

**Department of State Health Services
Council Agenda Memo for State Health Services Council
November 4, 2009**

Agenda Item Title: Amendments to rules and a new rule concerning the regulation of Texas youth camps

Agenda Number: 7d

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background:

The Division for Regulatory Services, Environmental and Consumer Safety Section, Policy Standards and Quality Assurance Unit is the regulatory authority for youth camps in Texas. The Division regulates youth camps through licensure, inspection, and enforcement to protect the health, safety, and welfare of children that attend and participate in a variety of activities at licensed youth camps in Texas.

Regional staff conduct inspections at youth camps that may be routine or pre-licensing to ensure compliance with the youth camp statute and rules. In the Summer of 2009, the Division inspected 312 of the 494 licensed youth camps of which eight were recommended for escalated enforcement actions.

License fees and general revenue support the youth camp program.

Summary:

The purpose of the amendments is to ensure the health and safety of children attending licensed youth camps in Texas by expanding, correcting, and clarifying the requirements. The amendments include:

- Adding new definitions for playgrounds, public water systems, and swim test.
- Clarifying criteria used to determine if an operation meets the youth camp definition by modifying the general characteristics of a youth camp.
- Requiring camps to run criminal background checks of personnel, volunteers, and others who have contact with children at a youth camp. Currently camps can ask the question "Have you ever been convicted of a felony" to satisfy the criminal background check. This proposed change will no longer accept the question as an acceptable criminal background check.
- Barring employment of persons with certain types of criminal convictions. Current rule allows the camp to decide if the conviction should preclude employment.
- Strengthening regulations concerning safety of the camp facility, water supply, food service, waterfront lifesaving equipment, and playground equipment requirements.
- Modifying the reporting procedures for an incident of child abuse or neglect of a minor.
- Modifying requirements for isolation of a child with a communicable disease.
- Modifying requirements for storing and dispensing prescription medication to campers.
- Describing entities that may not obtain a youth camp license.
- Incorporating the interactive water features and fountains requirements for youth camps with these features.
- Clarifying time frames for the submission of license applications for new camps or renewal camps, including a complaint procedure if an application is not processed timely.
- Obtaining additional fees for a duplicate license, name change, and for a non-sufficient funds charge.

The review of the rules complies with the four-year agency review required by Government Code, Section 2001.039.

The impact of the rule changes will be assessed through compliance inspections of the youth camps.

Summary of Input from Stakeholder Groups:

The draft rules were developed through a cross-functional effort between DSHS staff primarily from the units of Policy, Standards, and Quality Assurance; Licensing; Enforcement; and the Office of General Counsel. The draft rules were discussed with the Youth Camp Advisory Committee on December 5, 2007. The following suggestions were incorporated:

- Changes to the obsolete Department of Public Safety web addresses and web page names.
- Expansion to the section, concerning reporting of child abuse, to include occurrences reported to a youth camp that happened prior to the child arriving at the camp.
- Revision to the section concerning the private water systems.

In June 2008, a revised draft was distributed to the Youth Camp Advisory Committee and posted on the program web site for additional comments. Additionally, a meeting is scheduled for the Youth Camp Advisory Committee on October 22, 2009, at which additional input is expected.

Proposed Motion: Motion to recommend HHSC approval for publication of rules contained in agenda item #7d

Approved by Assistant Commissioner/Director: Kathryn C. Perkins, R.N., M.B.A. **Date:** 9/22/09

Presenter: Paula Anderson, R.S., M.P.H., Manager **Program:** Public Health Sanitation & Consumer Product Safety Group **Phone No.:** 834-6788

Approved by CPCPI: Carolyn Bivens **Date:** 9/22/2009

Title 25. HEALTH SERVICES

Part 1. DEPARTMENT OF STATE HEALTH SERVICES

Chapter 265. General Sanitation

Subchapter B. Texas Youth Camps Safety And Health

Amendments §§265.11 - 265.16, §§265.19 - 265.20, §§265.23 – 265.24, and §§265.27 – 265.28.
New §265.30

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes amendments to §§265.11 – 265.16, §§265.19 - 265.20, §§265.23 – 265.24, and §§265.27 – 265.28, as well as new §265.30, concerning the regulation of Texas youth camps.

BACKGROUND AND PURPOSE

The amendments to the Texas Youth Camps Safety and Health Rule are in response to recommendations made by the Youth Camp Advisory Committee, as well as by state program personnel based on statutory authority found in the Texas Youth Camp Safety and Health Act, Health and Safety Code, Chapter 141. The changes correct information in the rules, add clarification, and expand requirements to better protect children attending youth camps.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 265.11 - 265.29 have been reviewed and the department has determined that the reasons for adopting the sections continue to exist because rules on this subject are needed to regulate the safety of youth camp facilities and to protect the health and well-being of youth attending these facilities.

SECTION-BY-SECTION SUMMARY

Proposed amendments to §265.11 add new definitions and clarify other definitions. Section 265.12 modifies how a criminal background check may be conducted, updates web sites and contact information, and identifies persons whose presence at a youth camp shall or may be precluded. Changes to §265.13 increase regulation of the safety of the camp facility, public and private water supplies, and playground equipment, and updates the items that may be inspected during a food service inspection. Amendments to §265.14 and §§265.19 – 265.20 change "must" to "shall" as was done throughout the rules for consistency throughout the chapter. Amended §265.15 clarifies the reporting procedure for incidences of child abuse or neglect of a minor, and modifies requirements for isolation of a child with a communicable disease and for storing and dispensing prescription medication to campers.

Proposed amendments to §265.16(c) require compliance with rules for interactive water features and fountains, and §265.16(f) modifies and expands waterfront lifesaving equipment requirements.

Amendments to §265.23 include changes to the criteria for application and for denial of a new license, while amended §265.24 changes the criteria for application for a renewal license. Proposed amendments to §265.23 and §265.24 include the timeframes by which the department must process initial and renewal applications for licensure as a youth camp, and a complaint procedure for use when applications are not processed timely, as required by Government Code, §§2005.003 and 2005.006. The following information is provided to satisfy Government Code, §2005.003(d), which requires the department to disclose the amount of time that it took to process initial applications within the preceding 12 month period and to justify the proposed timeframes. During the past 12 month period, the minimum number of days to process an application for a youth camp was two (2) days, the maximum number of days to process an application for a youth camp was 150 days, the median number of days to process an application for a youth camp was 60 days. The timeframes allow the department sufficient time to process an application for licensure while not imposing undue hardships on applicants.

Amended §265.27 updates the legal citations for the conduct of hearings. Section 265.28 adds fees for a duplicate license, camp name change, and non-sufficient funds. Proposed new §265.30 defines entities that may not obtain a youth camp license.

FISCAL NOTE

Susan E. Tennyson, Section Director, Environmental and Consumer Safety Section, has determined that for each year of the first five-year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed. Fees are charged in an amount designed to cover the costs of the regulatory services required by the rules, in keeping with Health and Safety Code, §12.0111.

SMALL AND MICRO-BUSINESS ECONOMIC IMPACT STATEMENT

Ms. Tennyson has also determined that there are anticipated economic costs to small businesses or micro-businesses required to comply with the sections as proposed. The amendments that are expected to result in economic costs are the updated requirements for criminal background checks and water system improvements. Youth camps that do not currently conduct a criminal background check on all staff and volunteers will need to do so in the future. The cost is estimated to be between \$5 and \$40 per person, depending on the service used. The cost to an individual camp cannot be determined because the size of the camp does not necessarily determine the number of staff or volunteers working at the camp. Also, some camps retain the same staff throughout the camp operation, while other camps replace staff as frequently as weekly. Additionally, it is not known how many or which camps currently run background checks on all staff and volunteers.

