

## Request for Suspension of TCEQ Rules

Date: August 26, 2020

Consistent with the Governor’s Proclamation of August 23, 2020, the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) requests written approval for the suspension of the following rules because they may prevent, hinder, or delay necessary actions needed to respond to the severe weather and flooding event, Hurricane Laura. 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. **All regulated entities should take all available actions necessary to ensure compliance with environmental regulations and permit requirements to protect the health and safety of Texans and the environment, and regulated entities must prepare and maintain records related to the actions and suspended rules, as they bear the burden of demonstrating that noncompliance was necessary.** The delay of report submittals should be minimized and resume as soon as feasible. 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.

30 TAC Chapter	Title	Impediment to Disaster Response
101	<b>General Air Quality Rules</b>	
	<p><b>SUBCHAPTER F: Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Unauthorized emissions as a result of the severe weather and flooding event, such as lightning, floods, fires, wind or wind-blown damage, and power outages would meet the definition of an emissions event; therefore, allowing additional time for compliance with the reporting and recordkeeping requirements would remove a potential impediment to disaster response.</p>
106	<b>Permits by Rule</b>	
	<p><b>SUBCHAPTER G: Combustion.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 106.183</u> Boilers, Heaters, and Other Combustion Devices.</li> </ul>	<p>Boilers, heaters, drying or curing ovens, furnaces, or other combustion units are limited to 40 MMbtu, and use of distillate fuel oil is limited to 720 hours per year. Removing the size of the boiler and distillate fuel oil usage limitations would remove potential impediments to disaster response.</p>

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	<p><b>SUBCHAPTER V: Thermal Control Devices.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 106.492</u> Flares.</li> </ul>	<p>Flaring in response to a disaster may be needed for specific areas. Removing registration requirements for flares burning more than 24 parts per million (ppm) of sulfur or chlorine would remove a potential impediment to disaster response.</p>
	<p><b>SUBCHAPTER W: Turbines and Engines.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 106.511</u> Portable and Emergency Engines and Turbines.</li> </ul>	<p>Internal combustion engine and gas turbine driven compressors, electric generator sets, and water pumps, used only for portable, emergency and/or standby services are limited to 876 hours per year of operation. Waiving this requirement would remove a potential impediment to disaster response.</p>
111	<p><b>Control of Air Pollution from Visible Emissions and Particulate Matter (PM)</b></p>	
	<p><b>SUBCHAPTER A: Visible Emissions and Particulate Matter.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with the specified source visible emissions requirements, opacity limits, and PM control requirements may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
	<p><b>SUBCHAPTER B: Outdoor Burning.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 111.201</u> General Prohibition;</li> <li>• <u>§ 111.203</u> Definitions; and</li> <li>• <u>§ 111.217</u> Requirements for Certified and Insured Prescribed Burn Managers.</li> </ul>	<p>Activities in response to the disaster will require the disposal of waste and debris, which often may be accomplished through outdoor burning. Emissions from outdoor burning are regulated by these rules and suspending the rules would remove a potential impediment to expediting disaster response.</p>
114	<p><b>Control of Air Pollution from Motor Vehicles</b></p>	
	<p><b>SUBCHAPTER H: Low Emission Fuels.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with gasoline volatility requirements of Division 1 may not be possible due to refineries being impacted during a disaster. Suspension of Division 1 is requested to the extent of the terms of any fuel waivers issued by EPA in response to TCEQ requests in order to have adequate fuel supplies in the region. Compliance with the low emission diesel requirements of Division 2 may not be possible during a disaster, potentially creating an impediment to disaster response.</p>

