans Land Board

March 21, 1978, 2 p.m. The Veterans Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin, to hear a report of the executive secretary and consider requests for extensions and/or new applications forms.

Additional information maybe obtained from Richard Keahey, Room 738, Stephen F. Austin Building, Austin, Texas 78701, telephone (512) 475-3766.

Filed: March 8, 1978, 4:26 p.m.
Doc. No. 781667



Governor's Coordinating Office for the Visually Handicapped

Sunday, March 19, 1978, 4 p.m. The Policy Board of the Governor's Coordinating Office for the Visually Handicapped will meet in Suite 105, Stokes Building, 314 West 11th Street, Austin, to discuss program development and personnel issues, as summarized in the agenda.

Additional information may be obtained from Dr. Robert J. Winn, Suite 105, 314 West 11th Street, Austin, Texas 78701, telephone (512) 475-7064.

Filed: March 9, 1978, 10:04 a.m.
Doc. No. 781672

Sunday, March 19, 1978, 4 p.m. The Technical Advisory Council of the Governor's Coordinating Office for the Visually Handicapped will meet in Suite 105, Stokes Building, 314 West 11th Street, Austin, to discuss program development and personnel issues, as summarized in the agenda.

Additional information may be obtained from Dr. Robert J. Winn, Suite 105, 314 West 11th Street, Austin, Texas 78701, telephone (512) 475-7064.

Filed: March 9, 1978, 10:04 a.m.
Doc. No. 781673

Texas Water Commission

Tuesday, March 21, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding the City of Odessa, Temporary Order No. 78-3E, to determine whether the order issued on March 6, 1978, to the City of Odessa should be affirmed, modified, or set aside by the commission, as summarized in the agenda.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 8, 1978, 3:39
Doc. No. 781660

Monday, April 4, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider a petition for organization of White Oak Bend Municipal Utility District which will include 122,5763 acres of land located in Harris County, as summarized in the agenda.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 8, 1978, 3:39 p.m.
Doc. No. 781663

Thursday, April 27, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider an application of R. R. Henry for approval of preliminary plans for construction of a levee or other improvements, as summarized in the agenda.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 7, 1978, 3:49 p.m.
Doc. No. 781633

Thursday, April 27, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider an application of Balcones Development Corporation for approval of preliminary plans for construction of a levee or other improvements, as summarized in the agenda.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 7, 1978, 3:49 p.m.
Doc. No. 781634

Friday, April 28, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding a request of Phillips Petroleum Company seeking a permit to maintain an existing dam and reservoir on an unnamed tributary of Patton Creek, tributary Canadian River, Canadian River Basin, and to impound water for industrial purposes in Hutchinson County, as summarized in the agenda.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 8, 1978, 3:39 p.m.
Doc. No. 781661

Friday, April 28, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding John Schoellkopf, who seeks a permit to maintain an existing on-channel dam and reservoir for domestic and livestock purposes on Little Alder Creek, tributary Catfish Creek, tributary Trinity River, Trinity River Basin, and to impound water for recreational purposes in Henderson County, as summarized in the agenda.

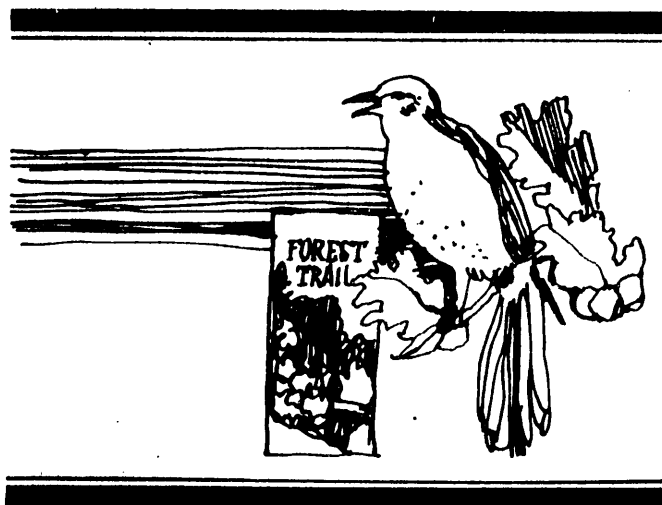
Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 8, 1978, 3:39 p.m.
Doc. No. 781662

