

Request for Suspension of TCEQ Rules

Date: August 28, 2017

Consistent with the Governor’s Proclamation of August 23, 2017 and the amendment to the Proclamation dated August 27, 2017, the Executive Director of the Texas Commission on Environmental Quality requests written approval for the suspension of the following rules because they prevent, hinder or delay necessary action in coping with Hurricane Harvey. Such suspension is requested only to the extent the rules actually do prevent, hinder or delay necessary action in coping with this disaster. Any suspension is limited to the duration of the disaster and is restricted to those counties set forth in the Proclamation referenced above, including any amendments. Regulated entities must prepare and maintain records related to the actions and suspended rules. It should be noted that some of these rules may have federal counterparts in statute or regulation and this suspension would not apply to such federal counterparts. More information on the specifics of hurricane response for regulated entities is available at: <https://www.tceq.texas.gov/response/hurricanes>.

30 TAC Chapter	Title	Impediment to Disaster Response
101	General Air Quality Rules	
	SUBCHAPTER F (Divisions 1 and 2): Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities §101.201 Emissions Event Reporting and Recordkeeping Requirements §101.211 Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements	Unauthorized emissions as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages would meet the definition of an emissions event, therefore, suspending the reporting and recordkeeping requirements would remove a potential impediment to disaster response.
111	Control of Air Pollution From Visible Emissions and Particulate Matter	
	SUBCHAPTER A: Visible Emissions And Particulate Matter	
	Division 1 - Visible Emissions	Compliance with the specified source visible emissions requirements, or alternate opacity limits, for particulate matter may not be possible as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
	Division 4 - Materials Handling, Construction, Roads, Streets, Alleys, And Parking Lots	Compliance with the requirements for the control of air pollution from visible emissions and particulate matter from materials handling, construction, roads, streets, alleys, and parking lots may not be possible as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.

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	Division 5 - Emissions Limits On Nonagricultural Processes	Compliance with the emissions limits on nonagricultural processes for the control of air pollution from visible emissions and particulate matter may not be possible as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
	SUBCHAPTER B: Outdoor Burning §111.201 General Prohibition §111.203 Definitions §111.217 Requirements for Certified and Insured Prescribed Burn Managers	Activities in response to hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages will require the disposal of waste and debris, which often may be accomplished through outdoor burning. Emissions from outdoor burning are regulated by the above rules, and suspending the rules would remove a potential impediment to disaster response, specifically related to expediency of a response.
114	Control of Air Pollution from Motor Vehicles SUBCHAPTER H: Low Emission Fuels	
	Division 1 – Gasoline Volatility §114.301 Control Requirements for Reid Vapor Pressure	Suspension is requested to the extent of the terms of any fuel waivers issued by EPA in response to TCEQ requests. To date, EPA has issued fuel waivers on August 25 and 26, 2017. The suspension and waiver would assist in the effort to have adequate fuel supplies in the region.
	Division 2 – Low Emission Diesel §114.312 Low Emission Diesel Standards	Suspension is requested to the extent of the terms of any fuel waivers issued by EPA in response to TCEQ requests. To date, EPA has issued fuel waivers on August 25 and 26, 2017. The suspension and waiver would assist in the effort to have adequate fuel supplies in the region.
115	Control Of Air Pollution From Volatile Organic Compounds	
	SUBCHAPTER B: General Volatile Organic Compound Sources	
	Division 1 - Storage Of Volatile Organic Compounds	Unauthorized emissions may occur due to improper storage of VOC material as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending the VOC storage requirements would remove a potential impediment to disaster response.
	Division 4 - Industrial Wastewater	Unauthorized emissions may occur due to an affected source category not complying with the industrial wastewater rules as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.

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	Division 5 - Municipal Solid Waste Landfills	Operation of a municipal solid waste landfill in compliance with the nonmethane organic compounds emission rate for the landfill may not be possible as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
	SUBCHAPTER C: Volatile Organic Compound Transfer Operations Division 1 - Loading And Unloading Of Volatile Organic Compounds Division 3 - Control Of Volatile Organic Compound Leaks From Transport Vessels	Unauthorized emissions may occur due to VOC transfer operations as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
	SUBCHAPTER D: Petroleum Refining, Natural Gas Processing, And Petrochemical Processes Division 1 - Process Unit Turnaround And Vacuum-Producing Systems In Petroleum Refineries Division 2 - Fugitive Emission Control In Petroleum Refineries In Gregg, Nueces, And Victoria Counties Division 3 - Fugitive Emission Control In Petroleum Refining, Natural Gas/Gasoline Processing, And Petrochemical Processes In Ozone Nonattainment Areas	Unauthorized emissions may occur due to various petroleum refining, natural gas processing, or petrochemical processes not complying with the industrial wastewater rules as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
	SUBCHAPTER F: Miscellaneous Industrial Sources	
	Division 1 - Cutback Asphalt	Unauthorized emissions may occur due to use of conventional cutback asphalt not in compliance with VOC solvent content requirement as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
	Division 3 - Degassing Of Storage Tanks, Transport Vessels, And Marine Vessels	Unauthorized emissions of VOCs may occur as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
117	Control Of Air Pollution From Nitrogen Compounds	
	SUBCHAPTER D: COMBUSTION CONTROL AT MINOR SOURCES IN OZONE NONATTAINMENT AREAS Division 1 - Houston-Galveston-Brazoria Ozone Nonattainment Area Minor Sources	Compliance with the combustion control requirements for nitrogen compounds at minor sources in the Houston-Galveston-Brazoria ozone nonattainment area may not be possible as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.

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	SUBCHAPTER E: MULTI-REGION COMBUSTION CONTROL Division 1 - Utility Electric Generation In East And Central Texas Division 2 - Cement Kilns Division 3 - Water Heaters, Small Boilers, And Process Heaters Division 4 - East Texas Combustion	Compliance with the combustion control requirements for nitrogen compounds at: utility electric generation in East and Central Texas; cement kilns; water heaters, small boilers, and process heaters; and stationary gas-fired reciprocating internal combustion engines at any stationary source of nitrogen oxides in a county covered by the proclamation may not be possible as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
	SUBCHAPTER F: ACID MANUFACTURING Division 1 - Adipic Acid Manufacturing Division 2 - Nitric Acid Manufacturing--Ozone Nonattainment Areas Division 3 - Nitric Acid Manufacturing--General	Compliance with the combustion control requirements for nitrogen compounds at adipic and nitric acid production units may not be possible as a result of hurricane effects, such as lightning, floods, fires, wind or wind-blown damage, and power outages and suspending these requirements would remove a potential impediment to disaster response.
285	On-Site Sewage Facilities	
	SUBCHAPTER A: General Provisions	Subchapter A contains requirements for the construction, repair, and operation of on-site sewage facilities. Suspending the rules will allow expedited construction and repair of on-site facilities and may remove a potential impediment to disaster recovery.
	SUBCHAPTER D: Planning, Construction and Installation Standards for OSSFs §285.35 Emergency Repairs	Subchapter D contains notification requirements related to the emergency repair of on-site sewage facilities. Suspending the rules may remove a potential impediment to disaster recovery.
293	Water Districts	
	SUBCHAPTER F: Actions Relating to Construction Projects and Purchase of Facilities §293.62 Construction Related Documents To Be Submitted to the Agency §293.63 Contract Documents for Water District Projects	Section 293.62 contains requirements for submitting specific documents and reports to the executive director for approval during the construction of district facilities financed with bond proceeds. Section 293.63 requires districts to solicit bids for construction projects. Suspending these rules may remove a potential impediment to disaster recovery.
	SUBCHAPTER G: Other Actions Requiring Commission Consideration for Approval §293.83 District Use of Surplus Funds for Any Purpose and Use of Maintenance Tax Revenue for Certain Purposes §293.84 District Use of Escrowed Funds	Section 293.83 requires districts to obtain executive director approval prior to using surplus funds from a bond issuance. Section 293.84 requires executive director approval prior to a district using bond funds that have been placed in escrow. Suspending these rules may remove a potential impediment to disaster recovery.

