

By: Bettencourt

S.B. No. 939

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) "Cost" means a reasonably identifiable, significant, and direct or indirect economic impact.

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

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

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

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

(c) When giving notice of an environmental rule, the commission shall incorporate into the fiscal note required by

1 Section 2001.024, Government Code, a draft impact analysis
2 describing the anticipated effects of the proposed rule. The draft
3 impact analysis, at a minimum, must:

4 (1) identify the problem the rule is intended to
5 address;

6 (2) identify the environmental effects that the agency
7 expects to result from implementation of and compliance with the
8 rule, including the projected level of reduction of pollutants or
9 contaminants in air, water, and soil media;

10 (3) identify and describe the costs that the agency
11 expects that state agencies, local governments, the public, and the
12 affected regulated entities, other than small businesses, will
13 incur from implementation of and compliance with the rule; and

14 (4) identify and describe in a separate economic
15 impact analysis the costs that the agency expects that small
16 businesses will incur from implementation of and compliance with
17 the rule.

18 (d) In identifying the environmental effects of a rule under
19 Subsection (c)(2), the commission shall include the modeled
20 improvement for the criteria pollutant design value expected from
21 implementation of the rule, if the rule will be included in the
22 state implementation plan.

23 (e) After considering public comments submitted under
24 Section 2001.029, Government Code, and determining that a proposed
25 rule should be adopted, the agency shall prepare a final regulatory
26 analysis that complies with Section 2001.033, Government Code.

27 (f) A person who submitted a comment in accordance with

1 Section 2001.029, Government Code, may challenge the validity of an
2 environmental rule that is not proposed and adopted in strict
3 compliance with the procedural requirements of this section by
4 filing an action for declaratory judgment as provided by Section
5 2001.038, Government Code, not later than the 30th day after the
6 effective date of the rule. If the court determines that an
7 environmental rule was not proposed and adopted in strict
8 compliance with the procedural requirements of this section, the
9 rule is invalid.

10 (g) The requirements of this section may not be construed so
11 as to cause a delay or to prevent the timely implementation of any
12 federal requirements.

13 SECTION 2. The change in law made by this Act applies only
14 to a rule proposed by the Texas Commission on Environmental Quality
15 for which notice is given under Sections 2001.023 and 2001.024,
16 Government Code, on or after December 1, 2017.

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