

Regulatory Economic Analysis Manual
Appendix A – Rulemaking Economic Analysis Form Template

Rulemaking Economic Analysis Form

Rule Chapter Number and Title: _____

Affected Rule Sections: _____

Due Date for Completing the Form: _____

Return the Form To: _____

INSTRUCTIONS:

- This form will be used to complete the economic analysis sections of the proposed rules notice.
- This form will also be used to answer the questions in the Proposed Rulemaking Memorandum that accompanies the proposed rules that are sent to the Office of the Governor for review. The agency may also attach the completed form to the memo in response to the questions.
- Please refer to and use the information in the Regulatory Economic Analysis Manual for assistance in completing this form.

A. DATA ON LICENSEES AND OTHERS AFFECTED BY THE PROPOSED RULE

1. Identify the number and type of the agency's licensees required to comply with the proposed rule.
2. Identify any other individuals, businesses (regardless of size), or other entities directly affected by the proposed rule.

B. STATE ECONOMIC IMPACT – IMPACT ON STATE GOVERNMENT

STATE COSTS –

1. For each year of the first five years the rule will be in effect, will there be additional estimated costs or estimated reductions in costs to the State as a result of enforcing or administering the rule? (For this question, the “first five years” are the “first five fiscal years (state fiscal years).” State fiscal year is September 1 – August 31.)
 - a) Additional estimated costs? Yes ____ No ____
 - i) Please explain.

ii) Provide a yearly breakdown of the additional costs below:

	State Fiscal Year 1	State Fiscal Year 2	State Fiscal Year 3	State Fiscal Year 4	State Fiscal Year 5
State Funds					
Federal Funds					
Other Funds					
TOTAL					

b) Estimated reductions in costs? Yes _____ No _____

i) Please explain.

ii) Provide a yearly breakdown of the cost reductions below:

	State Fiscal Year 1	State Fiscal Year 2	State Fiscal Year 3	State Fiscal Year 4	State Fiscal Year 5
State Funds					
Federal Funds					
Other Funds					
TOTAL					

STATE REVENUES –

2. For each year of the first five years the rule will be in effect, will there be estimated loss or increase in revenue to the State as a result of enforcing or administering the rule? (For this question, the “first five years” are the “first five fiscal years (state fiscal years).” State fiscal year is September 1 – August 31.)

a) Estimated loss in revenue? Yes _____ No _____

i) Please explain.

ii) Provide a yearly breakdown of the estimated loss in revenue below:

	State Fiscal Year 1	State Fiscal Year 2	State Fiscal Year 3	State Fiscal Year 4	State Fiscal Year 5
State Funds					
Federal Funds					
Other Funds					
TOTAL					

b) Estimated increase in revenue? Yes _____ No _____

i) Please explain.

ii) Provide a yearly breakdown of the estimated increase in revenue below:

	State Fiscal Year 1	State Fiscal Year 2	State Fiscal Year 3	State Fiscal Year 4	State Fiscal Year 5
State Funds					
Federal Funds					
Other Funds					
TOTAL					

C. LOCAL ECONOMIC IMPACT – IMPACT ON LOCAL GOVERNMENTS

LOCAL COSTS –

- For each year of the first five years the rule will be in effect, will there be additional estimated costs or estimated reductions in costs to local governments as a result of enforcing or administering the rule? (For this question, the “first five years” are the “first five fiscal years using the state fiscal year.”)

a) Additional estimated costs? Yes _____ No _____

i) Please explain.

ii) Provide a yearly breakdown of the estimated additional costs below:

	Fiscal Year 1	Fiscal Year 2	Fiscal Year 3	Fiscal Year 4	Fiscal Year 5
Costs to Local Govt.					

b) Estimated reductions in costs? Yes _____ No _____

i) Please explain.

ii) Provide a yearly breakdown of the estimated reduction in costs below:

	Fiscal Year 1	Fiscal Year 2	Fiscal Year 3	Fiscal Year 4	Fiscal Year 5
Costs to Local Govt.					

LOCAL REVENUES –

- For each year of the first five years the rule will be in effect, will there be estimated loss or increase in revenue to local governments as a result of enforcing or administering the rule? (For this question, the “first five years” are the “first five fiscal years using the state fiscal year.”)

a) Estimated loss in revenue? Yes _____ No _____

i) Please explain.

ii) Provide a yearly breakdown of the estimated loss in revenue below:

	Fiscal Year 1	Fiscal Year 2	Fiscal Year 3	Fiscal Year 4	Fiscal Year 5
Revenues to Local Govt.					

b) Estimated increase in revenue? Yes _____ No _____

i) Please explain.

ii) Provide a yearly breakdown of the estimated increase in revenue below:

	Fiscal Year 1	Fiscal Year 2	Fiscal Year 3	Fiscal Year 4	Fiscal Year 5
Revenues to Local Govt.					

D. LOCAL EMPLOYMENT IMPACT STATEMENT

1. Will the proposed rule have an impact on the local economy or local employment?

Yes _____ No _____

2. Please explain, including any potential job loss or growth, effect on local labor force, effect on the local economy, and any other factors pertinent to the question of local employer impact.

