

1-1 By: Geren (Senate Sponsor - Lucio) H.B. No. 2949
1-2 (In the Senate - Received from the House April 18, 2005;
1-3 April 19, 2005, read first time and referred to Committee on
1-4 Natural Resources; May 2, 2005, reported favorably by the
1-5 following vote: Yeas 9, Nays 0; May 2, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the authority of the Texas Commission on Environmental
1-9 Quality to issue an emergency order authorizing certain action in
1-10 the event of a catastrophe.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Sections 5.515(a), (b), (d), and (e), Water
1-13 Code, are amended to read as follows:

1-14 (a) The commission may issue an emergency order authorizing
1-15 immediate action for the addition, replacement, or repair of
1-16 facilities or control equipment or the repair or replacement of
1-17 roads, bridges, or other infrastructure improvements necessitated
1-18 by a catastrophe occurring in this state and the emission of air
1-19 contaminants during the addition, replacement, or repair of those
1-20 facilities, that equipment, or those improvements if the actions
1-21 and emissions are otherwise precluded under Chapter 382, Health and
1-22 Safety Code.

1-23 (b) An order issued under this section:

1-24 (1) may authorize action only ~~on~~:

1-25 (A) on property on which a catastrophe has
1-26 occurred; ~~or~~

1-27 (B) on other property that is owned by the owner
1-28 or operator of the damaged facility and that produces the same
1-29 intermediates, products, or by-products; or

1-30 (C) for a public works project needed to repair
1-31 or replace a damaged road, bridge, or other infrastructure
1-32 improvement destroyed during a catastrophe; and

1-33 (2) must contain a schedule for submitting a complete
1-34 application for a permit under Section 382.0518, Health and Safety
1-35 Code.

1-36 (d) An applicant desiring an emergency order under this
1-37 section must submit an application under Section 5.502 that, in
1-38 addition to complying with that section:

1-39 (1) describes the catastrophe;

1-40 (2) states that:

1-41 (A) the construction and emissions are essential
1-42 to prevent loss of life, serious injury, severe property damage,
1-43 loss of a critical transportation thoroughfare, or severe economic
1-44 loss not attributable to the applicant's actions and are necessary
1-45 for the addition, replacement, or repair of a facility or control
1-46 equipment or the repair or replacement of a road, bridge, or other
1-47 infrastructure improvement necessitated by the catastrophe;

1-48 (B) there is no practicable alternative to the
1-49 proposed construction and emissions; and

1-50 (C) the emissions will not cause or contribute to
1-51 air pollution;

1-52 (3) estimates the dates on which the proposed
1-53 construction or emissions, or both, will begin and end;

1-54 (4) estimates the date on which the facility,
1-55 equipment, or infrastructure improvement will begin operation; and

1-56 (5) describes the quantity and type of air
1-57 contaminants proposed to be emitted.

1-58 (e) In this section, "catastrophe" means an unforeseen
1-59 event, including an act of God, an act of war, severe weather,
1-60 explosions, fire, or similar occurrences beyond the reasonable
1-61 control of the applicant ~~operator~~, that makes a facility or its
1-62 related appurtenances or a road, bridge, or other infrastructure
1-63 improvement inoperable.

1-64 SECTION 2. This Act takes effect September 1, 2005.

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