



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 01 2017

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Richard A. Hyde, Executive Director
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, TX 78753

RE: No Action Assurance for the Use of Vapor Recovery Systems in Texas Related to Hurricane Harvey

Dear Director Hyde:

This letter is in response to the need for a No Action Assurance (NAA) relating to loading and unloading of fuel at bulk gasoline, marine, and rail loading terminals, and associated truck loading racks in the State of Texas. Due to operational issues resulting from Hurricane Harvey, including the loss of power, damage to vapor recovery devices at fuel loading and unloading terminals, and/or the need to utilize fuel loading/unloading facilities that are not equipped with vapor recovery/combustion devices, an NAA is needed to allow the loading and unloading of fuel without the use of a vapor recovery device or vapor combustion device as required by the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) and the Texas State Implementation Plan (SIP). See 40 C.F.R. Part 60, Subpart XX and 40 C.F.R. Part 63, Subparts R, Y, CC, BBBB, and 30 Tex. Admin. Code sections 115.212, .214. The need for this request is to address severe fuel shortages that have resulted from damage caused by Hurricane Harvey to the fuel distribution systems in Texas and Louisiana.

In light of the emergency in Texas, the EPA will exercise its discretion not to pursue enforcement for violations of the vapor recovery requirements for fuel loading and unloading under 40 C.F.R. Part 60 Subpart XX and Part 63 Subparts R, Y, CC, BBBB, and 30 Tex. Admin. Code sections 115.212, .214 under the conditions set forth below. These regulations apply only to bulk gasoline terminals, pipeline breakout stations, marine tank vessel loading operations, and gasoline loading racks, as those terms are defined in the regulations cited above. This NAA is in effect commencing September 1, 2017, and terminates September 15, 2017 at 11:59 PM CDT. EPA reserves the right to revoke or modify the NAA if the EPA believes that such action is necessary to protect public health and the environment. This NAA does not apply to any other federal requirements that may apply to regulated activities at these facilities other than those listed above.

Nothing in this exercise of enforcement discretion relieves any person of the obligation under law, if any, to report emissions from the operation of equipment covered by this action. Pursuant to this NAA, the EPA will not enforce violations of the NSPS and NESHAP applicable to these facilities in Texas, subject to the following conditions:

1. The owner/operator notifies EPA prior to initiation of loading and unloading activities using this NAA (by phone or email listed below).
2. Vapor Recovery or combustion devices are used to the greatest extent practicable when available and operable;
3. Owners/operators continue to make best efforts to repair/replace the vapor recovery systems, in an expeditious manner or switch operations to facilities with operational vapor recovery/combustion devices as soon as practicable.
4. Owners/operators exercise good air pollution control practices as required by any and all applicable standards.
5. Owners/operators minimize, to the greatest extent practicable, loading operations near residential areas when vapor recovery/combustion devices are not in operation.
6. Owners/operators comply with all conditions imposed by State or local authorities on these emergency operations.
7. Along with the notice required under paragraph 2 above, owners/operators must provide the EPA with their best estimate of the projected hourly and daily VOC emissions rates from operation without vapor recovery/combustion devices; and
8. Owners/operators must keep records that demonstrate the daily volume of fuel loaded and unloaded without the use of vapor recovery/combustion devices.

Only those terminal operations with damaged or inoperable vapor recovery/combustion devices, or that are not equipped with otherwise required vapor recovery/combustion devices, may take action in accordance with the terms of this NAA, and only to the extent needed until the expiration of this NAA or at such time as vapor recovery/combustion controls are operable or available, whichever comes first. EPA reserves the right to amend or revoke this NAA at any time.

The notifications identified above should be sent via email to Apple Chapman, at chapman.apple@epa.gov.

The issuance of an NAA for this period of time is in the public interest. Through today's NAA, the EPA is continuing its commitment to address the very difficult circumstances caused by Hurricane Harvey. Nothing in this NAA is intended to over-ride Texas state or local authorities.

If you have any questions or if facilities in Texas need additional time to repair or replace their vapor recovery systems, please contact Phillip A. Brooks, at 202-564-0652 or brooks.phillip@epa.gov.

Sincerely,



Lawrence Starfield
Acting Assistant Administrator

cc: Samuel Coleman, P.E. Acting Regional Administrator, EPA Region 6