Additionally, camps with private water wells not regulated by the Texas Commission on Environmental Quality may need to upgrade their systems to meet new water requirements. This may include installing an automatic chlorinator and periodically testing the water quality. Monthly bacteriological testing is estimated to cost \$10/month/operating month, and chemical analysis is predicted to cost \$100 every three years.

REGULATORY FLEXIBILITY ANALYSIS

No alternative methods of achieving the purpose of the proposed amendments are consistent with the health, safety, and environmental welfare of the state. Previously it was possible to meet the criminal background check requirement by asking an employee or volunteer if they had ever been convicted of a felony or a misdemeanor. It has been determined that this method does not adequately protect the campers or the camp if a person does not tell the truth. Therefore a criminal background check must be conducted.

Additionally, the youth camp rules do not specifically address safe drinking water systems at youth camps utilizing private, non-regulated water wells. Due to absence of any specific requirements for private wells in the current youth camp rules, camps are currently required to comply with 25 TAC, Chapter 265, Subchapter D, concerning minimal acceptable operating standards for water systems serving camps. Subchapter D is outdated and will be repealed at a future council meeting. The proposed amendment to §265.13 will bring rules addressing water systems at youth camps in line with current Texas Commission on Environmental Quality regulations. Although camps may comply with the requirement for safe drinking water by other means than improving camp water systems, those alternatives are expected to be more costly and are not likely to be utilized.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons other than to businesses required to comply with the rule as proposed. There is no anticipated impact on local employment as a result of this rulemaking.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC BENEFIT

In addition, Ms. Tennyson has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of administering and enforcing the sections is to better ensure the health and safety of children attending youth camps.

PUBLIC COMMENT

Comments on the proposal may be submitted to Paula Anderson, Public Health Sanitation and Consumer Product Safety Group, Department of State Health Services, PO Box 149347, Mail Code 1987, Austin, Texas 78714-9347, (512) 834-6770, ext 2303, or by email to paula.anderson@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed amendments and new section are authorized by Health and Safety Code, §141.008, which authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules to implement the Youth Camp Safety and Health Act; and by Government Code §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. Review of the rules implements Government Code, §2001.039, which requires each state agency to review and consider for readoption each rule adopted by the agency pursuant to the Government Code, Chapter 2001.

The proposed amendments and new section affect the Health and Safety Code, Chapters 141 and 1001, and Government Code, Chapter 531.

Legend: (Proposed Amendments)

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

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

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

(5) Day camp--A camp that operates during the day or any portion of the day between 7:00 a.m. and 10:00 p.m. for four or more consecutive days and that offers no more than two overnight stays during each camp session. To be eligible to be licensed as a youth camp, the camp's schedule shall **[must]** be structured so that each camper attends for more than four hours per day for four consecutive days. The term does not include a facility that is required to be licensed with the Department of Family and Protective Services (formerly the Department of Protective and Regulatory Services).

(6) Department--Department of State Health Services, P.O. Box 149347 **[1100 West 49th Street]**, Austin, Texas 78714-9347 **[78756-3199]**.

(7) - (12) No change.)

(13) Playground--An outdoor area designed for children to play freely. Playgrounds often have recreational equipment such as the see-saw, merry-go-round, swing set, slide, climber, walking bridge, jungle gym, chin-up bars, sandbox, spring rider, monkey bars, overhead ladder, trapeze and trapeze rings, playhouses, and maze, many of which help children develop physical coordination, strength, and flexibility, as well as providing recreation and enjoyment.

(14) [(13)] Primitive camp--A youth camp that does not provide either permanent structures or utilities for camper use.

(15) Public water system, as defined in 30 Texas Administrative Code (TAC) §290.38(63)--A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water (30 TAC §290.38(21)). Such a system shall have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without

excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(16) [(14)] Resident camp--A camp that for a period of four or more consecutive days continuously provides residential services to each camper, including overnight accommodations for at least three consecutive nights.

(17) [(15)] Supervisor/counselor--Camp personnel or youth group leader, 18 years of age or older, who is responsible for the immediate supervision of campers.

(18) Swim test--A test to determine each child's swimming ability. A swim test includes at least the following skill evaluations, or some equivalent method of determining swimming ability.

(A) Non-swimmer: Get into the shallow water, sit down, stand up, and exit the water.

(B) Intermediate swimmer: Jump feet first into water at least twelve inches deeper than the height of the child. Level off, swim 25 feet, turn around and swim back. Exit the water.

(C) Swimmer: Jump feet-first into water at least twelve inches deeper than the height of the child and swim 75 yards in a strong stroke on your stomach or side (breaststroke, sidestroke, crawl, trudgen, or any combination). Then swim 25 yards on your back (elementary back stroke), then float and rest on your back for one minute. Exit the water.

(19) [(16)] Travel camp--A day or resident camp, lasting for four or more consecutive days, that begins and ends at a fixed location, but may move from location to location on a daily basis.

(20) [(17)] TCEQ--Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512)-[]239-1000.

(21) [(18)] Waterfront--A natural, or artificial body of water that includes, but is not limited to, a lake, ocean, bay, pond, river, swimming pool, or spa, which is the site of any water activity.

(22) [(19)] Waterfront activity--A recreational or instructional activity, occurring in, on, or near a waterfront. Waterfront activity includes, but is not limited to, swimming, boating, water skiing, scuba diving, rafting, tubing, synchronized swimming or sailing.

(23) [(20)] Youth camp--A facility or property, other than a facility required to be licensed by the Department of Family and Protective Services that:

(A) has the general characteristics of a day camp, resident camp, or travel camp;

(B) is used for recreational, athletic, religious, or educational activities;

(C) accommodates at least five minors who attend or temporarily reside at the camp for all or part of at least four consecutive days; and

(D) is not a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Education Code, §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

(24) [(21)] Youth camp, general characteristics of. A youth camp:

(A) **[a youth camp]** provides supervision, instruction, and recreation; **[, utilizing a variety of activities primarily in an outdoor, natural environment, for children who are apart from their parents or legal guardians;]**

(B) accommodates at least five minors during each camp session; [a youth camp operates only during school vacation periods, and not more than 120 days per calendar year; and]

(C) operates as a youth camp for no more than 120 days each calendar year; [a youth camp accepts a camper for a minimum of four consecutive days for more than four hours per day.]

(D) hosts children who are apart from parents or legal guardians;

(E) operates as a youth camp for a period of four or more consecutive days;

(F) operates as a youth camp for more than four consecutive hours per day;

(G) operates as a youth camp only during school vacation periods;

(H) offers a variety of activities in an outdoor setting; and

(I) schedules activities so that campers spend a minimum of 60% of their time out-of-doors between the hours of 7:00 a.m. and 10:00 p.m.

(25) [(22)] Youth camp operator--Any person who owns, operates, controls, or supervises a youth camp, whether or not for profit.

§265.12. Directors, Supervisors, and Staff.

(a) (No change.)