E. PUBLIC BENEFITS AND ECONOMIC COSTS

1. For each year of the first five years that the rule will be in effect, what are the public benefits expected as a result of adoption of the proposed rule? (For this question, the “first five years” are the “first five years that the rules are in effect (year is a 12-month period).”)

(NOTE: Discuss decreases in costs (savings) here if it is a public benefit.)

2. For each year of the first five years that the rule will be in effect, what are the probable economic cost to persons (including licensees, the general public, and businesses, regardless of size) required to comply with the rule? (For this question, the “first five years” are the “first five years that the rules are in effect (year is a 12-month period).”)

(NOTE: Discuss increases in costs here.)

F. ADVERSE ECONOMIC EFFECT ON SMALL BUSINESSES OR MICRO-BUSINESSES

"Micro-business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

- (A) is formed for the purpose of making a profit;
- (B) is independently owned and operated; and
- (C) has not more than 20 employees.

"Small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

- (A) is formed for the purpose of making a profit;
- (B) is independently owned and operated; and
- (C) has fewer than 100 employees or less than \$6 million in annual gross receipts.

1. Will the proposed rule have an adverse economic effect on small businesses or micro-businesses?

Yes _____ No _____

2. Please explain.

3. If the proposed rule may or will have an adverse economic effect on small businesses or micro-businesses, please prepare and submit: a) an Economic Impact Statement; and b) a Regulatory Flexibility Analysis.

a) The Economic Impact Statement must include:

- i) an estimate of the number of small businesses and micro-businesses subject to the proposed rule;
- ii) a general explanation of the adverse impact, including an estimate of any economic losses that the small businesses and micro-businesses may suffer; any expenditures that the small businesses and micro-businesses may have to undertake in order to comply with the rule; and any other economic costs that may be imposed as a result of compliance;
- iii) an estimated length of time that the anticipated adverse impact will last for the licensees and other small and micro-businesses affected; and
- iv) a description of the alternative methods of achieving the purpose of the proposed rule.

b) The Regulatory Flexibility Analysis must include:

- i) the agency's consideration of alternative methods of achieving the purpose of the proposed rule;
- ii) the agency's consideration (if consistent with the health, safety, and environmental and economic welfare of the state) of regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on small businesses and micro-businesses; and
- iii) several proposed methods of reducing the adverse impact of a proposed rule on a small business or micro-business.

G. ADVERSE ECONOMIC EFFECT ON RURAL COMMUNITIES

"Rural community" means a municipality with a population of less than 25,000.

1. Will the proposed rule have an adverse economic effect on rural communities?

Yes _____ No _____

2. Please explain.

3. If the proposed rule may or will have an adverse economic effect on rural communities, please prepare and submit: a) an Economic Impact Statement; and b) Regulatory Flexibility Analysis.
 - a) The Economic Impact Statement must include:
 - i) an estimate of the number of rural communities subject to the proposed rule;
 - ii) a list of each rural community affected by the rule;
 - iii) a general explanation of the adverse impact, including an estimate of any economic losses that the communities may suffer; any expenditures that the communities may have to undertake in order to comply with the rule; and any other economic costs that may be imposed as a result of compliance;
 - iv) an estimated length of time that the anticipated adverse impact will last; and
 - v) a description of the alternative methods of achieving the purpose of the proposed rule.

 - b) The Regulatory Flexibility Analysis must include:
 - i) the agency's consideration of alternative methods of achieving the purpose of the proposed rule;
 - ii) the agency's consideration (if consistent with the health, safety, and environmental and economic welfare of the state) of regulatory methods that will accomplish the objectives of applicable rules while minimizing adverse impacts on rural communities; and
 - iii) several proposed methods of reducing the adverse impact of a proposed rule on a rural community.

H. ONE-FOR-ONE REQUIREMENT FOR RULES WITH AN ECONOMIC IMPACT

1. Does the proposed rule have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government?

Yes _____ No _____

If the answer to Question H.1. is "No", this section is complete. Go to Section I.

2. If the answer to Question H.1. is "Yes", do any of the following exceptions to the "one-for-one requirement" apply? The rule (check all that apply):

_____ relates to state agency procurement.

_____ is amended to reduce the burden or responsibilities imposed on regulated persons by the rule; or decrease the persons' cost for compliance with the rule.

_____ is adopted in response to a natural disaster.

_____ is necessary to receive a source of federal funds or to comply with federal law.

_____ is necessary to protect water resources of this state as authorized by the Water Code.

_____ is necessary to protect the health, safety, and welfare of the residents of this state.

_____ is adopted by the Department of Family and Protective Services, Texas Department of Motor Vehicles, Parks and Wildlife Department, Public Utility Commission of Texas, Texas Commission on Environmental Quality, or Texas Racing Commission.

_____ is adopted by a self-directed semi-independent agency.

_____ is necessary to implement legislation, unless the legislature specifically states this section applies to the rule.