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304	Watermaster Operations	
	<p>SUBCHAPTER B: Regulation of the Use of State Water or Watercourses</p> <p>§304.13. Requirement for Measuring Devices §304.15. Declarations of Intent to Divert, Transport, or Release Water</p>	<p>Section 304.13 requires diverters in watermaster areas to install and maintain measuring devices. Measuring devices can be impacted by flooding and other storm components and suspending rules will allow facilities to replace measuring devices when conditions stabilize and are safe. Section 304.15 requires diverters in watermaster areas to notify the TCEQ in advance of diverting. Suspending this requirement will allow facilities to focus on other disaster recovery activities.</p>
305	Consolidated Permits	
	<p>SUBCHAPTER P: Effluent Guidelines and Standards for Texas Pollutant Discharge Elimination System (TPDES) Permits</p>	<p>Subchapter P adopts federal regulations for TPDES permits. Wastewater treatment facilities in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.</p>
307	Texas Surface Water Quality Standards	<p>Chapter 307 sets forth general criteria that apply to surface water in the state and specifically apply to substances attributed to waste discharges or human activities. Wastewater treatment facilities in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.</p>
309	Domestic Wastewater Effluent Limitation and Plant Siting	
	<p>SUBCHAPTER A: Effluent Limitations</p>	<p>Subchapter A establishes effluent quality limitations for treated domestic sewage which will be required of permittees as appropriate to maintain water quality in accordance with the commission's surface water quality standards. Wastewater treatment facilities in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.</p>
	<p>SUBCHAPTER C: Land Disposal of Sewage Effluent</p>	<p>Subchapter C contains requirements for the land disposal of sewage effluent. Land disposal activities in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.</p>
312	Sludge Use, Disposal, and Transportation	
	<p>SUBCHAPTER F: Disposal of Water Treatment Sludge</p>	<p>Subchapter F requires a permit to dispose of water treatment sludge. Suspending the rules will allow additional entities to dispose of water treatment sludge and may remove a potential impediment to disaster recovery.</p>
	<p>SUBCHAPTER G: Transporters and Temporary Storage Provisions</p>	<p>Subchapter G requires sludge transporters to register with the TCEQ. Suspending the rules will allow additional transporters to transport sludge and may remove a potential impediment to disaster recovery.</p>

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314	Toxic Pollutant Effluent Standards	
	SUBCHAPTER A: Toxic Pollutant Effluent Standards and Prohibitions	Chapter 314 adopts by reference 40 Code of Federal Regulations, Part 129, Subpart A, concerning toxic pollutant effluent standards and prohibitions. Wastewater treatment facilities in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.
321	Control of Certain Activities by Rule	
	SUBCHAPTER B: Concentrated Animal Feeding Operations	Subchapter B contains requirements for the land application of manure, sludge, or wastewater resulting from concentrated animal feeding operations. Operations in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.
327	Spill Prevention and Control	Chapter 327 applies to discharges or spills that result in a release to the environment within the territorial limits of the State of Texas, including the coastal waters of this state and requires all accidental discharges or spills of treated or untreated wastewater shall be reported within 24 hours of the occurrence. Suspending the rules may remove a potential impediment to disaster recovery.
330	Municipal Solid Waste	
	SUBCHAPTER A: General Information §330.1 Purpose and Applicability §330.3 Definitions §330.5 Classification of Municipal Solid Waste Facilities §330.7 Permit Required §330.9 Registration Required §330.11 Notification Required §330.13 Waste Management Activities Exempt from Permitting, Registration, or Notification §330.15 General Prohibitions §330.17 Technical Guidelines §330.23 Relationships with Other Governmental Entities §330.25 Relationship with County Licensing System	These rules provide the requirements for authorizations and prohibitions applicable for storage, processing, removal, or disposal of any solid waste. These provisions could impede a facility's responses to Hurricane Harvey, especially in regard to debris removal and storage.
	SUBCHAPTER C: Municipal Solid Waste Collection and Transportation	Subchapter C contains rules for public and private waste collection and transportation systems. Operations in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.
	SUBCHAPTER D: Operational Standards for Municipal Solid Waste Landfill Facilities §330.133 Unloading of Waste (for unloading, processing, and storage in buffer zones)	Subchapter D contains rules on the operational standards for MSW landfills facilities. Operations in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.

