

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** October 14, 2016

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: John Racanelli, Deputy Director
Office of Administrative Services

Docket No.: 2016-0336-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 9, Training
HB 3337: Education and Training
Rule Project No. 2015-039-009-AD

Background and reason(s) for the rulemaking:

House Bill (HB) 3337, 84th Texas Legislature, 2015, requires the Texas Commission on Environmental Quality (TCEQ, agency, or commission) to adopt rules requiring that before an agency administrator or employee may be reimbursed for tuition expenses, the Executive Director must authorize the tuition reimbursement payment (Texas Government Code, §656.048). HB 3337, which became effective September 1, 2015, was intended to provide the appropriate executive-level oversight for authorizing payments for potentially costly reimbursements. Along with revisions to agency policy, 30 Texas Administrative Code (TAC) Chapter 9, Subchapter B, Employee Training and Education, will also need to be updated to reflect the changes of HB 3337.

Scope of the rulemaking:

In addition to updating §9.15, Reimbursement, the adopted rulemaking will also update other areas of Chapter 9 to improve clarity and reflect current TCEQ training procedures.

Agency staff adopts amending §9.11, Definitions, and §9.12, Scope, to reduce repetition in the existing rules.

Additionally, Office of Administrative Services, Human Resources and Staff Services (HRSS) Division has recently removed outdated program language and clarified the functions of the Training Unit in its revisions to Operating Policies and Procedures (OPP) 16.01, Training and Development. Section 9.13, Eligibility, and §9.16, Training Records, will be revised accordingly.

Lastly, TCEQ adopts amending §9.17, At-Will Employment Status, to clarify that participation in the agency's training and education programs does not affect an employee's at-will status.

A.) Summary of what the rulemaking will do:

The rulemaking will reflect the legislative-mandated changes, employ HRSS updated training language, and clean up the rule language overall.

B.) Scope required by federal regulations or state statutes:

Re: Docket No. 2016-0336-RUL

Effective September 1, 2015, HB 3337 requires the commission to adopt rules requiring that before an agency administrator or employee may be reimbursed for tuition expenses, the Executive Director must authorize the tuition reimbursement payment (Texas Government Code, §656.048).

C.) Additional staff recommendations that are not required by federal rule or state statute:

In addition to updating §9.15, revisions are adopted to other sections of Chapter 9 to improve clarity and reflect current changes to TCEQ training practices.

Statutory authority:

- House Bill 3337
- Texas Government Code, §656.041 *et seq.* (State Employee's Training Act) and §2001.004
- Texas Water Code, §5.103 and §5.105

Effect on the:

A.) Regulated community:

No direct impact is anticipated.

B.) Public:

No direct impact is anticipated.

C.) Agency programs:

Internal forms, policies, and procedure were changed to comply with the statute, and all tuition reimbursement have been approved by the Deputy Executive Director since the effective date of the statutory change, September 1, 2015. Instead of division directors approving reimbursements, employees will need the recommendation of their division director and approval of the Executive Director. The HRSS Division is responsible for mirroring existing changes to TCEQ Training and Development.

Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking.

Public comment:

The commission offered a public hearing on August 2, 2016; however, no members of the public were present to offer comments. Therefore, the hearing was not officially opened. Additionally, there were no written comments submitted for this rulemaking project.

Significant changes from proposal:

No significant changes were made to the proposed text. A minor revision was made to §9.15 to eliminate redundancy and improve clarity.

Re: Docket No. 2016-0336-RUL

Potential controversial concerns and legislative interest:

HB 3337 was passed to address the practice in state government of allowing staff-level state employees to authorize advance payments for graduate degree program costs for certain high-level employees without appropriate executive-level oversight.

Does this rulemaking affect any current policies or require development of new policies?

The relevant language in OPP 16.01, Employee Training Program, and OPP 16.02, Education Assistance Program, have already been updated as of September 1, 2015.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If the rulemaking does not go forward, the TAC will not reflect the legislative changes to the reimbursement processes nor will it reflect updates with how training is administered by the HRSS Division. Additionally, we will also not be in compliance with Texas Government Code, §656.048.

Key points in the adoption rulemaking schedule:

Anticipated adoption date: November 2, 2016

Anticipated *Texas Register* publication date: November 18, 2016

Anticipated effective date: November 24, 2016

Six-month *Texas Register* filing deadline: January 8, 2017

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Attachments

HB 3337

cc: Chief Clerk, 2 copies
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