If the answer to Question H.1. is “Yes” and none of the exceptions in Question H.2. apply, immediately contact the agency attorney who is handling the rule proposal for next steps.

I. GOVERNMENT GROWTH IMPACT STATEMENT

If the answer to any of the following questions is ‘Yes’, please explain.

1. For each year of the first five years the rule will be in effect, describe whether any of the following situations will occur. (For this question, the “first five years” are the “first five years that the rules are in effect (year is a 12-month period).”)

- a) The proposed rule creates or eliminates a government program.

Yes _____ No _____

- b) Implementation of the proposed rule requires the creation of new employee positions or the elimination of existing employee positions.

Yes _____ No _____

- c) Implementation of the proposed rule requires an increase or decrease in future legislative appropriations to the agency.

Yes _____ No _____

- d) The proposed rule requires an increase or decrease in fees paid to the agency.

Yes _____ No _____

- e) The proposed rule creates a new regulation.

Yes _____ No _____

- f) The proposed rule expands, limits, or repeals an existing regulation.

Yes _____ No _____

- g) The proposed rule increases or decreases the number of individuals subject to the rule's applicability.

Yes _____ No _____

h) The proposed rule positively or adversely affects this state's economy.

Yes _____ No _____

2. Please explain any "Yes" answers to (a) through (h).

J. TAKINGS IMPACT ASSESSMENT

"Taking" means:

(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(B) a governmental action that:

(i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and

(ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

1. Will the proposed rule affect private real property (i.e. real estate, land, buildings or structures attached to the land, groundwater or surface water rights)?

Yes _____ No _____

2. Will the proposed rule restrict, limit, or impose a burden on an owner's right to his or her private real property?

Yes _____ No _____

3. If the proposed rule may result in a "taking" of private real property, please prepare and submit a Takings Impact Assessment.

The Takings Impact Assessment must:

a) describe the specific purpose of the proposed action and identify:

- i) whether and how the proposed action substantially advances its stated purpose; and
- ii) the burdens imposed on private real property and the benefits to society resulting from the proposed use of private real property;

b) determine whether engaging in the proposed governmental action will constitute a taking; and

- c) describe reasonable alternative actions that could accomplish the specified purpose and compare, evaluate, and explain:
 - i) how an alternative action would further the specified purpose; and
 - ii) whether an alternative action would constitute a taking.

K. REGULATORY ANALYSES OF MAJOR ENVIRONMENTAL RULES

“Major environmental rule” means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, 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.

1. Does the state agency intend to propose a “major environmental rule” as defined?

Yes _____ No _____

If the answer to Question K.1. is “No,” then this section is complete.

2. Do any of the following conditions apply to the proposed “major environmental rule”? The result of the rule is to (check all that apply):

_____ exceed a standard set by federal law, unless the rule is specifically required by state law.

_____ exceed an express requirement of state law, unless the rule is specifically required by federal law.

_____ 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.

_____ adopt a rule solely under the general powers of the agency instead of under a specific state law.

If none of the conditions under Question K.2. apply, then this section is complete.

3. If the proposed rule qualifies as a “major environmental rule” under Question K.1. and at least one of the conditions under Question K.2. applies, the agency must conduct a regulatory analysis that addresses the items under Section 2001.0225(b).

Proposed Rules Notice

For the proposed rules, the agency must prepare a draft impact analysis describing the anticipated effects of the proposed rule.

- a) The draft impact analysis, at a minimum, must address the eight items specified under Section 2001.0225(c).
- b) The state agency shall identify the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision, as required under Section 2001.0225(e).

- c) The draft impact analysis must be incorporated into the fiscal note required by Section 2001.024, which is part of the proposed rules notice.

Adopted Rules Notice

If the agency determines, after considering the public comments, that a proposed rule should be adopted, the agency shall prepare a final regulatory analysis.

- a) The final regulatory analysis must comply with Section 2001.033, which provides the required elements of the rule adoption order.
- b) The state agency must identify the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision, as required under Section 2001.0225(e).
- c) The final regulatory analysis must include the state agency's finding and assessment that are specified under Section 2001.0225(d) and (e).

L. PERSONS WHO CONTRIBUTED TO THE FORM

Please list the names and titles of the agency staff who contributed to the information in this form. These persons are resources but do not have to sign, approve, or date the form. Add lines as necessary.

_____	_____
Name	Title and Division

_____	_____
Name	Title and Division

_____	_____
Name	Title and Division

M. PERSONS RESPONSIBLE FOR COMPLETING AND APPROVING THE FORM

This section must be completed by the person(s) completing and approving the Rulemaking Economic Analysis Form. Provide the person's name, title, and date as proof of signature. Add revision dates, as applicable. Do not remove the previous signature dates.

Person Completing the Form (if different from the person approving the form):

_____	_____	_____
Name	Title	Date / Revision Date(s)

Supervisor of Person Completing the Form (if different from the person approving the form):

_____ Name	_____ Title	_____ Date / Revision Date(s)
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Person Approving the Form:

_____ Name	_____ Title	_____ Date / Revision Date(s)
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