(b) Adult supervisors. Each youth camp shall have at least one adult supervisor who is responsible for the supervision of no more than ten children in the camp. For any hazardous activity the supervisor(s) shall [must] be in the immediate vicinity (within sight and/or hearing) of the campers. An "all camp" sedentary activity, not requiring physical activity, may require less supervision, and each camp shall establish its own guidelines, but not less than one adult supervisor to every 25 campers. The camp director shall not be included in the supervisor to camper ratio in camps serving over 50 campers at one time.

(c) - (e) (No change.)

(f) Criminal conviction and sex offender background check [registration record] requirements. The camp management shall have on file a record of any criminal conviction and a sex offender registration check for all adult staff members and all adult volunteers working at the camp before the staff member or volunteer has unsupervised contact with children at the camp. **[Camp management shall also have on file a written evaluation for an adult staff member or volunteer, showing that management has determined the person is suitable for a position at the youth camp despite a criminal conviction.]** If the records are located off-site, a letter from the national or regional headquarters of the camp organization stating the names of individuals at the camp site for whom background [these] checks have been conducted, shall [must] be available at the camp site. All records of criminal convictions and written evaluations for a camp or camping organization shall [must] be located at a specific site within Texas, and shall [must] be made available to department personnel within two business days upon request. Youth camps are responsible for ensuring that criminal and sex offender background checks have been conducted for international staff obtained through the J-1 visa process, and that documentation of these checks are located with other staff background checks at the specific site within Texas. Records of criminal convictions and sex offender status shall [may] be obtained by:

(1) performing an annual criminal background check using a criminal history database for each adult staff member's and each adult volunteer's permanent residence. If the staff member or adult volunteer has a temporary or an educational residence, an annual criminal background check shall include searching under the permanent, temporary and educational address, as applicable. The criminal history database used for the criminal background check is to be based on the individual's residences, and may include state, national or international databases. Documentation of the search results, whether or not the results are positive, shall be maintained with the sex offender background documentation; and [an annual criminal background check consisting of either:]

[(A) performing a criminal background check, such as the Texas Department of Public Safety Public Criminal Records check, which may be accessed at https://records.txdps.state.tx.us/dps_web/APP_PORTAL/index.aspx. A hard copy printout of the search results, whether or not the results are positive, must be maintained with the sex offender background documentation; or]

[(B) including a question on an employment or volunteer application asking for a history of criminal convictions, such as "Have you ever been convicted of a

felony or a misdemeanor?” If this question is answered with “Yes,” then the camp must obtain documentation of the criminal conviction; and]

(2) performing an annual background check using a sex offender registration [Sex Offender Registration] database for each adult staff member's and each adult volunteer's permanent residence and educational residence if applicable, such as the TXDPS - Sex Offender Registry, which may be accessed at Texas Department of Public Safety - Crime Records Service. [In Texas, the Sex Offender Registration database may be found at <https://records.txdps.state.tx.us/soSearch/default.cfm>.] Documentation of the search results, whether or not the results are positive, shall be maintained with the criminal background documentation. [A hard copy printout of the search results, whether or not the results are positive, must be maintained with the criminal background documentation.]

(g) Persons whose presence at a youth camp shall be precluded. Youth camps shall not employ paid or unpaid staff members or volunteers at a youth camp, or permit any person to have unsupervised contact with campers other than their own children if the person has the following types of criminal convictions or deferred adjudications: a misdemeanor or felony under Texas Penal Code, Title 5 (Offenses Against the Person), Title 6 (Offenses Against the Family), Chapter 29 (Robbery) of Title 7, Chapter 43 (Public Indecency) or §42.072 (Stalking) of Title 9, §15.031 (Criminal Solicitation of a Minor) of Title 4, §38.17 (Failure to Stop or Report Aggravated Sexual Assault of Child) of Title 8, or any like offense under the law of another state or under federal law.

(h) Persons whose presence at a youth camp may be precluded.

(1) Youth camps may preclude a person from being a paid or unpaid staff member or volunteer at a youth camp; or may preclude a person from having unsupervised contact with campers other than the person's own children, if the person has the following types of criminal convictions or deferred adjudications:

(A) a misdemeanor or felony committed within the past ten years under §46.13 (Making a Firearm Accessible to a Child) or Chapter 49 (Intoxication and Alcoholic Beverage Offenses) of Title 10 of the Texas Penal Code, or any like offense under the law of another state or under federal law; or

(B) any other felony under the Texas Penal Code or any like offense under the law of another state or under federal law that the person committed within the past ten years.

(2) Camp management shall have on file a written evaluation for any staff member or volunteer with a criminal conviction or deferred adjudication included in paragraph (1) of this subsection, showing that management has determined the person is suitable for a position at the youth camp despite a criminal conviction or deferred adjudication.

(i) [(g)] Sexual abuse and child molestation awareness training and examination program.

(1) Effective June 1, 2006, a youth camp licensee may not employ or accept the volunteer service of an individual for a position involving contact with campers at a youth camp unless:

(A) the individual submits to the licensee or the youth camp has on file documentation that verifies the individual within the preceding two years has successfully completed the training and examination program required by this subsection; or

(B) the individual successfully completes the youth camp's training and examination program approved by the department during the individual's first workweek, and prior to any contact with campers unless supervised during the first workweek by an adult who has successfully completed the program. The youth camp shall **[must]** have documentation on file and available for inspection within two business days of request by the department verifying that the individual successfully completed the youth camp's training and examination program.

(2) For purposes of this subsection, the term "contact with campers" does not include visitors such as a guest speaker, an entertainer, or a parent who visits for a limited purpose or a limited time if the visitor has no direct and unsupervised interaction with campers. A visitor may have direct and unsupervised contact with a camper to whom the visitor is related. A camp may require training and an examination for visitors if it chooses.

(3) A youth camp licensee shall **[must]** retain in the person's personnel record a copy of the documentation required or issued under paragraph (1)(A) of this subsection for each employee or volunteer until the second anniversary of the examination date.

(4) Prior to their use, the department may approve training and examination programs offered by trainers under contract with youth camps, by online training organizations, or programs offered in another format, such as a videotape, authorized by the department.

(5) A training and examination program on sexual abuse and child molestation approved by the department shall **[must]** at a minimum include training and an examination on:

(A) the definitions and effects of sexual abuse and child molestation;

(B) the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk;

(C) the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse; and

(D) the recommended rules and procedures for youth camps to implement to address, reduce, prevent, and report suspected sexual abuse or child molestation. Training shall include the need to minimize one-on-one isolated encounters between an adult and a minor or between two minors.

(6) The training program shall **[must]** last for a minimum of one hour and discuss each of the topics described in paragraph (5) of this subsection.

(7) The examination shall **[must]** consist of a minimum of 25 questions which shall cover each of the topics described in paragraph (5) of this subsection.

(8) To successfully complete the training program, each employee or volunteer shall **[must]** achieve a score of 70% or more correct on an individual examination. If the examination is taken on-line, the employee or volunteer shall **[must]** retain a certificate of completion indicating they successfully completed the course.

(9) The department may assess a fee of \$125 to each applicant to cover the costs of the department's initial review and each follow-up review of a training and examination program.

