

By: Lucio

S.B. No. 738

A BILL TO BE ENTITLED

AN ACT

relating to emergency order authority of the Texas Commission on Environmental Quality.

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

SECTION 1. Section 5.515, Water Code, is amended to read as follows:

Sec. 5.515. EMERGENCY ORDER BECAUSE OF CATASTROPHE.

(a) The commission may issue an emergency order authorizing immediate action for the addition, replacement, or repair of facilities or control equipment necessitated by a catastrophe occurring in this state and the emission of air contaminants during the addition, replacement, or repair of those facilities 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 public works projects needed to rebuild or repair damaged roads, bridges, or other infrastructure destroyed during a catastrophe; and

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

4 (c) The person applying for an emergency order must
5 demonstrate that there will be no more than a de minimis increase in
6 the predicted concentration of air contaminants at or beyond the
7 property line of the other property on which action is authorized
8 under Subsection (b)(1)(B). The commission shall review and act on
9 an application submitted as provided by Subsection (b)(2) without
10 regard to construction activity under an order under this section.

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

14 (1) describes the catastrophe;

15 (2) states that:

16 (A) the construction and emissions are essential
17 to prevent loss of life, serious injury, severe property damage,
18 loss of a critical transportation thoroughfare, or severe economic
19 loss not attributable to the applicant's actions and are necessary
20 for the addition, replacement, or repair of a facility or control
21 equipment, or repair or replacement of roads, bridges, or other
22 infrastructure, necessitated by the catastrophe;

23 (B) there is no practicable alternative to the
24 proposed construction and emissions; and

25 (C) the emissions will not cause or contribute to
26 air pollution;

27 (3) estimates the dates on which the proposed

1 construction or emissions, or both, will begin and end;

2 (4) estimates the date on which the facility will
3 begin operation; and

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

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

12 SECTION 2. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2005.