

1-1 By: Legler, et al. (Senate Sponsor - Jackson) H.B. No. 125
1-2 (In the Senate - Received from the House April 11, 2011;
1-3 April 20, 2011, read first time and referred to Committee on
1-4 Natural Resources; May 24, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 0; May 24, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 125 By: Hegar

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulatory analysis of rules proposed by the Texas
1-11 Commission on Environmental Quality.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 5, Water Code, is amended
1-14 by adding Section 5.1031 to read as follows:

1-15 Sec. 5.1031. ADOPTION OF ENVIRONMENTAL RULES. (a) In this
1-16 section:

1-17 (1) "Cost" means a reasonably identifiable,
1-18 significant, and direct or indirect economic impact.

1-19 (2) "Environmental effect" means a reasonably
1-20 identifiable and quantifiable effect or outcome affecting the
1-21 environment or human health.

1-22 (3) "Environmental rule" means a rule the specific
1-23 intent of which is to protect the environment or reduce risks to
1-24 human health from environmental exposure.

1-25 (4) "Small business" means a business that employs not
1-26 more than 250 individuals.

1-27 (b) Before adopting an environmental rule, the commission
1-28 shall conduct a regulatory analysis that identifies the costs and
1-29 environmental effects expected to result from implementation of and
1-30 compliance with the rule.

1-31 (c) When giving notice of an environmental rule, the
1-32 commission shall incorporate into the fiscal note required by
1-33 Section 2001.024, Government Code, a draft impact analysis
1-34 describing the anticipated effects of the proposed rule. The draft
1-35 impact analysis, at a minimum, must:

1-36 (1) identify the problem the rule is intended to
1-37 address;

1-38 (2) identify the environmental effects that the agency
1-39 expects to result from implementation of and compliance with the
1-40 rule, including the projected level of reduction of pollutants or
1-41 contaminants in air, water, and soil media;

1-42 (3) identify and describe the costs that the agency
1-43 expects that state agencies, local governments, the public, and the
1-44 affected regulated entities, other than small businesses, will
1-45 incur from implementation of and compliance with the rule; and

1-46 (4) identify and describe in a separate economic
1-47 impact analysis the costs that the agency expects that small
1-48 businesses will incur from implementation of and compliance with
1-49 the rule.

1-50 (d) In identifying the environmental effects of a rule under
1-51 Subsection (c)(2), the commission shall include the modeled
1-52 improvement for the criteria pollutant design value expected from
1-53 implementation of the rule, if the rule will be included in the
1-54 state implementation plan.

1-55 (e) After considering public comments submitted under
1-56 Section 2001.029, Government Code, and determining that a proposed
1-57 rule should be adopted, the agency shall prepare a final regulatory
1-58 analysis that complies with Section 2001.033, Government Code.

1-59 (f) A person who submitted a comment in accordance with
1-60 Section 2001.029, Government Code, may challenge the validity of an
1-61 environmental rule that is not proposed and adopted in strict
1-62 compliance with the procedural requirements of this section by
1-63 filing an action for declaratory judgment as provided by Section

2-1 2001.038, Government Code, not later than the 30th day after the
2-2 effective date of the rule. If the court determines that an
2-3 environmental rule was not proposed and adopted in strict
2-4 compliance with the procedural requirements of this section, the
2-5 rule is invalid.

2-6 (g) The requirements of this section may not be construed so
2-7 as to cause a delay or to prevent the timely implementation of any
2-8 federal requirements.

2-9 SECTION 2. The change in law made by this Act applies only
2-10 to a rule proposed by the Texas Commission on Environmental Quality
2-11 for which notice is given under Sections 2001.023 and 2001.024,
2-12 Government Code, on or after December 1, 2011.

2-13 SECTION 3. This Act takes effect September 1, 2011.

2-14

* * * * *