(10) Applications **[All applications]** and fees shall be mailed to the Environmental and Sanitation Licensing Group, Department of State Health Services, P.O. Box 149347 [1100 West 49th Street], MC 2003, Austin, Texas 78714-9347 [78756]. Applications **[A blank application]** may be obtained by calling the Environmental and Sanitation Licensing Group at (512) 834-6600 or may be downloaded from <http://www.dshs.state.tx.us/youthcamp/default.shtm> [www.dshs.state.tx.us/ben/gs/youth.htm].

(11) The department, at least every five years from the date of initial approval, shall review each training and examination program approved by the department to ensure the program continues to meet the criteria and guidelines established under this subsection.

(j) [(h)] Records retention. All applications, background check reports, training documentation, and other required personnel documentation required by these rules shall be maintained in hard copy or electronic format for a minimum of two years following a person's last day of service.

§265.13. Site and Physical Facilities.

(a) Safety of camp facility. The buildings, structures, common areas adjoining camp facilities, and grounds shall not present a fire, health, or safety hazard. [the location. The location of a camp shall not present a fire, health, or safety hazard.]

(b) - (j) (No change.)

(k) Hand cleanser required. Each lavatory shall **[must]** be equipped with one of the following methods to sanitize hands:

(1) lavatories with hot and cold running water shall **[must]** have soap or hand cleanser available at all times;

(2) lavatories with only cold running water shall [must] have hand sanitizer or anti-bacterial soap available at all times; or

(3) privies and portable toilet facilities not equipped with lavatories providing water shall [must] have waterless hand sanitizer available at all times.

(l) Shower facilities. Resident youth camps shall [must] provide at least one shower for every 15 females and one shower for every 15 males. Each shower shall be equipped with water to meet the needs of the campers. There shall be soap or body cleanser available at all times.

(m) - (p) (No change.)

(q) Public water supply. If a youth camp water supply meets the definition of a public water system, then all water used for human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings, or which is used for bathing, swimming in a pool or spa, or any other use in which incidental ingestion may occur, shall come from a Texas Commission on Environmental Quality (TCEQ) approved drinking water source that meets all applicable standards of 30 Texas Administrative Code (TAC), Chapter 290, Public Drinking Water, Subchapter D, Rules and Regulations for Public Water Systems, as amended, and 30 TAC Chapter 290, Public Drinking Water, Subchapter F, Drinking Water Standards Governing Drinking Water Quality And Reporting Requirements For Public Water Systems, as amended.

[(q) Potable water supply required. Camps shall ensure that all water used for ingestion comes from a TCEQ approved potable water source that meets all applicable standards of 30 Texas Administrative Code (TAC), Chapter 290, Public Drinking Water, Subchapter D, Rules and Regulations for Public Water Systems, as amended.]

(r) Private water supply. Youth camps having water supplies that do not meet the definition of a public water system or that are not regulated by the TCEQ shall comply with the following requirements when the camp is open or operational unless otherwise indicated.

(1) Water supply. An adequate supply of water shall be available at all times in each camp in accordance with the following table.

Figure: 25 TAC §265.13(r)(1)

(2) Water pressure. The system shall be designed to maintain a minimum pressure of 35 psi at all points within the distribution network at flow rates of at least 1.5 gallons per minute per connection. When the system is intended to provide fire fighting capability, it shall also be designed to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions. Minimum distribution pressure shall not be less than 20 psi at any time.

(3) Bacteriological properties.

(A) Water systems serving camps shall submit a minimum of one water sample for total coliform, fecal coliform, E. coli, or other fecal indicator organisms, for the month prior to camp opening and each month the camp is in operation.

(B) Testing for microbial contaminants shall be performed at a laboratory certified by TCEQ.

(C) If a routine distribution coliform sample is coliform-positive, then the camp shall issue a written boil water notification to all camp staff and volunteers. The notification shall state, "To ensure destruction of all harmful bacteria and other microbes, water for drinking, cooking, and ice making shall be boiled and cooled prior to consumption. The water shall be brought to a vigorous rolling boil and then boiled for two minutes. In lieu of boiling, purchased bottled water, water obtained from some other suitable source, or ice obtained from an approved source may be used."

(D) The boil water notification shall remain in effect until a repeat distribution coliform sample is coliform-negative.

(E) Records of all bacteriological tests and of any boil water notification shall be kept on site.

(4) Chemical properties.

(A) Camps shall submit a water sample obtained from the entry point to the distribution system to a laboratory for chemical analysis at least once every three years.

(B) The chemical analysis shall be for secondary constituent levels.

(C) Maximum secondary constituent levels are as described in the following table.

Figure: 25 TAC §265.13(r)(4)(C)

(D) Records of all chemical testing shall be kept on site.

(5) Minimum residual disinfectant concentrations and maximum residual disinfectant levels (MRDLs).

(A) The minimum residual disinfectant concentration in the water entering the distribution system and the water within the distribution system shall be 0.2 milligrams per liter (mg/L) free chlorine or 0.5 mg/L chloramine.

(B) The MRDL of chlorine dioxide in the water entering the distribution system shall be 0.8 mg/L.

(C) The MRDL of free chlorine or chloramine in the water within the distribution system shall be 4.0 mg/L based on a running annual average.

(6) Backflow prevention. The plumbing system shall preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use, including on a hose bib, by:

(A) providing an air gap between the water supply inlet and the flood level rim of a plumbing fixture, equipment, or nonfood equipment that is at least twice the diameter of the water supply inlet and not less than 25 mm (1 inch); or

(B) installing an approved backflow prevention device that meets the American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device

(7) Disinfection of new or repaired water system facilities.

(A) When repairs are made to existing mains or when new main extensions are installed, they shall be disinfected using such amounts of chlorine compounds as to fill the repaired or new mains and appurtenances with water containing 50 ppm chlorine.

(B) After the water containing this amount of chlorine, which is greater than that normally present in drinking water, has been in contact with the pipe and appurtenances for at least 24 hours, the main shall be flushed until the free chlorine or chloramine in the water within the new or repaired distribution system is less than 4.0 mg/L.

(C) A sample of water from the new or repaired main shall be submitted to a laboratory certified by TCEQ for bacteriological examination so as to be assured that the disinfection procedure was effective.

(8) Calcium hypochlorite. A supply of calcium hypochlorite disinfectant shall be kept on hand for use when making repairs and repairing line breaks.

(9) Lead control. Use of pipes and pipe fittings that contain more than 8.0% lead or solders and flux that contain more than 0.2% lead is prohibited for installation or repair of any water supply and for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

(10) Flushing of water system mains. All dead-end mains should be flushed at monthly intervals or more frequently to maintain water quality.

(11) Collection system location.

(A) No sanitary sewers or septic tanks shall be allowed within a distance of 50 feet of any well used for drinking water. No cesspool or septic tank open-jointed drain field shall be allowed within a distance of 150 feet of any well used for drinking water.

(B) Storm sewers located within specified distances for sanitary sewers shall be constructed so as to prevent leakage from them.

(C) Water lines and sanitary sewers shall be installed no closer to each other than nine feet.

(12) Well logs. Copies of well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, bacteriological sample results, and a chemical analysis report of a representative sample of water from the well shall be kept on file.

(13) Interconnection. No physical connection between the distribution system of a camp water supply and that of any other water supply shall be permitted.

(14) Abandoned wells. Abandoned water supply wells owned by the camp shall be plugged with cement according to 16 Texas Administrative Code (TAC), Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers). Wells that are not in use and are non-deteriorated as defined in those rules in this paragraph shall be tested every five years to demonstrate that they are in a non-deteriorated condition. Deteriorated wells shall be either plugged with cement or repaired to a non-deteriorated condition.