Friday, May 5, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding an application of Franklin F. Kelly for approval of preliminary plans for construction of a levee or other improvements, as summarized in the agenda.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 7, 1978, 3:49 p.m.
Doc. No. 781632



Regional Agencies Meetings Filed March 6, 1978

The Alamo Area Council of Governments, Housing Advisory Committee, met on March 13, 1978, at 1:30 p.m. The Regional Alcoholism Advisory Committee will meet on March 14 at 1:30 p.m. The Criminal Justice Planning committee will meet on March 15 at 1:30 p.m. The Human Resources Advisory Committee will meet on March 16 at 2 p.m. The Regional Drug Abuse Advisory Committee will meet on March 16 at 3 p.m. The Regional Development and Review Committee will meet on March 21 at 9 a.m. All of these meetings will be held at 532 Three Americas Building, San Antonio. Further information may be obtained from Al J. Notzon III, 400 Three Americas Building, San Antonio, Texas 78205, telephone (512) 225-5201.

The Greater East Texas Health Systems Agency, Inc., Executive Committee, will meet at the Woodville Inn, 201 North Magnolia, Woodville, on March 16, 1978, at 7:30 p.m. Further information may be obtained from Rudy Moreau, Suite 303, 2900 North, Beaumont, Texas, telephone (713) 892-6962.

The South Texas Development Council, Area Agency on Aging, will meet at the San Juan Community Center, Rio Grande City, on March 15, 1978, at 2 p.m. Further information may be obtained from Lupita Rubio, P.O. Box 2187, Laredo, Texas 78041, telephone (512) 722-3995.

The Trinity River Authority of Texas, Executive Committee, met in the Executive Committee Room, 2723 Avenue E East, Arlington, on March 7, 1978, at 1:30 p.m. Further information may be obtained from Geri Elliott, P.O. Box 5768, Arlington, Texas 76011, telephone (817) 461-3151.

The West Central Texas Municipal Water District will meet in the third floor conference room, 174 Cypress, Abilene, on March 14, 1978, at 9:30 a.m. Further information may be obtained from Victor Jaeggli, P.O. Box 2362, Abilene, Texas 79604, telephone (915) 673-8254.

The Austin-Travis County MH/MR Center, Ad Hoc Committee, met at 1430 Collier, Austin, on March 9, 1978, at 7 p.m. Further information may be obtained from Dr. Larry J. Miller, 1430 Collier, Austin, Texas 78704.

Doc. No. 781591

Meetings Filed March 7, 1978

The Austin-Travis County MH/MR Center, Operations Committee, met at 1430 Collier, Austin, on March 13, 1978, at 7 p.m. Further information may be obtained from Dr. Larry J. Miller, 1430 Collier, Austin, Texas 78704.

The Brazos Valley MH/MR Center, Board of Trustees, will meet the board room, second floor, 202 East 27th Street, Bryan, on March 16, 1978, at 4 p.m. Further information may be obtained from Dr. Linda S. Davis, 202 East 27th Street, Bryan, Texas 77801, telephone (713) 779-2000.

The Central Counties Center for MH/MR, Board of Trustees, will meet at the Captain's Table, Lake Belton, on March 16, 1978, at 7 p.m. Further information may be obtained from Dr. Steven B. Schnee, P.O. Box 1025, Temple, Texas 76501, telephone (817) 778-4841.

The High Plains Underground Water Conservation District No. 1, Board of Directors, met at 2930 Avenue Q, Lubbock, on March 13, 1978, at 2 p.m. Further information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, telephone (806) 762-0181.

The Nortex Regional Planning Commission, General Membership, will meet at McBride Land and Cattle Company, 501 Scott Street, Wichita Falls, on March 16, 1978, at noon. Further information may be obtained from Edwin B. Daniel, 2101 Kemp, Wichita Falls, Texas 76309, telephone (817) 322-5281.

