

(C) We failed to take all required repeat samples following an *E. coli*-positive routine sample.

(D) We failed to test for *E. coli* when any repeat sample tests positive for total coliform.

(12) [(9)] Every report must include the following lead-specific information - a short informational statement about lead in drinking water and its effect on children.

(A) The statement must include the information set forth in this example statement. "If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. NAME OF UTILITY is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to two minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/safewater/lead>."

(B) A public water system may write its own educational statement, but only in consultation with the executive director.

(h) If a public water system detects *E. coli* and has not violated the *E. coli* MCL, in addition to completing the table as required in subsection (c)(4) of this section, the system may include a statement that explains that although they have detected *E. coli*, they are not in violation of the *E. coli* MCL.

(i) [(h)] Customer notification of water loss by a retail public utility. A retail public utility required to file a water loss audit with the Texas Water Development Board under the provisions of Texas Water Code, §16.0121, shall notify its customers of its water loss reported in the water loss audit by including the water loss information on or with the next report following the filing of the water loss audit, unless the retail public utility elects to notify its customers of its water loss reported in the water loss audit by including the water loss information on or with the next bill sent to its customers following the filing of the water loss audit in accordance with §291.87 of this title (relating to Billing).

§290.275. *Appendices A - D.*

The following appendices are integral components of the subchapter.

(1) Appendix A--Converting Maximum Contaminant Level [MCL] Compliance Values for Consumer Confidence Reports [CCR].

Figure: 30 TAC §290.275(1)

[Figure: 30 TAC §290.275(1)]

(2) Appendix B--Sources of Regulated Contaminants.

Figure: 30 TAC §290.275(2)

[Figure: 30 TAC §290.275(2)]

(3) Appendix C--Health Effects Language.

Figure: 30 TAC §290.275(3)

[Figure: 30 TAC §290.275(3)]

(4) Appendix D--Unregulated Contaminants.

Figure: 30 TAC §290.275(4) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 23, 2016.

TRD-201604980

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: November 6, 2016

For further information, please call: (512) 239-2141

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**TITLE 31. NATURAL RESOURCES AND CONSERVATION**

**PART 10. TEXAS WATER DEVELOPMENT BOARD**

**CHAPTER 353. INTRODUCTORY PROVISIONS**

**SUBCHAPTER B. EMPLOYEE TRAINING AND EDUCATION**

**31 TAC §353.31**

The Texas Water Development Board (TWDB) proposes amendments to 31 Texas Administrative Code (TAC) §353.31, concerning agency-funded employee training and education. Existing 31 TAC §353.32 and §353.33 are being consolidated into the amended §353.31 and are proposed for repeal elsewhere in this issue of the *Texas Register*.

**BACKGROUND AND SUMMARY OF THE FACTUAL ISSUES FOR THE PROPOSED AMENDMENTS.**

The proposed amendments update the TWDB rule regarding agency-funded employee training and education in compliance with Texas Government Code Chapter 656, Subchapters C and D, and consolidate three rules into a single rule. Texas Government Code Chapter 656 requires state agencies to adopt rules requiring that the executive head of an agency authorize tuition reimbursement payments for courses offered by an accredited institution of higher education.

**SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS**

*Subchapter B. Employee Training and Education*

*Section 353.31 Purpose of Employee Training and Education.*

The section name is revised to Agency-Funded Employee Training and Education to reflect the consolidation of §353.32 and §353.33 into the amended §353.31.

The term "training" is defined using the statutory definition in Texas Government Code §656.101.

Employee eligibility for training and the types of job-related training are described.

The requirements for obtaining reimbursement for a course offered by an accredited institution of higher education are outlined, including the requirement that tuition reimbursement be approved by the executive administrator.

Obligations assumed by administrators and employees after completing an education or training program are outlined.

## FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS

Ms. Rebecca Treviño, Chief Financial Officer has determined that there will be no fiscal implications for state or local governments as a result of the proposed amendments. For the first five years these rule amendments are in effect, there is no expected additional cost to state or local governments resulting from their administration.

The amendments are not expected to result in reductions in costs to either state or local governments. The intent of the rule-making is to update TWDB policies regarding agency-funded training and education. There is no change in costs because there are no direct costs associated with the proposed amendments. These rule amendments are not expected to have any impact on state or local revenues. The rule amendments do not require any increase in expenditures for state or local governments as a result of administering the amended rule. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from the amended rule.

## PUBLIC BENEFITS AND COSTS

Ms. Treviño has also determined that for each year of the first five years the proposed rulemaking is in effect, the anticipated public benefit will be enhanced capability of participating employees to perform job duties and an effective review and approval process for expenditure of state funds to reimburse eligible employee tuition expenses.

## LOCAL EMPLOYMENT IMPACT STATEMENT

The board has determined that a local employment impact statement is not required. The proposed amendments do not adversely affect a local economy in a material way for the first five years that they are in effect because they will impose no new requirements on local economies. The board also has determined that there will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this rule-making. The board also has determined that there is no anticipated economic cost to persons who are required to comply with the rulemaking as proposed. Therefore, no regulatory flexibility analysis is necessary.

## DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the rulemaking is not subject to Texas Government Code §2001.0225 because the proposed rulemaking does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or 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 intent of the rulemaking is to update the board's policies regarding agency-funded employee training and education.

Even if the rulemaking being proposed was a major environmental rule, Texas Government Code §2001.0225 still would not apply to this rulemaking because Texas Government Code §2001.0225 only applies to a major environmental rule the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express re-

quirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: 1) does not exceed any standard set by a federal law; 2) does not exceed an express requirement of state law; 3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and 4) is not proposed solely under the general powers of the agency, but rather is also proposed under authority of Texas Water Code §§6.104 and 6.109. Therefore, these proposed amendments do not fall under any of the applicability criteria in Texas Government Code §2001.0225.

The board invites public comment regarding this draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submission of Comments section of this preamble.

## TAKINGS IMPACT ASSESSMENT

The board evaluated this proposed rulemaking and performed an analysis of whether it constitutes a taking under Texas Government Code Chapter 2007. The specific purpose of this rule is to update board policies regarding agency-funded employee training and education.

The board's analysis indicates that Texas Government Code Chapter 2007 does not apply to the proposed amendments because this rulemaking is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code §2007.003(b)(4). Nevertheless, the board further evaluated the proposed amendments and performed an assessment of whether they constitute a taking under Texas Government Code Chapter 2007. Promulgation and enforcement of these proposed amendments would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed amendments do not affect a landowner's rights in private real property because this rulemaking does not burden or restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. Therefore, the proposed amendments do not constitute a taking under Texas Government Code Chapter 2007.

## SUBMISSION OF COMMENTS

Comments on the proposed rulemaking will be accepted until 30 days following publication in the *Texas Register* and may be submitted to Mr. Les Trobman, Office of General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231 or [rulescomments@twdb.texas.gov](mailto:rulescomments@twdb.texas.gov) or by fax to (512) 475-2053.

## STATUTORY AUTHORITY

This amendment is proposed under Texas Water Code §6.101, which gives the TWDB authority to adopt rules, and Texas Government Code §656.048, which requires the TWDB to adopt rules relating to employee eligibility for training and education funded by the agency, the obligations of employees upon receiving the training and education, and a requirement that the executive administrator authorize tuition reimbursement payments.

Cross reference to statute: Texas Water Code §6.101, Texas Government Code §656.048

§353.31. Agency-Funded [Purpose of] Employee Training and Education.

(a) The agency may use state funds, when available, to provide training or education for its administrators and full- or part-time employees, including salary, tuition and other fees, travel and living expenses, training stipend, expense of training materials and other necessary expenses of an instructor, student or other participant in a training or education program. The training must be related to the duties or prospective duties of the administrator or employee.

