

INSIGHTS

Impacts of Hurricane Harvey: Underscoring the Importance of Planning, Preparedness & Response

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As the waters begin to recede from our nation's energy capital following Hurricane Harvey's unprecedented rainfall in the state of Texas, the full impacts of Hurricane Harvey are beginning to become more apparent. Beyond the incredible toll on the residents of the state, the daily damage estimates continue to rise. Significantly, nearly one-third of the U.S. refining capacity in the U.S. has been affected. The nation's two largest refineries have closed, and many others are shut down or operating on a limited basis. One chemical plant suffered from several explosions, while another reported a release from a pipeline, and at least one of the country's largest liquid transmission pipelines is shut down. While the full extent of damage to the energy industry is not yet known, the importance of good planning, preparedness and response is central to minimizing damage. These efforts, by both emergency responders and the private sector, can substantially limit the amount of damage to both the public and the environment.

Companies maintain emergency response plans that must be tailored to their facilities, and ensure sufficient response contractors and materials in the event of major releases or natural disasters. Following the Deepwater Horizon event, government regulators and industry doubled down on planning and preparing for disasters, natural or otherwise. The Oil Pollution Act amendments to the Clean Water Act in 1990 required facilities that could potentially discharge oil in quantities that could cause substantial harm to the public or the environment to prepare facility response plans. In the aftermath of the Deepwater Horizon event, it was apparent that many of these plans were not adequate, out of date or too generic. As a result, government regulators and private industry renewed efforts to improve their emergency response planning. Companies now also make shutdown decisions earlier, as recently observed in Texas.

Specific to pipelines, owners or operators are obligated to establish emergency response plans and train personnel pursuant to 49 C.F.R. Parts 192.615 (natural gas) and 195.403 (liquid) in order to carry out emergency procedures, recognize, predict and take appropriate corrective action to emergencies, and take steps to control accidental releases. In addition, pipeline facilities with the potential to discharge oil in quantities that could cause substantial harm from onshore facilities are required to have emergency response plans pursuant to 49 C.F.R. Part 194, and copies of the plans are submitted to PHMSA for approval. Offshore facilities have similar obligations to submit plans to appropriate federal agencies. These plans require operators to consider the worst case scenario for a spill, to have the response resources in place to manage such an event, and to conduct training to ensure the ability to respond.

Certain refineries and other assets, such as pipelines, impacted by Harvey are now making plans to reopen again. Just as precautions are to be taken in advance of catastrophic events, precautions should also be taken before initiating restart of refineries, terminals, pipelines and other manufacturing concerns. Both PHMSA and the Chemical Safety Board (CSB) issued statements and advisories this week to remind industry of the need to conduct careful inspections to examine the conditions of all assets prior to restart. PHMSA cited to advisory bulletins it has issued, available at <https://www.phmsa.dot.gov/pipeline/pipeline-safety-emergency-advisory-bulletins>, that provide additional guidance and reminders to pipeline owners and operators regarding actions to ensure the integrity of pipelines in the event of flooding, hurricanes etc. The [**CSB issued an alert**](#) that similarly advises oil refineries and chemical plants to follow their safety systems and procedures carefully and provides guidance regarding staffing, evacuation of nonessential personnel etc. As PHMSA notes in its [**advisory regarding Hurricane Harvey**](#), emergency special permits are also available, and are frequently issued in the wake of natural disasters. 49 C.F.R. Part 190.341(f) (for pipelines); 49 C.F.R. Part 107.117 (for hazardous materials).

The oil and gas industry has incorporated many lessons learned over the years, in regard to disasters such as Hurricane Harvey. Federal and State regulators are expected to work with industry to safely bring our energy infrastructure back to operating capacity. Careful damage assessment and restart of assets is critical to recovery.