

By: Geren

H.B. No. 2949

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

17 (b) An order issued under this section:

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

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

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

24 (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.