30 TAC Chapter	Title	Impediment to Disaster Response
115	Control of Air Pollution from Volatile Organic Compounds (VOC)	
	<p><b>SUBCHAPTER B: General Volatile Organic Compound Sources.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at VOC sources in the affected counties may not be possible during a disaster. As a result of the disaster, unauthorized emissions may occur due to improper storage of VOC material or an affected source category not complying with the industrial wastewater rules and suspending the requirements would remove a potential impediment to disaster response. 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 the disaster and suspending these requirements would remove a potential impediment to disaster response.</p>
	<p><b>SUBCHAPTER C: Volatile Organic Compound Transfer Operations.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at VOC sources in the affected counties may not be possible during a disaster. Unauthorized emissions may occur due to VOC transfer operations as a result of the disaster and suspending these requirements would remove a potential impediment to disaster response.</p>
	<p><b>SUBCHAPTER D: Petroleum Refining, Natural Gas Processing, And Petrochemical Processes.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at VOC sources in the affected counties may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
	<p><b>SUBCHAPTER E: Solvent-Using Processes.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at VOC sources in the affected counties may not be possible during a disaster, potentially creating an impediment to disaster response.</p>

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	<p><b>SUBCHAPTER F:</b> Miscellaneous Industrial Sources.</p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at VOC sources in the affected counties may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
	<p><b>SUBCHAPTER H:</b> Highly-Reactive Volatile Organic Compounds.</p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with HRVOC emission control, monitoring, testing, and other requirements at sources in HGB ozone nonattainment areas may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
117	<p><b>Control of Air Pollution from Nitrogen Compounds</b></p>	
	<p><b>SUBCHAPTER B:</b> Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas.</p> <ul style="list-style-type: none"> <li>• <u>Division 1</u> - Beaumont-Port Arthur (BPA) ozone nonattainment area.</li> <li>• <u>Division 3</u> - Houston-Galveston-Brazoria (HGB) ozone nonattainment area.</li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at major sources of nitrogen oxides in the BPA and HGB ozone nonattainment areas may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
	<p><b>SUBCHAPTER C:</b> Combustion Control at Major Utility Electric Generation Sources in Ozone Nonattainment Areas.</p> <ul style="list-style-type: none"> <li>• <u>Division 1</u> - Beaumont-Port Arthur ozone nonattainment area.</li> <li>• <u>Division 3</u> - Houston-Galveston-Brazoria ozone nonattainment area.</li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at major sources of nitrogen oxides in the BPA and HGB ozone nonattainment areas may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
	<p><b>SUBCHAPTER D:</b> Combustion Control at Minor Sources in Ozone Nonattainment Areas.</p> <ul style="list-style-type: none"> <li>• <u>Division 1</u> - Houston-Galveston-Brazoria ozone nonattainment area.</li> </ul>	<p>Compliance with the emission control, monitoring, testing, and other requirements at minor sources of nitrogen oxides in Houston-Galveston-Brazoria ozone nonattainment areas may not be possible during a disaster, potentially creating an impediment to disaster response.</p>

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	<p><b>SUBCHAPTER E: Multi-Region Combustion Control.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with emission control, monitoring, testing, and other requirements at: utility electric generation in East &amp; Central TX; cement kilns; water heaters, small boilers, and process heaters; and stationary gas-fired reciprocating internal combustion engines at any stationary source of nitrogen oxides may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
	<p><b>SUBCHAPTER F: Acid Manufacturing.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Compliance with the emission control requirements for nitrogen compounds at adipic and nitric acid production units may not be possible during a disaster, potentially creating an impediment to disaster response.</p>
285	<b>On-Site Sewage Facilities</b>	
	<p><b>SUBCHAPTER A: General Provisions.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Suspending the rules for the construction, repair, and operation of on-site sewage facilities will allow expedited construction and repair of on-site facilities and may remove a potential impediment to disaster recovery.</p>
	<p><b>SUBCHAPTER D: Planning, Construction, and Installation Standards for OSSFS.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 285.35 Emergency Repairs.</u></li> </ul>	<p>Suspending the rules for notification requirements related to the emergency repair of on-site sewage facilities may remove a potential impediment to disaster recovery.</p>
305	<b>Consolidated Permits</b>	
	<p><b>SUBCHAPTER P: Effluent Guidelines and Standards for Texas Pollutant Discharge Elimination System (TPDES) Permits</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Wastewater treatment facilities in storm-damaged areas may be temporarily unable to comply with TPDES permit standards and suspension may remove a potential impediment to disaster recovery.</p>
	<p><b>SUBCHAPTER Q: Permits for Boilers and Industrial Furnaces Burning Hazardous Waste</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>The requirement to submit a trial burn plan for approval, provide notice, and perform a trial burn may not be possible due to severe weather and flooding event, and suspending these requirements would remove a potential impediment to disaster response.</p>

