

By: Burkett

H.B. No. 815

A BILL TO BE ENTITLED

AN ACT

relating to the regulatory analysis of rules proposed by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 5, Water Code, is amended by adding Section 5.1032 to read as follows:

Sec. 5.1032. ADOPTION OF ENVIRONMENTAL RULES. (a) In this section:

(1) "Benefit" has the meaning assigned by Section 2001.0225, Government Code.

(2) "Cost" means a reasonably identifiable and significant direct or indirect economic effect.

(3) "Environmental effect" means a reasonably identifiable and quantifiable direct or indirect effect or outcome affecting the environment, including air, soil, or water quality.

(4) "Environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure by the control of emissions or contaminants in the air, water, or soil. The term does not include an emergency rule or a rule that provides only procedural requirements.

(5) "Small business" means a business that employs not more than 250 individuals.

(b) Before adopting an environmental rule, the commission

1 shall conduct a regulatory analysis that considers the costs and
2 environmental effects and benefits expected to result from
3 implementation of and compliance with the rule.

4 (c) When giving notice of an environmental rule, the
5 commission shall incorporate into the public benefits and costs
6 note required by Section 2001.024, Government Code, an analysis
7 describing the anticipated effects of the proposed rule. The
8 analysis, at a minimum, must:

9 (1) identify the problem the rule is intended to
10 address;

11 (2) identify the environmental effects and benefits
12 that the commission expects to result from implementation of and
13 compliance with the rule, including the projected level of
14 reduction of pollutants or contaminants in air, water, and soil
15 media;

16 (3) identify and describe the compliance costs that
17 the commission expects that state agencies, local governments, the
18 public, and the affected regulated entities, other than small
19 businesses, will incur from implementation of and compliance with
20 the rule; and

21 (4) identify and describe in a separate economic
22 impact analysis the compliance costs that the commission expects
23 that small businesses will incur from implementation of and
24 compliance with the rule.

25 (d) In identifying the environmental effects and benefits
26 of a rule under Subsection (c)(2), the commission shall include the
27 modeled improvement for the criteria pollutant design value

1 expected from implementation of the rule, if the rule will be
2 submitted as a control measure in this state's air quality state
3 implementation plan.

4 (e) After considering public comments submitted under
5 Section 2001.029, Government Code, and determining that a proposed
6 rule should be adopted, the commission shall prepare a final
7 regulatory analysis that complies with Section 2001.033,
8 Government Code.

9 (f) A person who submitted a comment in accordance with
10 Section 2001.029, Government Code, may challenge the validity of an
11 environmental rule that is not proposed and adopted in strict
12 compliance with the procedural requirements of this section by
13 filing an action for declaratory judgment as provided by Section
14 2001.038, Government Code, not later than the 30th day after the
15 effective date of the rule. If the court determines that an
16 environmental rule was not proposed and adopted in strict
17 compliance with the procedural requirements of this section, the
18 rule is invalid except that a rule to be included in this state's
19 air quality state implementation plan may not be invalidated for
20 failure of strict compliance if the invalidation will prevent the
21 timely implementation of a federal requirement.

22 (g) If a court determines that an environmental rule is
23 invalid under Subsection (f), the provisions of Section 2001.040,
24 Government Code, apply.

25 SECTION 2. The change in law made by this Act applies only
26 to a rule proposed by the Texas Commission on Environmental Quality
27 for which notice is given under Sections 2001.023 and 2001.024,

1 Government Code, on or after December 1, 2017.

2 SECTION 3. This Act takes effect September 1, 2017.