

The Texas Natural Resource Conservation Commission (commission) adopts new §9.1, Purpose; §9.2, Need for Training; §9.3, Scope of Training; §9.4, Certificate of Completion of Training; and §9.5, Reimbursement. The commission adopts this new Chapter 9 in order to implement House Bill (HB) 2912, Article 1 (Administration and Policy), §1.05, as passed by the 77th Legislature, 2001. The proposal was published in the September 7, 2001 issue of the *Texas Register* (26 TexReg 6839). The new sections are adopted *without changes* and will not be republished.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

House Bill 2912 amended Subchapter C, Chapter 5, Texas Water Code (TWC), by adding §5.0535, relating to Required Training Program for Commission Members. This new section prohibits a person who is appointed to and qualifies for office as a member of the commission from voting, deliberating, or being counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this new section. The section specifies the information which must be provided in the training program. Under the section, a person appointed to the commission is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office. House Bill 2912, §18.08(b) specifies that these provisions apply only to a member of the commission who is appointed on or after January 1, 2002.

#### SECTION BY SECTION DISCUSSION

New §9.1, relating to Purpose, will establish the purpose of the chapter which is to govern procedures for the training of commissioners appointed on or after January 1, 2002.

New §9.2, relating to Need for Training, will establish the need for training of commissioners as a requirement under TWC, §5.0535, which prohibits a newly-appointed commissioner from voting, deliberating, or being counted as a member in attendance at a meeting of the commission until the commissioner completes a specified training program.

New §9.3, relating to Scope of Training, will prescribe the training program required under TWC, §5.0535. The required elements of the program are: 1) the legislation that created the commission; 2) the programs operated by the commission; 3) the role and functions of the commission; 4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority; 5) the current budget for the commission; 6) the results of recent significant internal and external audits of the commission; 7) the requirements of the open meetings law, the public information law, the administrative procedure law, and other laws relating to public officials, including conflict of interest laws; 8) and any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

New §9.4, relating to Certificate of Completion of Training, will provide for issuance of a certificate to a commissioner upon completion of the required training program to document compliance with the requirement.

New §9.5, relating to Reimbursement, will provide for reimbursement to a commissioner for the travel expenses incurred in attending the training program, as authorized by TWC, §5.0535.

#### FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission has reviewed the new rules in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225, and determined that the rules are not subject to §2001.0225 because they do not meet the definition of a “major environmental rule” as defined in that statute.

“Major environmental rule” means a rule, the specific intent of which is to protect the environment or reduce risks 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 the state or a sector of the state. The rules are not anticipated to 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 the state or a sector of the state because the rules are intended to simply implement a training program for newly-appointed commissioners, as mandated by state law.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for this rulemaking under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is simply to implement a training program for newly-appointed commissioners, as mandated by state law. This action will not create a burden on private real property, and will not burden, restrict, or limit an owner’s right to property. The rulemaking also will not be the cause of a reduction in

market value of private real property, and will not constitute a takings under Texas Government Code, Chapter 2007.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed this rulemaking for consistency with the Texas Coastal Management Program (CMP) goals and policies in accordance with the regulations of the Coastal Coordination Council, and determined that the rulemaking will not have direct or significant adverse effect on any coastal natural resource areas, nor will the rulemaking have a substantive effect on commission actions subject to the CMP.

#### HEARING AND COMMENTERS

A public hearing was not held on the proposal, and no comments on the proposal were received.

#### STATUTORY AUTHORITY

The new sections are adopted under TWC, §5.103, which provides the commission authority to adopt any rules necessary to carry out its powers and duties under this code and other laws of this state and to adopt rules repealing any statement of general applicability that interprets law or policy; and §5.105, which authorizes the commission to establish and approve all general policy of the commission by rule.

## **CHAPTER 9: TRAINING FOR COMMISSIONERS**

### **§§9.1 - 9.5**

#### **§9.1. Purpose.**

This chapter governs procedures applicable to the training of commissioners of the Texas Natural Resource Conservation Commission appointed on or after January 1, 2002.

#### **§9.2. Need for Training.**

A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this chapter. This training program should be completed as soon as practical after appointment.

#### **§9.3. Scope of Training.**

(a) The training program may include, but is not limited to, information provided through staff briefings, written material, seminars/conferences, or internet and intranet resources. The executive director and the general counsel, or their designees, will provide briefings on topics within their scope of authority.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission, including relevant portions of the Texas Water Code and the Texas Health and Safety Code;

(2) the programs operated by the commission, including programs which are federally delegated or authorized;

(3) the role and functions of the commission, including the agency's mission statement and scope of commission's authority;

(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of recent significant internal and external audits of the commission;

(7) the requirements of:

(A) the open meetings law, Texas Government Code, Chapter 551;

(B) the public information law, Texas Government Code, Chapter 552;

(C) the administrative procedure law, Texas Government Code, Chapter 2001;

and

(D) other laws relating to public officials, including conflict of interest laws;

and

(8) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

#### **§9.4. Certificate of Completion of Training.**

Upon completion of training by a newly-appointed commissioner, the general counsel shall issue the commissioner a certificate of completion to document that the commissioner is appropriately trained to serve as a commissioner. Such certificate will be kept on file by the general counsel and will be available for public inspection.

**§9.5. Reimbursement.**

A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.