[(r) Private water wells at youth camps. Camps utilizing a private well system for water must have written confirmation from the TCEQ that the water quality meets 30 TAC, Chapter 290, Public Drinking Water, Subchapter F, Drinking Water Standards Governing Drinking Water Quality And Reporting Requirements For Public Water Systems, as amended. The written confirmation must be given to a department representative upon request.]

(s) Disposal of youth camp wastewater. All camp wastewater shall **[must]** be disposed of into a community sanitary sewage system or an approved On-site Sewage Facility in accordance with 30 TAC, Chapter 285, On-Site Sewage Facilities. In remote areas, the use of chemical toilets or pit privies is allowed, if the facilities are built and maintained in accordance with manufacturer designs or the Texas Community Sanitation Handbook.

(t) (No change.)

(u) Permanent food preparation, storage and service areas. Permanent food preparation, storage and service areas shall **[must]** be maintained in compliance with 25 TAC, Chapter 229, Subchapter K, Texas Food Establishments, §§229.161 *et seq*, **[Texas Food Establishments]**, as amended. Items inspected may include, but are not limited to:

(1) (No change.)

- (2) cold hold (41 degrees Fahrenheit/45 degrees Fahrenheit) [**proper cooking temperatures**];
- (3) hot hold (135 degrees Fahrenheit) [**proper/adequate hand washing and good hygienic practices**];
- (4) proper cooking temperatures [**approved source/labeling**];
- (5) rapid reheating (165 degrees Fahrenheit in 2 hrs) [**proper handling of ready-to-eat foods**];
- (6) personnel with infections restricted/excluded [**cross-contamination of raw/cooked foods/other**];
- (7) proper/adequate hand washing [**approved systems (Hazard Analysis and Critical Control Points (HACCP) plans/time as public health control)**];
- (8) good hygienic practices (eating/drinking/smoking/other) [**hot and cold water under pressure**];
- (9) approved source/labeling [**hand wash facilities adequate, accessible, and with soap and towels**];
- (10) sound condition - food is not from unapproved sources or in unsound condition [**evidence of insect contamination**];
- (11) proper handling of ready-to-eat foods [**toxic items properly labeled/stored/used**];
- (12) no cross-contamination of raw/cooked foods/other [**manual or mechanical ware washing and sanitizing**];
- (13) approved systems (HACCP (Hazard Analysis and Critical Control Points) plans/time as public health control); [**food contact surfaces of equipment and utensils cleaned/sanitized/good repair; and**]
- (14) water supply – approved sources/sufficient capacity/hot and cold water under pressure; [**consumer advisories posted (Heimlich, raw shellfish warning, buffet plate).**]
- (15) equipment adequate to maintain product temperature;
- (16) hand wash facilities adequate and accessible;
- (17) hand wash facilities equipped with soap and towels;

- (18) no evidence of insect contamination;
- (19) no evidence of rodents/other animals;
- (20) toxic items properly labeled/stored/used;
- (21) manual/mechanical warewashing and sanitizing at proper ppm/temperature;
- (22) manager demonstration of knowledge of safe food handling procedures;
- (23) approved sewage/wastewater disposal system, proper disposal;
- (24) thermometers provided/accurate/properly calibrated (± 2 degrees Fahrenheit);
- (25) food contact surfaces of equipment and utensils cleaned/sanitized/good repair; and
- (26) posting of consumer advisories (abdominal thrust/disclosure/reminder/ buffet plate).

(v) Playgrounds and equipment. Playgrounds and playground equipment shall meet the standards set forth in the U.S. Consumer Product Safety Commission Publication Number 325, "Handbook for Public Playground Safety" as amended.

Figure: 25 TAC §265.13(r)(1)

Type of Establishment	Minimum Gallons/Person/Day (GPD)
Youth camps without flush toilets, showers, or dining halls	6
Youth camps with flush toilets, but no showers or dining halls	24
Youth camps with flush toilets, showers, and dining halls	42
Camps with swimming pools – add this amount to GPD above	12

Figure: 25 TAC §265.13(r)(4)(C)

CONSTITUENT	LEVEL (mg/l except where otherwise stated)
Aluminum	0.05 to 0.2
Chloride	300
Color	15 color units
Copper	1.0
Corrosivity	Non-corrosive
Fluoride	2.0
Foaming agents	0.5
Hydrogen sulfide	0.05
Iron	0.3

Manganese	0.05
Odor	3 Threshold Odor Number
pH	>7.0
Silver	0.1
Sulfate	300
Total Dissolved Solids	1,000
Zinc	5.0

§265.14. Primitive or Wilderness Camp.

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

(c) Toilet facilities at primitive campsites. Primitive campsites that are not provided with approved toilet facilities shall have a separate toilet area designated for each sex. Slit trenches or cat holes with a readily available supply of clean earth backfill or other disposal methods approved by the department's Policy, Standards, and Quality Assurance Unit, shall be utilized for the disposal of human excreta in these areas. Approval shall **[must]** be received in writing prior to implementation. Toilet areas shall be located at least 150 feet from a stream, lake, or well, and at least 75 feet from a campsite, tent, or other sleeping or housing facility.

(d) - (g) (No change.)

§265.15. Medical and Nursing Care.

(a) (No change.)

(b) Emergency transportation. Transportation shall **[must]** be available at all times to transport any sick or injured camper in an emergency.

(c) (No change.)

(d) Requirement to report incidents of abuse or neglect of a minor.

(1) Requirement to report incidents of abuse or neglect of a minor at a youth camp. If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the Family Code, Chapter 261, and the abuse or neglect occurred at the youth camp, then that person shall immediately make a report, in accordance with Family Code, §261.101(a) to the Health and Human Services Commission Office of Inspector General, as required by Family Code, §261.103. To make an online report go to https://oig.hhsc.state.tx.us/Fraud_Report_Home.aspx. A report intake form, entitled HHSE Office of Internal Affairs: Texas Youth Camp Waste, Abuse and Fraud Referral Form may be faxed to the Office of Inspector General, Internal Affairs, 512-833-6493. A report shall be made to the Health and Human Services Commission Office of Inspector General and may be made to a local or state law enforcement agency or other agency listed in Family Code, §261.103.

(2) Requirement to report incidents of abuse or neglect of a minor other than at a youth camp. If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the Family Code, Chapter 261, and the abuse or neglect did not occur at the youth camp, then that person shall immediately make a report, in accordance with Family Code, §261.103.

(A) Except as provided by subparagraphs (B), (C) and (D) of this paragraph, a report shall be made to:

(i) any local or state law enforcement agency;

(ii) the Department of Family and Protective Services; or

(iii) the agency designated by the court to be responsible for the protection of children.

(B) A report may be made to the Texas Youth Commission instead of the entities listed under subparagraph (A) of this paragraph if the report is based on information provided by a child while under the supervision of the commission concerning the child's alleged abuse of another child.