(b) "Training" as used in this rule means instruction, teaching, or other education received by a state employee that is not normally received by other state employees and that is designed to enhance the ability of the employee to perform the employee's job. The term includes a course of study at an institution of higher education or a private or independent institution of higher education as defined by §61.003, Education Code, if the agency spends money to assist the state employee to meet the expense of the course of study or pays salary to the employee to undertake the course of study as an assigned duty. The term does not include training required either by state or federal law or that is determined necessary by the agency and offered to all employees of the agency performing similar jobs.

(c) All administrators and active employees are eligible to participate in job-related training or education programs supported by the agency, including training inside or outside the agency, seminars and conferences, college and university coursework and online training.

(d) When an administrator or employee seeks reimbursement for a training or education program offered by an institution of higher education, the agency may only reimburse the tuition expenses for a program course successfully completed by an employee at an accredited institution of higher education. Reimbursement for such program courses requires the approval of the executive administrator.

(e) After completing an education or training program sponsored by the agency, an administrator or employee will be required, if applicable, to:

(1) Discuss information obtained and share materials with other agency employees, to the extent that sharing does not violate copyright laws;

(2) Assume additional job duties for which the training or education program prepared the employee; and/or

(3) Conduct training for other department employees based on the information or skills taught at the training or education program.

(f) The executive administrator will adopt policies and procedures to obtain training and/or education for administrators and employees that include eligibility requirements and procedures for reimbursement that are in conformity [conformance] with these rules and Texas Government Code Chapter 656, Subchapters C and D. [Chapter 656 of the Texas Government Code.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 23, 2016.

TRD-201604982

Les Trobman  
General Counsel  
Texas Water Development Board  
Earliest possible date of adoption: November 6, 2016  
For further information, please call: (512) 463-7686

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**31 TAC §353.32, §353.33**

The Texas Water Development Board (TWDB) proposes to repeal 31 Texas Administrative Code (TAC) §353.32 and §353.33.

**BACKGROUND AND SUMMARY OF THE FACTUAL ISSUES FOR THE PROPOSED REPEAL.**

The TWDB proposes to repeal §353.32 and §353.33 because both sections are incorporated into amendments to 31 TAC §353.31 being proposed elsewhere in this issue of the *Texas Register*.

**DISCUSSION OF THE PROPOSED REPEAL**

31 TAC §353.32, relating to eligibility for training and education, and §353.33, relating to eligible expenses of a training or education program, are being incorporated in proposed amendments to 31 TAC §353.31.

**FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENTS**

Ms. Rebecca Treviño, Chief Financial Officer has determined that there will be no fiscal implications for state or local governments as a result of the proposed repeals. For the first five years the repeals are in effect, there is no expected additional cost to state or local governments.

The repeal of these rules is not expected to result in reductions in costs to either state or local governments. There is no change in costs because there are no direct costs associated with the proposed repeals. These repeals are not expected to have any impact on state or local revenues. These repeals do not require any increase in expenditures for state or local governments. Additionally, there are no foreseeable implications relating to state or local governments' costs or revenue resulting from these repeals.

**PUBLIC BENEFITS AND COSTS**

Ms. Treviño has also determined that for each year of the first five years the proposed repeals are in effect, there will be no impact to the public.

**LOCAL EMPLOYMENT IMPACT STATEMENT**

The board has determined that a local employment impact statement is not required. The proposed repeals do not adversely affect a local economy in a material way for the first five years that they are in effect because they will impose no new requirements on local economies. The board also has determined that there will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing these repeals. The board also has determined that there is no anticipated economic cost to persons who are required to comply with the repeals as proposed. Therefore, no regulatory flexibility analysis is necessary.

**DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION**

The board reviewed the proposed repeals in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the repeals are not subject to Texas Government Code §2001.0225 because they do not