The Panhandle Regional Planning Commission, Texas Panhandle Employment and Training Planning Council, will meet in the Centennial Room, First National Bank Building, 8th and Taylor Streets, Amarillo, on March 15, 1978, at 10 a.m. Further information may be obtained from Vicki Jacobs, P.O. Box 9257, Amarillo, Texas 79105.

The Panhandle Regional Planning Commission, Alcohol/Drug Abuse Services Coordinating Board, will meet in the Chamber of Commerce conference room, Amarillo Building, 301 Polk, Amarillo, on March 15, 1978, at 1:30 p.m. Further information may be obtained from Claudia Stuart, P.O. Box 9257, Amarillo, Texas 79105.

The San Antonio River Authority, Board of Directors, will meet in the conference room, 100 East Guenther, San Antonio, on March 15, 1978, at 2 p.m. Further information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, Guilbeau Station, San Antonio, Texas 78204, telephone (512) 227-1373.

The South Plains Health Systems, Inc., Board of Directors, will meet at the Mahon Library, 1306 Ninth Street, Lubbock, on March 16, 1978, at 7 p.m. Further information may be obtained from Ronald D. Warner, 1217 Avenue K, Lubbock, Texas 79401, telephone (806) 747-0181.

Doc. No. 781611

Meetings Filed March 8, 1978

The Austin-Travis County MH MR Center, Operation Committee rescheduled a meeting held at 1430 Collier, Austin, on March 13, 1978, at 6:30 p.m. The Personnel Committee will meet at the same location on March 16 at 6:30 p.m. Further information may be obtained from Dr. Larry J. Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

The Coastal Bend Council of Governments, Nueces Basin Citizen Advisory Committee, will meet in the County Commissioner's Courtroom, Nueces County Courthouse, Corpus Christi, on March 16, 1978, at 1:30 p.m., and in the Uvalde Civic Center, 400 East Main, Uvalde, on March 17 at 1:30 p.m. Further information may be obtained from Ken Froehlich, P.O. Box 6609, Corpus Christi, Texas 78411, telephone (512) 854-3081.

The Golden Crescent Council of Governments, Lavaca Basin Advisory Committee, will meet in Court Room No. 2, Jackson County Courthouse, Edna, on March 22, 1978, at 1 p.m. Further information may be obtained from Robert W. Burr, P.O. Box 2028, Victoria, Texas 77901, telephone (512) 578-1587, extension 30.

The Guadalupe-Blanco River Authority, Board of Directors, will meet at 933 East Court Street, Seguin, on March 16, 1978, at 10 a.m. Further information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, telephone (512) 379-5822.

The Sabine Valley Regional MH/MR Center, Board of Trustees, will meet at 1602 West Grande Avenue, Marshall, on March 16, 1978, at 7:30 p.m. Further information may be obtained from Frances H. Willis, P.O. Box 1128, Longview, Texas 75601, telephone (214) 758-8243.

The South Texas Development Council, Regional Alcoholism/Drug Abuse Advisory Committee, will meet at the Zapata Community Center, Zapata, on March 28, 1978, at 1 p.m. Further information may be obtained from Rosa Laura Marines, P.O. Box 2187, Laredo, Texas 79041, telephone (512) 722-3995.

Doc. No. 781643

Meetings Filed March 9, 1978

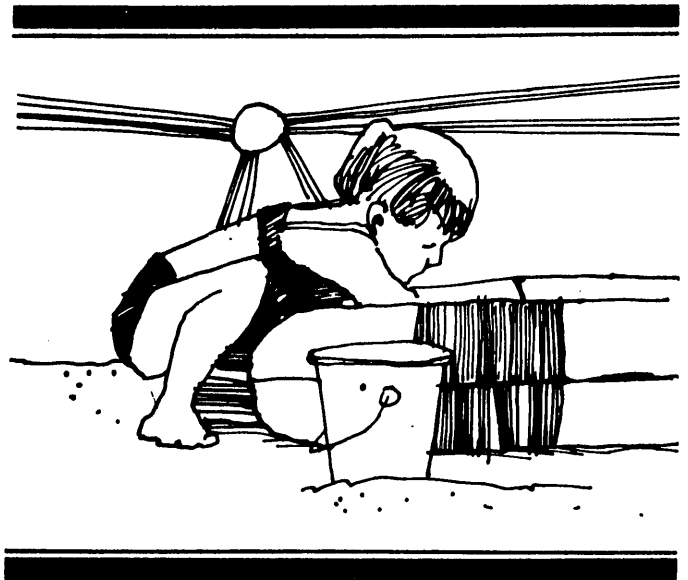
The Brazos River Authority, Middle Sub-basin Subcommittee, Planning Advisory Committee, will meet at the Waco Convention Center, 100 Washington Avenue, Waco, on April 5, 1978, at 1:30 p.m. The Lower Sub-basin Subcommittee, Planning Advisory Committee, will meet at the Freeport