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309	<b>Domestic Wastewater Effluent Limitation and Plant Siting</b>	
	<p><b>SUBCHAPTER A: Effluent Limitations.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Wastewater treatment facilities in storm-damaged areas temporarily may not be able to comply with the effluent quality limitation standards 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, thereby potentially impeding disaster recovery.</p>
	<p><b>SUBCHAPTER C: Land Disposal of Sewage Effluent.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>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	<b>Sludge Use, Disposal, and Transportation</b>	
	<p><b>SUBCHAPTER G: Transporters and Temporary Storage Provisions.</b></p> <ul style="list-style-type: none"> <li>• <u>Entire subchapter.</u></li> </ul>	<p>Suspending the requirement that sludge transporters register with the TCEQ will allow additional transporters to transport sludge and may remove a potential impediment to disaster recovery.</p>
327	<b>Spill Prevention and Control</b>	
	<ul style="list-style-type: none"> <li>• <u>§ 327.3</u> Notification Requirements; and</li> <li>• <u>§ 327.32</u> Reporting Requirements for Certain Accidental Discharges or Spills of Treated or Untreated Wastewater at Wastewater Treatment Facilities or Collection Systems.</li> </ul>	<p>The requirement to report all accidental discharges or spills of treated or untreated wastewater within 24 hours of the occurrence may impede disaster recovery.</p>

330	<b>Municipal Solid Waste</b>	
	<p><b>SUBCHAPTER D: Operational Standards for Municipal Solid Waste Landfill Facilities.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 330.131</u> Access Control;</li> <li>• <u>§ 330.133</u> Unloading of Waste (for unloading, processing, and storage in buffer zones);</li> <li>• <u>§ 330.135</u> Facility Operating Hours;</li> <li>• <u>§ 330.139</u> Control of Windblown Solid Waste and Litter;</li> <li>• <u>§ 330.141(b)</u> Easements and Buffer Zones (for unloading, processing, and storage in buffer zones only);</li> <li>• <u>§ 330.143</u> Landfill Markers and Benchmark;</li> <li>• <u>§ 330.147(a)</u> Disposal of Large Items;</li> <li>• <u>§ 330.151</u> Disease Vector Control;</li> <li>• <u>§ 330.153</u> Site Access Roads;</li> <li>• <u>§ 330.159</u> Landfill Gas Control;</li> <li>• <u>§ 330.165(c), (e), &amp; (f)</u> Landfill Cover;</li> <li>• <u>§ 330.167</u> Ponded Water (suspend 7-day repair timeframe during this event);</li> <li>• <u>§ 330.169</u> Waste in Enclosed Containers or Enclosed Vehicles Accepted at Type IV Landfills; and</li> <li>• <u>§ 330.171(c) &amp; (d)</u> Disposal of Special Wastes.</li> </ul>	<p>Operations at MSW landfill 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><b>SUBCHAPTER H: Liner System Design and Operation.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 330.331(a)(2)</u> Leachate head limit.</li> </ul>	<p>Suspension of this rule allows a larger depth of leachate over the liner during an emergency event as operations of leachate collection systems in disaster areas may not be able to comply with this requirement.</p>
	<p><b>SUBCHAPTER J: Groundwater Monitoring and Corrective Action.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 330.407(a)</u> Semiannual Groundwater Sampling; and</li> <li>• <u>§ 330.417(b)(4)</u> Annual Groundwater Sampling.</li> </ul>	<p>Operators may not be able to immediately access the site to conduct annual or semiannual groundwater sampling events. Rule suspension delays the requirement until a more appropriate time.</p>
	<p><b>SUBCHAPTER M: Location Restrictions.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 330.543(b)</u> Buffer Zones.</li> </ul>	<p>Due to a disaster, storage and processing could occur in buffer areas but not easements.</p>
334	<b>Underground and Aboveground Storage Tanks (and Tex. Water Code § 26.351(b))</b>	
	<p><b>SUBCHAPTER A: General Provisions.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 334.5</u> General Prohibitions for Underground Storage Tanks (USTs) and UST Systems.</li> </ul>	<p>This rule prohibits the delivery of fuel/gasoline to a UST without a valid delivery certificate; thus, UST operators that have certificates that are scheduled to expire could help maintain the flow of fuel to the public.</p>