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	<p>§330.141(b) Easements and Buffer Zones (for unloading, processing, and storage in buffer zones only)</p> <p>§330.147 Disposal of Large Items</p> <p>§330.167 Poned Water (suspend 7-day repair timeframe during this event)</p> <p>§330.169 Waste in Enclosed Containers or Enclosed Vehicles Accepted at Type IV Landfills</p> <p>§330.171 Disposal of Special Wastes</p>	
	<p>SUBCHAPTER E: Operational Standards for Municipal Solid Waste Storage and Processing Units</p> <p>§330.211 Approved Containers</p>	<p>Subchapter E contains rules for the operational standards of MSW storage and processing units. Operations in storm damaged areas may temporarily not be able to comply with these standards and suspending the rules may remove a potential impediment to disaster recovery.</p>
	<p>SUBCHAPTER M: Location Restrictions</p> <p>§330.543(b) Buffer Zones</p>	<p>Subchapter M describes what activities can occur in easements and buffer zones. Due to the disaster, storage and processing could occur in buffer areas but not easements.</p>
	<p>SUBCHAPTER T: Use of Land Over Closed MSW Landfills</p>	<p>Subchapter T is should be suspended to allow storage and processing over closed MSW landfills, but not for the disposal of waste.</p>
331	<p>Underground Injection Control</p>	
	<p>SUBCHAPTER D: Standards for Class I Wells Other than Salt Cavern Disposal Wells</p> <p>§331.64 Monitoring and Testing Requirements</p>	<p>The operational requirements regarding continuous monitoring and immediate investigation of alarms could be impeded by Hurricane Harvey.</p>
334	<p>Underground and Aboveground Storage Tanks</p>	
	<p>SUBCHAPTER A: General Provisions</p> <p>§334.5 General Prohibitions for Underground Storage Tanks (USTs) and UST Systems</p>	<p>This rule prohibits the delivery of fuel/gasoline to an underground storage tank (UST) without a valid delivery certificate. Suspension of this requirement for UST operators that have certificates that are scheduled to expire could help maintain the flow of fuel to the public.</p>
	<p>SUBCHAPTER D: Underground and Aboveground Storage Tanks</p> <p>§334.72 Reporting of Special Releases</p> <p>§334.75 Reporting and Cleanup of Surface Spills and Overfills</p> <p>§334.76 Initial Response to Releases</p>	<p>These rules require certain reporting requirements and certain response actions be completed within 24 hours of a release which may not be possible in a disaster situation. Temporarily suspending the rules may remove an impediment to disaster recovery.</p>

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	<p>SUBCHAPTER F: Aboveground Storage Tanks</p> <p>§334.125 General Prohibitions and Requirements for Aboveground Storage Tanks (ASTs) §334.127 Registration for Aboveground Storage Tanks (ASTs)</p>	<p>The first rule prohibits the delivery of fuel/gasoline to an above ground storage tank (AST) without a valid delivery certificate. The second rule requires registration of an AST. Suspension of these rules could enable TXDOT and others to stage AST and receive fuel deliveries for the public and for emergency responders.</p>
335	Industrial Solid Waste and Municipal Hazardous Waste	
	<p>SUBCHAPTER A: Industrial Solid Waste and Municipal Hazardous Waste in General</p> <p>§335.2(d)(5) Permit Not Required for Nonhazardous Industrial Solid Waste (NHISW) Transfer Facility §335.5 Deed Recordation of Waste Disposal §335.6. Notification Requirements.</p>	<p>If waste stored for less ten days in containers a permit is not required for a (NHISW) transfer facility. TCEQ could allow for storage of (NHISW) for more than ten days.</p> <p>Recommend waiving deed recordation for disposal of animals if 10 or fewer carcasses are buried on one property and the regional office is notified (this is currently in guidance). Waive the requirement to provide notice to the executive director in writing prior to the event.</p> <p>Recommend waiving requirement for notification 90 days prior to engaging in disposing, processing, or recycling of industrial solid waste on site. This will remove potential impediments to disaster recovery.</p>
	<p>SUBCHAPTER C: Standards Applicable to Generators of Hazardous Waste</p> <p>§335.69 Accumulation Time</p>	<p>Certain hazardous waste generators are allowed to store hazardous waste for a 90-day time period. These timeframes may be difficult to meet and impede facilities' responses to Hurricane Harvey and storage and transportation of wastes.</p>
	<p>SUBCHAPTER D: Standards Applicable to Transporters of Hazardous Waste</p> <p>§335.94 Transfer Facility Requirements</p>	<p>Hazardous waste transfer facilities may store hazardous waste for 10 days. These timeframes may be difficult to meet and impede facilities' responses to Hurricane Harvey and storage and transportation of wastes.</p>
	<p>SUBCHAPTER K: Hazardous Substance Facilities Assessment and Remediation</p> <p>§335.346 Removals and Preliminary Site Investigations</p>	<p>This rule regards the steps that are required to perform partial or total removals at facilities that are either listed on the Registry or proposed for listing on the Registry. There are likely situations where the impacts of the storm will necessitate emergency removal actions to protect human health and these removal actions will need to occur before or concurrent with potentially responsible party notification or comment.</p>
	<p>SUBCHAPTER N: Household Hazardous Wastes</p> <p>§335.403 General Requirements for Household Hazardous Waste Collections</p>	<p>This rule requires operators to notify the executive director before collecting household hazardous waste. Operations in storm-damaged areas may not be able to immediately comply with these standards. Suspending the rules may remove a potential impediment to disaster recovery.</p>