Community House, 1200 Block of West 2nd, Freeport, on April 7 at 1:30 p.m. The Upper Sub-basin Subcommittee, Planning Advisory Committee, will meet at the Abilene Civic Center, 1100 North 6th Street, Abilene, on April 12 at 1:30 p.m. Further information may be obtained from Fred M. Johnson, 4400 Cobbs Drive, Waco, Texas 76710, telephone (817) 776-1441.

The Central Texas Council of Governments, Executive Committee, will meet at the National Guard Armory, Gatesville, on March 16, 1978, at 10:30 a.m. Further information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, telephone (817) 939-1801.

The Middle Rio Grande Development Council, Criminal Justice Advisory Committee, will meet at the public library, Main and Monroe Streets, Eagle Pass, on March 15, 1978, at 1 p.m. The A-95 Project Review Committee will meet at the same location on March 15 at 2 p.m. The Budget Review Committee will meet at the same location on March 15 at 3 p.m.

Doc. No. 781674



Department of Banking Notice of Application

Article 342-401a, Vernon's Texas Civil Statutes, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On March 6, 1978, the banking commissioner received an application to acquire control of First State Bank, Brackettville, Texas, by David W. Winters, Del Rio.

Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Issued in Austin, Texas, on March 6, 1978.

Doc. No. 781621 Robert E. Stewart
Banking Commissioner

Filed: March 7, 1978, 10:38 a.m.

For further information, please call (512) 475-4451.



Comptroller of Public Accounts

Administrative Decisions

Summary of Administrative Decision 8517

Summary of Decision:

(1) The sale of 82 percent of a corporation's assets to another corporation is a transfer of "substantially all the property held or used" by the selling corporation within the meaning of the occasional sale definition provided in Texas Taxation—General Annotated, Article 20.01(F)(3).

(2) If a selling corporation and a buying corporation are wholly owned by a grandparent corporation, the "real or ultimate ownership" of property sold between the two corpora-

tions is "substantially similar" both before and after the sale for purposes of the occasional sale exemption provided in Texas Taxation—General Annotated, Article 20.01(F)(3).

For copies of recent opinions selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Issued in Austin, Texas, on March 8, 1978.

Doc. No. 781650 Harriet D. Burke
Hearings Section
Comptroller of Public Accounts

Filed: March 8, 1978, 11:29 a.m.

For further information, please call (512) 475-2148.

Coordinating Board, Texas College and University System

Consultant Proposal Request

Description of Study: It is the intent of the Coordinating Board, Texas College and University System to contract with a private consultant to conduct a comprehensive study of the options for state involvement in and administration of guaranteed programs of loans for students in post secondary educational institutions.

Contact: Offers of consulting services are invited. Offers may be submitted through March 31 by writing to Kenneth H. Ashworth, Commissioner of Higher Education, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

Basis for Awarding Contract: The contract for this consulting service will be awarded on the basis of current and proven knowledge and abilities related to the organization, financing, and operational requirements of state agencies participating in the federal guaranteed student loan program. In addition, the ability to evaluate and present the options for state involvement in the guaranteed student loan program must be demonstrated based on actual relevant experiences.

Issued in Austin, Texas, on March 7, 1978.

Doc. No. 781612 Kenneth H. Ashworth
Commissioner of Higher Education

Filed: March 7, 1978, 9:35 a.m.

For further information, please call (512) 475-4361.