	<p><b>SUBCHAPTER D: Underground and Aboveground Storage Tanks.</b></p> <ul style="list-style-type: none"> <li>• <u>§334.72</u> Reporting of Suspected Releases;</li> <li>• <u>§334.75</u> Reporting and Cleanup of Surface Spills and Overfills; and</li> <li>• <u>§334.76</u> Initial Response to Releases.</li> </ul>	Temporarily suspending the rules may remove an impediment to disaster recovery because certain reporting requirements and certain response action cannot be completed within the prescribed timeframe.
	<p><b>SUBCHAPTER F: Aboveground Storage Tanks.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 334.125</u> General Prohibitions &amp; Requirements for Aboveground Storage Tanks (ASTs); and</li> <li>• <u>§ 334.127</u> Registration for Aboveground Storage Tanks (ASTs).</li> </ul>	Suspension of these rules could enable TXDOT and others to stage AST and receive fuel deliveries for the public and for emergency responders.
<b>335</b>	<b>Industrial Solid Waste and Municipal Hazardous Waste</b>	
	<p><b>SUBCHAPTER A: Industrial Solid Waste and Municipal Hazardous Waste in General.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 335.2(d)(5)</u> Permit Not Required for Nonhazardous Industrial Solid Waste (NHISW) Transfer Facility;</li> <li>• <u>§ 335.5(b)</u> Deed Recordation of Waste Disposal; and</li> <li>• <u>§ 335.6</u> Notification Requirements.</li> </ul>	By waiving deed recordation for disposal of animals if 10 or fewer carcasses are buried on one property with regional office notification (this is currently in guidance), then TCEQ can allow efficient burial of animal carcasses. Transfer station storage of NHISW for more than 10 days allows operators to safely access the site and assess disposal options. Waive the requirement to provide notice to the ED in writing prior to the event. Waive requirement for notification 90 days prior to engaging in disposing, processing, or recycling of industrial solid waste on site to remove potential impediments to disaster recovery.
	<p><b>SUBCHAPTER D: Standards Applicable to Transporters of Hazardous Waste.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 335.94</u> Transfer Facility Requirements.</li> </ul>	Hazardous waste transfer facilities may store hazardous waste for 10 days, which can be difficult to meet and impede facilities' responses to the severe weather and flooding event and storage and transportation of wastes.
	<p><b>SUBCHAPTER K: Hazardous Substance Facilities Assessment and Remediation.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 335.346</u> Removals and Preliminary Site Investigations (and Tex. Health &amp; Safety Code § 361.186(a)).</li> </ul>	The impacts of the storm could 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><b>SUBCHAPTER N: Household Hazardous Wastes.</b></p> <ul style="list-style-type: none"> <li>• <u>§ 335.403</u> General Requirements for Household Hazardous Waste Collections.</li> </ul>	Operations in storm-damaged areas may not be able to immediately comply with the requirement to notify the ED before collecting household hazardous waste.