(C) Notwithstanding subparagraph (A) of this paragraph, a report, other than a report under subparagraph (D) of this paragraph, shall be made to the Department of Family and Protective Services if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

(D) A report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility shall be made to the Texas Juvenile Probation Commission and a local law enforcement agency for investigation. **[If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the Texas Family Code, Chapter 261, then that person shall immediately make a report, in accordance with Family Code, §261.101(a) to the department's Policy, Standards and Quality Assurance Unit, as required by §261.103(a)(3). The report can be made by telephone (512-834-6773), by fax (512-834-6707), or by email (the current email address may be found at www.dshs.state.tx.us/youthcamp/default.shtm). A report must be made to the department and may be made to a local or state law enforcement agency or other agency listed in Family Code, §261.103.]**

(e) -(f) (No change.)

(g) Isolation of a child with a communicable disease. A child ill with a confirmed or suspected case of a communicable disease shall be isolated to provide safety to other children and quiet to the patient. Any child that is isolated shall be supervised as determined by the Camp

Health Officer. A child with a staphylococcal skin infection is not required to be isolated, if the infection is kept completely covered by a bandage.

(h) - (j) (No change.)

(k) Emergency plans required. A written plan of procedures to be implemented in case of a disaster, serious accident, epidemic, or fatality shall be formulated and posted in the camp's administrative on-site office or location. All camp staff and volunteers shall [must] be made aware of this plan during the staff-training program or volunteer briefing. Documentation of this training shall [must] be kept at the camp's administrative on-site office or location.

(l) Storing and dispensing prescription medication to campers. If a child is taking a prescription medication when he or she reports to camp, the medication shall [must] be in the original container with the prescription label, and the medical staff shall place that medication and related paraphernalia or devices in a lockable cabinet or other secure location that is not accessible to campers. The medication shall be administered by the Camp Health Officer or camp counselor, if authorized in writing by the Camp Health Officer. At no time shall [will] the child be allowed to self-administer the medication without adult supervision. Medications needed for immediate use for life-threatening conditions (e.g., bee-sting medication, inhaler) and limited medications approved for use in first-aid kits may be carried by a camper or staff person. The camp shall have on file a written statement of medical necessity from the prescribing doctor or the written approval of the Camp Health Officer for any camper to carry medication and related paraphernalia or devices.

(m) (No change.)

§265.16. Waterfront Safety.

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

(c) Maintenance and operation of swimming areas.

(1) Swimming areas shall be maintained and operated in a safe and clean condition. Youth camp swimming pools are class C pools, and shall [must] be built, operated, and maintained in accordance with 25 Texas Administrative Code (TAC) [TAC], Chapter 265, General Sanitation, Subchapter L, Standards for Public Pools and Spas.

(2) Interactive water features and fountains at youth camps shall be maintained and operated in a safe and clean condition. Interactive water features and fountains at youth camps shall be built, operated, and maintained in accordance with 25 TAC, Chapter 265, General Sanitation, Subchapter M, Interactive Water Features and Fountains.

(d) Camper's swimming ability shall [must] be determined. Camps shall test to determine each child's swimming ability. Children shall then be confined to the limits of swimming skills for which they have been classified. Also, the swimming area shall have areas for non-swimmers, intermediate swimmers [intermediates], and swimmers clearly marked.

(e) (No change.)

(f) Waterfront lifesaving equipment shall be provided. Lifesaving equipment suitable for the waterfront activity shall be provided at the waterfront activity area and placed so the equipment is immediately available in case of an emergency. All lifesaving equipment shall be kept in good repair and ready condition. At a minimum, this equipment shall include:

(1) a throwing rope that is 1/4-inch to 3/8-inch diameter, with a length at least two-thirds the maximum width of the pool or 20 feet, whichever is greater. A ring buoy that is approved by the United States Coast Guard and that has an outside diameter of 15 to 24 inches shall be attached to the throwing rope;

(2) one or more backboards with a minimum of 3 tie down straps and head immobilizer for back and neck injuries; and

(3) a first aid kit meeting Occupational Safety and Health Administration (OSHA) requirements. First aid kits shall be a standard 24-unit kit and housed in a durable weather-resistant container and kept filled and ready for use. First aid kits shall include disease transmission barriers and cleansing kits that meet OSHA standards.

(g) - (h) (No change.)

§§265.17 - 265.18 (No change.)

§265.19. Maintenance and Safe Use of Motor Vehicles.

(a) Inspection of vehicles used for transportation of campers. Any vehicle used for transporting children on public roadways shall [must] have all current and applicable Department of Public Safety vehicle inspections.

(b) (No change.)

(c) Drivers shall have a valid driver's license. All drivers shall [must] be adults and hold a valid driver's license appropriate for the type of vehicle being driven.

§265.20. Farm and Domestic Animals.

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

(d) Rabies vaccinations of animals. All dogs and cats owned or under the supervision of anyone on the camp premises shall be currently vaccinated against rabies in compliance with Health and Safety Code, §826.021. Evidence of vaccination shall [must] be provided to a department representative upon request.

§§265.21 - 265.22 (No change.)

§265.23. Application and Denial of [for] a New License; Non-transferable.

(a) License required. A person shall [must] possess a valid youth camp license prior to operating a youth camp.

(1) Submitting an application. An application is made by submitting:

(A) a completed youth camp application; [and]

(B) an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;

(C) any other required documents and information; and

(D) paying the license fee as described in §265.28 of this title (relating to Fees).

(2) Obtaining an application. A blank application may be obtained by calling the Environmental and Sanitation Licensing Group at (512)[-]834-6600, or may be downloaded from the website at www.dshs.state.tx.us/youthcamp/default.shtm. Applications may be submitted [All applications may be mailed] to the Environmental and Sanitation Licensing Group, Department of State Health Services, MC 2003, P.O. Box 149347 [1100 West 49th Street], Austin, Texas 78714-9347 [78756].

(3) Qualifying for a youth camp license. The department shall issue a license if the facility:

(A) meets the definition of a "Youth camp" as described in §265.11(23) of this title (relating to Definitions);

(B) meets the definition of "Youth camp, general characteristics of:" in §265.11(24) of this title; and

(C) is in compliance with all provisions of the Act and the rules prior to operation as determined by:

(i) submitting a complete application as described in paragraph (1) of this subsection; and

(ii) passing a pre-licensing inspection conducted by the department.

(b) Processing applications. **[All applications will be processed promptly after the completed application form and fees are received. Those who submit incomplete applications will be notified either by telephone or in writing as soon as possible.]**

(1) Applications for a new license issued under this chapter shall be submitted to the Environmental and Sanitation Licensing Group at least 90 calendar days prior to camp operation.

(2) The department shall issue the new license or a written notice that the application is complete or that the application is deficient within the following periods of time. The department shall identify deficiencies in the notice, provide a deadline by which the deficiencies shall be corrected, and inform the applicant of the need for a pre-licensing inspection. Deficiencies may include the failure to provide required information, documents, or fees. An application is not considered complete until all required documentation, information, and fees have been received.

(A) Letter of acceptance of application for licensure approving the license and authorizing operation after successfully passing the pre-licensing inspection - within 30 days after the date of passing the pre-licensing inspection. The original license may serve as the letter of acceptance.

(B) Letter of application deficiency - within 30 days after receipt of a deficient application.

(C) Letter of pre-licensing inspection deficiency - a notice of deficiency will be issued to the camp representative on site at the conclusion of the pre-licensing inspection if any deficiencies were noted during the inspection. The camp shall provide documentation that all deficiencies have been corrected within 10 days of the inspection or prior to camp operation, whichever comes first.