Texas Register Correction of Error

Amendments to Rules 127.40.01.015-.019 of the *Texas Parks and Wildlife Department* proposed in the March 3, 1978, issue of the *Texas Register* (3 *TexReg* 787-789) contained several errors. The fourth and fifth sentences of the preamble should read: "It will change the method of calculating the

fee for a campsite from a per-vehicle to a per-site basis, the purpose being to reduce the number of cars and trailers at each campsite, which is causing a serious problem in the conservation of the park resources. The amendment will provide areas in the park where vehicles in excess of those authorized at a campsite may be parked."

The second sentence of Section (c) of Rule 127.40.01.015 should read: "The entrance permit is prescribed in lieu of the daily entrance fee which would ordinarily be charged for entrance to the designated park."

Section (d)(1)(A) of Rule .016 should read: "Each additional person—\$0.75 (Hotel tax applicable to total amount)."

Office of the Secretary of State

Notice to Tax Assessor-Collectors

Reporting Forms for Voter Registration

Article 5.21a, Vernon's Texas Election Code, states: "On or before March 5 of each year, the registrar shall make a statement to the secretary of state of the number of registered voters in each precinct as shown by the list of registered voters on March 1, and the secretary of state shall file the statement as a record of his office. The registrar shall also file a copy of the statement as a record of his office."

We are asking that you provide us with the information detailed below as close to the March 5 deadline as possible. The list should include those voters who, as of the 30th day prior to March 1 are registered for the voting year. January 30, 1978, would represent the effective cut-off date. As we have previously mentioned, this total figure should reflect deletions from and additions to your records resulting from the mail-outs of certificates and applications, if at all feasible.

Please furnish the following information:

Column 1. List election precinct numbers. Total the number of precincts at the bottom of Column 1.

Column 2. Number of registered voters as of March 1, 1978. Total the number of such voters at the bottom of Column 2.

Report of Total Voter Registration in _____ County, Texas

Pursuant to Article 5.21a, Vernon's Texas Election Code, I certify that the following report correctly reflects information on the number of persons who are registered to vote as of March 1, 1978.

Election Precinct Number	Number of Registered Voters
--------------------------	-----------------------------

(Insert as many additional sheets as necessary to list registrations in each election precinct in your county, numbering them Sheet No. 1b, Sheet No. 1c, etc.)

Total Number of Election Precincts	Total Number of Registered Voters Effective March 1, 1978
------------------------------------	---

Certified under my hand and Seal of Office, this the _____ day of _____, 1978.

Tax Assessor-Collector
_____ County, Texas.

(Seal)

Doc. No. 31A8

76068006
UNIVERSITY OF HOUSTON
VICTORIA CAMPUS
VICTORIA TX 77901

Second Class Postage
PAID
Austin, Texas
and Additional Entry Offices

STATE DOCUMENTS RECEIVED TEXAS DEPOSITORY
MAR 21 1978
University of Houston
Victoria Campus Library

TEXAS REGISTER

Please use the blank below to order a new subscription, to renew existing subscriptions, or to indicate change of address. Questions concerning existing subscriptions should refer to the subscription number on the mailing label from the back of an issue. If copies of back issues are desired, this form may be used for that purpose, also. Specify in the appropriate blank the number of new or renewed subscriptions requested, or the exact dates of the back issues ordered. All subscriptions are \$25 per year for 100 issues. Each copy of back issues is \$1 per copy. The Directory sells for \$5 per copy. Please allow three weeks for processing.



For information concerning
the *Texas Register* call:
(512) 475-7886

APPLICATION FORM

For Renewal or Change of Address, Affix Label

FIRST NAME (Please Type or Print)

LAST NAME

OR

COMPANY FIRM OR AGENCY

ADDRESS

CITY

STATE

ZIP CODE

----- New Subscriptions at \$25 per year
----- Renewed Subscriptions at \$25 per year
----- Copies of the Directory at \$5 per copy
----- Copies of back issues at \$1 per copy
Please specify dates of issues desired

Mail to:
Secretary of State
Texas Register Division
P.O. Box 12687
Austin, Texas 78711

----- Amount Enclosed ----- Bill Me

PLEASE MAKE CHECKS OR MONEY ORDERS PAYABLE TO SECRETARY OF STATE