

AN ACT

relating to the authority of the Texas Commission on Environmental Quality to issue an emergency order authorizing certain action in the event of a catastrophe.

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

SECTION 1. Sections 5.515(a), (b), (d), and (e), Water Code, are amended to read as follows:

(a) The commission may issue an emergency order authorizing immediate action for the addition, replacement, or repair of facilities or control equipment or the repair or replacement of roads, bridges, or other infrastructure improvements necessitated by a catastrophe occurring in this state and the emission of air contaminants during the addition, replacement, or repair of those facilities, that equipment, or those improvements if the actions and emissions are otherwise precluded under Chapter 382, Health and Safety Code.

(b) An order issued under this section:

(1) may authorize action only ~~on~~:

(A) on property on which a catastrophe has occurred; ~~or~~

(B) on other property that is owned by the owner or operator of the damaged facility and that produces the same intermediates, products, or by-products; or

(C) for a public works project needed to repair

1 or replace a damaged road, bridge, or other infrastructure
2 improvement destroyed during a catastrophe; and

3 (2) must contain a schedule for submitting a complete
4 application for a permit under Section 382.0518, Health and Safety
5 Code.

6 (d) An applicant desiring an emergency order under this
7 section must submit an application under Section 5.502 that, in
8 addition to complying with that section:

9 (1) describes the catastrophe;

10 (2) states that:

11 (A) the construction and emissions are essential
12 to prevent loss of life, serious injury, severe property damage,
13 loss of a critical transportation thoroughfare, or severe economic
14 loss not attributable to the applicant's actions and are necessary
15 for the addition, replacement, or repair of a facility or control
16 equipment or the repair or replacement of a road, bridge, or other
17 infrastructure improvement necessitated by the catastrophe;

18 (B) there is no practicable alternative to the
19 proposed construction and emissions; and

20 (C) the emissions will not cause or contribute to
21 air pollution;

22 (3) estimates the dates on which the proposed
23 construction or emissions, or both, will begin and end;

24 (4) estimates the date on which the facility,
25 equipment, or infrastructure improvement will begin operation; and

26 (5) describes the quantity and type of air
27 contaminants proposed to be emitted.

1 (e) In this section, "catastrophe" means an unforeseen
2 event, including an act of God, an act of war, severe weather,
3 explosions, fire, or similar occurrences beyond the reasonable
4 control of the applicant [~~operator~~], that makes a facility or its
5 related appurtenances or a road, bridge, or other infrastructure
6 improvement inoperable.

7 SECTION 2. This Act takes effect September 1, 2005.

H.B. No. 2949

President of the Senate

Speaker of the House

I certify that H.B. No. 2949 was passed by the House on April 14, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2949 was passed by the Senate on May 10, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor