

From: [Texas Commission on Environmental Quality](#)
To: [Paulson, Matthew](#)
Subject: Regulatory Guidance Concerning Hurricane Harvey
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REGULATORY GUIDANCE CONCERNING HURRICANE HARVEY
FROM THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Date: 8/24/17

By Proclamation of August 23, 2017, the Governor of the State of Texas declared that Tropical Depression Harvey poses a threat of imminent disaster in 30 counties in and around the Texas coast beginning August 23, 2017. The tropical depression has now been upgraded to a hurricane.

Hurricane Harvey is anticipated to create conditions that require immediate action to protect human health and the environment. The Executive Director of the Texas Commission on Environmental Quality (TCEQ) directs the public and regulated entities to the following website for Regulatory Guidance to use in responding to the effects of Hurricane Harvey: <https://www.tceq.texas.gov/response/hurricanes>.

No additional approval from TCEQ is necessary for activities directly related to disaster prevention or response. Response actions pursuant to the guidance should include all reasonable actions necessary and prudent to facilitate, maintain, or restore fuel production and/or distribution, within the State of Texas, directly related to Hurricane Harvey.

Texas law provides for a defense against an enforcement action where the regulated entity can establish that the violation was caused solely by an act of God, war, strike, riot, or other catastrophe. TEX.WATER CODE § 7.251. Regulated entities should keep records of all activities that they believe are covered by this defense. However, such entities must take all necessary steps to prevent or minimize any increased risk to human health and safety and to the environment. In addition, they must at all times apply best engineering and pollution control practices as required by applicable standards. Regulated entities should follow their standard operating procedures as well as startup, shutdown, and maintenance activities, requirements and plans, to the extent feasible, even during emergency events.

The Regulatory Guidance does not convey any property rights or any rights or privileges other than those established by state law. The Regulatory Guidance does not negate the need to obtain any required permits or authorizations, nor from the need to comply with all regulatory and statutory requirements, unless otherwise specified in the guidance.