(3) In the event that an application for a new license is not processed within the timeframe established in paragraph (2)(A) of this subsection, and no good cause exists for the delay, the applicant has the right to request reimbursement of all fees paid in that particular application process so long as a complete application was submitted at least 90 calendar days prior to camp operation. Requests for reimbursement shall be made in writing to the Environmental and Sanitation Licensing Group. Good cause for exceeding the time period is considered to exist if the number of applications for licensure exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant shall give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner shall make the final decision and provide written notification of the decision to the applicant and to the department.

(c) Record availability. All records, except criminal background and sex offender registration database checks, required by these rules shall be made available to the department immediately upon request. Criminal background and sex offender registration database checks shall be made available to the department within 2 business days upon request.

[(c) Qualifying for a youth camp license. The department shall determine if the facility meets the definition of a Youth Camp as described in §265.11(20) of this title (relating to Definitions) and the definition of "Youth camp, general characteristics of:" in §265.11(21) of this title. If the facility does not qualify for a license, the application will be denied and the license fee, less a handling fee of \$50, refunded. If an application is denied because the facility does not meet the definition of a youth camp, the applicant should determine if a license from another agency is required.]

(d) Term of license. The term of a youth camp license shall be one year, beginning on the date of issuance.

(e) License non-transferable. A youth camp license is not transferable and may not be sold, assigned, or otherwise transferred. Any new entity that acquires the operation of a youth camp through sale, assignment, or other transfer shall obtain a new license.

(f) Ownership change. A new application, fee, pre-licensing inspection, and license is required if there is a change in ownership.

(g) Name change. If a camp changes its name during operation, but does not change location or ownership, then a new license may be issued if requested using the form designated by the department, available at <http://www.dshs.state.tx.us/youthcamp/forms.shtm>, accompanied by a nonrefundable fee of \$20.

(h) Location change. A new application, fee, pre-licensing inspection, and license is required if there is a change in physical camp location.

(i) Duplicate license. A duplicate license may be issued if requested using the form designated by the department, available at <http://www.dshs.state.tx.us/youthcamp/forms.shtm>, accompanied by a nonrefundable fee of \$20.

(j) Denials.

(1) The department may deny an application for licensing to those who fail to meet the standards established by these rules. When the department proposes to deny an application, it shall give notice of the proposed action in writing and shall provide information on how to request an administrative hearing. The applicant shall make a written request for a hearing within 30 days from the date on the notice letter sent by the department. The hearing shall be conducted in accordance with the Act, the Administrative Procedure Act, Government Code, Chapter 2001, and the formal hearing procedures of the department at 25 Texas Administrative Code, §1.21 *et seq.*

(2) A letter of denial of licensure may be issued within 60 days of the receipt of application if the applicant does not meet the requirements of subsection (a)(3)(A) or (B) of this section.

(3) A letter of denial of licensure may be issued if the applicant does not meet the requirements of subsection (a)(3)(C) of this section:

(A) within 60 days following the first scheduled date of camp operations if a pre-licensing inspection has not been completed; or

(B) within 60 days following the first scheduled date of camp operations if the camp does not pass the pre-licensing inspection.

(4) A license holder whose license has been denied or revoked may not reapply for a new license for two years from the date of final denial or revocation.

(k) Refunds.

(1) If the applicant does not meet the requirements of subsection (a)(3)(A) or (B) of this section, the application may be denied and the license fee, less a handling fee of \$50, may be refunded. If an application is denied because the facility does not meet the requirements of subsection (a)(3)(A) or (B) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (a)(3)(C) of this section, the application may be denied and the license fee may not be refunded.

§265.24. Application and Denial of **[for]** a Renewal License.

(a) Renewal of a youth camp license. A person holding a license under the Act shall **[must]** renew the license annually before the license expires **[from the date of issuance]**.

(b) Renewal notice. At least 60 **[30]** days before a license expires, the department, as a service to the licensee, shall send a renewal notice to the licensee or registrant, by first-class mail to the last known address of the licensee. It remains the responsibility of the licensee to keep the department informed of the licensee's **[their]** current address and to take action to renew the license **[their certificate]** whether or not they have received the notification from the department. The renewal notice shall **[will]** state:

(1) - (3) (No change.)

(c) Renewal requirements. Renewal **[All renewal]** applications and fees shall be submitted to the department prior to the license's annual expiration date **[and shall be mailed to the Environmental and Sanitation Licensing Group, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756. The department will renew the license if the applicant meets the standards in these sections, meets the definition of a "Youth camp" as**

described in §265.11(20) of this title (relating to Definitions) and the definition of "Youth camp, general characteristics of:" in §265.11(21) of this title, submits a complete renewal application on the prescribed form along with all required documentation, pays the required fee, and has complied with all final orders resulting from any violations of these sections].

(1) Submitting an application. A renewal application is made by submitting:

(A) a completed youth camp renewal application;

(B) an activity schedule showing dates and detailed information about the activities that are conducted both at the camp and at other locations;

(C) any other required documents and information; and

(D) paying the renewal license fee as described in §265.28 of this title (relating to Fees).

(2) Obtaining an application. A blank renewal application may be obtained by calling the Environmental and Sanitation Licensing Group at 512-834-6600, or may be downloaded from the website at www.dshs.state.tx.us/youthcamp/default.shtm. Renewal applications may be submitted to the Environmental and Sanitation Licensing Group, Department of State Health Services, MC 2003, P.O. Box 149347, Austin, Texas 78714-9347.

(3) Qualifying for renewal of a youth camp license. The department shall issue a renewal license if the facility:

(A) meets the definition of a "Youth camp" as described in §265.11(23) of this title (relating to Definitions);

(B) meets the definition of "Youth camp, general characteristics of:" in §265.11(24) of this title; and

(C) is in compliance with all provisions of the Act and the rules prior to operation as determined by:

(i) submitting a complete renewal application as described in this subsection;

(ii) passing a pre-licensing inspection conducted by the department, if required; and

(iii) complying with all final orders resulting from any violations of these sections before the application for renewal is submitted.

(d) Processing renewal applications.

(1) Applications for license renewal under this chapter shall be received by the Environmental and Sanitation Licensing Group prior to the expiration date of the license or 45 days prior to camp operation, whichever is earlier.

(2) The department shall issue the renewal license or a written notice that the renewal application is complete or that the renewal application is deficient within the following periods of time from the date of receipt of the renewal application. The department shall identify deficiencies in the notice and provide a deadline by which the deficiencies shall be corrected in order for the department to renew the license or to schedule the pre-licensing inspection if required. Deficiencies may include the failure to provide required information, documents, or fees, or the failure to schedule or successfully pass the pre-licensing inspection if required. An application is not considered complete until all required documentation, information, and fees have been received. If a camp is subject to pre-licensing inspection, the time period for issuing a letter of acceptance of application for license renewal begins upon successfully passing inspection.

(A) Letter of acceptance of application for license renewal approving the license and authorizing operation - within 30 days. The original license may serve as the letter of acceptance.

(B) Letter of renewal application deficiency - within 30 days after receipt of a deficient renewal application.

(C) Letter of pre-licensing inspection deficiency - a notice of deficiency will be issued to the camp representative on site at the conclusion of the pre-licensing inspection if any deficiencies were noted during the inspection. The camp shall provide documentation that all deficiencies have been corrected within 10 days of the inspection or prior to camp operation, whichever comes first.

(3) In the event that a timely and complete application for license renewal is not processed within timeframe established in paragraph (2)(A) of this subsection, and no good cause exists for the delay, the applicant has the right to request reimbursement of all fees paid in that particular application process. Requests for reimbursement shall be made in writing to the Environmental and Sanitation Licensing Group. Good cause for exceeding the time period is considered to exist if the number of applications for licensure exceeds by 15% or more the number of applications processed the same calendar quarter of the preceding year or any other condition exists giving the department good cause for exceeding the time period.

(4) If the request for reimbursement as authorized by paragraph (3) of this subsection is denied, the applicant may then appeal to the commissioner for a resolution of the dispute. The applicant shall give written notice to the commissioner requesting reimbursement of the fee paid because the application was not processed within the established time period. The department shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner shall make the

final decision and provide written notification of the decision to the applicant and to the department.

(e) Late renewal. If a license is not renewed within one year after the expiration date, the license may not be renewed. A new license may be obtained by submitting a new application in compliance with §265.23 of this title (relating to Application and Denial of a New License; Non-transferable). If the license is renewed after its expiration date, the renewed license shall expire on the date the license would have expired had it been renewed timely.

(f) [(d)] Non-renewal. The department may refuse to renew a license if the applicant has not complied with all final orders resulting from any violations of these sections. Eligibility for license renewal may be reestablished by meeting all conditions of the orders and complying with the requirements of this section. The department may not renew the license of a youth camp that has not corrected deficiencies identified in a final order before the application for renewal is submitted. Evidence of corrections, such as photography or documentation satisfactory to the department, shall be submitted to and approved by the Environmental Health Enforcement Unit of the Division for Regulatory Services prior to submitting the renewal application to the Regulatory Licensing Unit of the Division. **[decide not to renew a license unless the applicant has complied with all final orders resulting from any violations of these sections.]**

(g) Application determination affecting license expiration. If a license holder makes timely and sufficient application for the renewal of a license, the existing license does not expire until the application has been finally determined by the department. If the application is denied, the existing license does not expire until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(h) Reapplication for license upon denial or revocation. A license holder whose license has been denied or revoked may not reapply for a new license for two years from the date of final denial or revocation.

(i) [(e)] Opportunity for a hearing. When the department proposes to deny an initial or renewal application, it shall **[will]** give notice of the proposed action in writing and shall **[will]** provide information on how to request an administrative hearing. The applicant shall **[must]** make a written request for a hearing within 30 days from the date on the notice letter sent by the department.

(j) Pre-licensing inspections. A youth camp applying for a license renewal may be subject to a pre-licensing inspection. Youth camps shall be in compliance with all provisions of the Act and the rules prior to operation.

(k) Denials.

(1) The department may deny a renewal application for licensing to those who fail to meet the standards established by these rules. Prior to denying a renewal license, the department shall give the applicant an opportunity for a hearing. The hearing shall be conducted in accordance with the Act, the Administrative Procedure Act, Government Code, Chapter 2001,

and the formal hearing procedures of the department at 25 Texas Administrative Code, §1.21 et seq.

(2) A letter of denial of license renewal may be issued within 60 days of the receipt of application if the applicant does not meet the requirements of subsection (c)(3)(A) or (B) of this section.

(3) A letter of denial of license renewal may be issued within 60 days following the first scheduled date of camp operations if the applicant does not meet the requirements of subsection (c)(3)(C) of this section.

(1) Refunds.

(1) If the applicant does not meet the requirements of subsection (c)(3)(A) or (B) of this section, the renewal application may be denied and the renewal license fee, less a handling fee of \$50, may be refunded. If an applicant is denied because the facility does not meet the requirements of subsection (c)(3)(A) or (B) of this section, the applicant should determine if a license from another agency is required.

(2) If the applicant does not meet the requirements of subsection (c)(3)(C) of this section, the renewal application may be denied and the renewal license fee may not be refunded.

§§265.25 - 265.26 (No change.)

§265.27. Revocation, Administrative Penalties, and Hearings.

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

(e) Opportunity for a hearing. Prior to revoking a license or assessing an administrative penalty, the department shall give the person charged an opportunity for a hearing. The hearing shall be conducted in accordance with the Act, the Administrative Procedures Act, Government Code, Chapter 2001, and the formal hearing procedures of the department at 25 Texas Administrative Code [TAC] §1.21 et seq. **[and the department's fair hearing procedures in 25 TAC, §1.41, et seq.]**

(f) (No change.)

§265.28. Fees.

(a) (No change.)

(b) Miscellaneous fees are as follows:

(1) duplicate license fee - \$20;

(2) camp name change during operation - \$20; and

(3) non-sufficient fund fee - \$20.

(c) [(b)] Applicants may submit applications and renewal applications for a license under these sections electronically by the Internet through Texas Online at www.texasonline.state.tx.us. The department is authorized to collect fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.

[(c) A current license shall only be issued when all past due fees and late fees are paid.]

(d) An applicant whose payment for the application and initial license fee is returned due to any reason including insufficient funds, account closed, or payment stopped shall be allowed to reinstate the application by remitting to the department a money order or check for guaranteed funds in the amount of the application and initial license fee plus the Non-Sufficient Fund Fee within 30 days after the date of receipt of the department's notice. An application is incomplete until the fee has been received and cleared through the appropriate financial institution.

[(d) All fees are non-refundable, except as specifically noted in these rules.]

(e) An applicant whose license has been approved and whose payment for the license fee is returned due to any reason including insufficient funds, account closed, or payment stopped shall remit to the department a money order or check for guaranteed funds in the amount of the license fee plus the Non-Sufficient Fund Fee within 30 days after the date of receipt of the department's notice. Failure to comply with this subsection renders the application and the license approval invalid.

(f) A license holder whose payment for the renewal fee is returned due to any reason including insufficient funds, account closed, or payment stopped shall remit to the department a money order or check for guaranteed funds in the amount of the renewal fee plus the Non-Sufficient Fund Fee within 30 days after the date of receipt of the department's notice. Failure to comply shall result in non-renewal of the license. If a renewal license has already been issued, it shall be invalid.

(g) Upon return unclaimed of the department's notice, as set out in subsections (c) - (e) of this section, the department shall mail the notice to the applicant or license holder by certified mail. If a money order or check for guaranteed funds is not received by the department's cashier within 30 days after the postmarked date on the certified mailing, the approval granted or license issued shall be invalid.

(h) The department may notify the applicant or the license holder's owner that the person has failed to comply with this section and that any approval granted or license issued is invalid.

(i) Initial application or renewal fees shall be refunded only if the fee amounts paid are in excess of the correct fee amount or if there is a double payment. The department shall not refund

fees if the application was abandoned due to the applicant's failure to respond within 90 days to a written request from the department.

(j) [(e)] All fees shall be submitted in the form of personal checks, certified checks, money orders, or checks from state agencies, municipalities, counties, or other political subdivisions of the state made payable to the department.

§265.29 (No change.).

§265.30. Youth Camp, Ineligibility for Licensure. The following entities may not obtain a youth camp license.

(1) Entities that do not offer programs that satisfy the characteristics under §265.11(24) of this title (relating to Definitions), "Youth camp, general characteristics of."

(2) Entities that operate a program at or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Education Code, §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

(3) Institutions of higher education or a private or independent institution of higher education as defined by the Education Code, §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

(4) Entities that are required to be licensed by the Department of Family and Protective Services.