

**From:** [Sunset Advisory Commission](#)  
**To:** [Elizabeth Jones](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Private/Before Publication)  
**Date:** Monday, June 27, 2022 8:50:07 PM

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**From:** Texas Sunset Advisory Commission <sunset@sunset.texas.gov>  
**Sent:** Monday, June 27, 2022 4:25 PM  
**To:** Sunset Advisory Commission <Sunset.AdvisoryCommission@sunset.texas.gov>  
**Subject:** Public Input Form for Agencies Under Review (Private/Before Publication)

Submitted on Mon, 06/27/2022 - 15:22

Submitted by: Visitor

Submitted values are:

**Choose the agency that you would like to provide input about**

[Texas Commission on Environmental Quality](#)

#### **Public Comments**

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#### **First Name**

Sarah

#### **Last Name**

Utley

#### **Title**

Environmental Division Director

#### **Organization you are affiliated with**

Harris County Attorney's Office

#### **Email**

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#### **City**

Houston

#### **State**

Texas

#### **Your Comments or Concerns**

Please see attached for comment letter.

**Your Proposed Solution**

Please see attached comment letter that includes recommendations.

**Attachment**

[2022\\_6\\_27\\_Final\\_HCAO\\_Comment\\_letter\\_on\\_TCEQ\\_Sunset\\_Report.pdf](#) (660.23 KB)

**My Comments Will Be Made Public**

Yes



OFFICE OF THE  
HARRIS COUNTY ATTORNEY  
**CHRISTIAN D. MENEFFEE**

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June 27, 2022

Ms. Jennifer Jones  
Executive Director  
Texas Sunset Advisory Commission  
P.O. Box 13066  
Austin, Texas 78711

Re: Texas Commission on Environmental Quality Sunset Staff Report

Dear Ms. Jones,

The Office of the Harris County Attorney (“HCAO”) appreciates this opportunity to comment on the Texas Sunset Advisory Commission (“Sunset Commission”) Staff Report for the Texas Commission on Environmental Quality (“TCEQ”), referred to herein as the “Staff Report.” At a population of over 4.7 million residents,<sup>1</sup> Harris County is the most populous county in Texas and is home to the petrochemical capital of the nation, the Houston Ship Channel. Industry occupies much of the 1,778 square miles that comprise Harris County.

Texas law vests Harris County with authority to enforce environmental laws concurrently with the TCEQ.<sup>2</sup> This means that the TCEQ and Harris County enforce the same environmental statutes and rules in Harris County. Harris County’s Pollution Control Services Department (“PCS”) administers environmental enforcement for the County, and reviews and comments on TCEQ rules and permits. PCS was first established in 1953 – making it the first county pollution control agency in the United States. Since then, the HCAO has used available legal tools such as filing comments with the TCEQ and filing enforcement actions to redress environmental issues in Harris County. Based on these many years of experience, the HCAO submits the following comments.

### **I. Comments and Recommendations Related to the Staff Report**

#### **Staff Report Issue 1: TCEQ’s Policies and Processes Lack Full Transparency and Opportunities for Meaningful Public Input, Generating Distrust and Confusion Among Members of the Public.**

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<sup>1</sup> U.S. Census Bureau, 2019 Population Estimates.

<sup>2</sup> Tex. Water Code § 7.351; Tex. Health & Safety Code §§ 382.111, 382.113.

**1.1 Clarify statute to require public meetings on permits to be held both before and after the issuance of the final draft permit.**

Position: The HCAO agrees with this recommendation.

**1.2 Direct the commission to vote in a public meeting on key foundational policy decisions that establish how staff approach permitting and other regulatory actions.**

Position: The HCAO agrees with this recommendation.

Additional Comments:

- 1) The HCAO supports the use of a formalized advisory committee in the rulemaking process to provide an opportunity for communities, the regulated community, and co-regulators, like Harris County, to provide input and suggestions on TCEQ rules earlier in the rulemaking process. Harris County has participated in stakeholder meetings for pending rulemaking proceedings and found that these are helpful tools to raise concerns about rules. But learning about pending rulemaking and stakeholder opportunities usually requires signing-up for email listservs. Residents often express frustration after learning of these opportunities only by happenstance from neighbors or by navigating TCEQ's often complicated website. Further, this information is usually in English, thereby depriving access to the 20% of Harris County residents who do not speak English or do not speak it well. A more formal process, which would hopefully include improved public notice, would allow for enhanced public involvement.
- 2) If this recommendation is implemented, the HCAO recommends an assessment of any prior policies that need to be presented to the TCEQ Commissioners for review and decision – especially those that have unclear implementation and are a matter of concern to the public. An example is TCEQ's implementation of the state law requirement for TCEQ to develop and implement policies, by specific environmental media, to protect the public from cumulative risk in areas of concentrated operations.<sup>3</sup> Cumulative impacts and cumulative risk in areas of concentrated operations are a concern in Harris County. As mentioned above, industry continues to proliferate throughout much of Harris County and many of the facilities within our borders are next to fenceline communities where black,

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<sup>33</sup> Tex. Water Code §7.130

brown, and poor people bear the brunt pollution.<sup>4</sup> How this requirement is implemented has a major impact on our population, especially the most vulnerable. It is unclear how the TCEQ implements this requirement to protect the public from cumulative risk. A recent open records request to the TCEQ asking for any policy, memorandum, or rule that implements this statutory requirement returned only TCEQ enforcement related policies. The HCAO acknowledges that these are unlikely TCEQ's only implementation strategies, but this highlights the confusion regarding major policy issues that exist even within TCEQ staff.

- 3) The HCAO recommends that the TCEQ provide all documentation on its website, including scientific studies, underlying data, and policy documents the TCEQ considers in its decision-making process and that it do so during the public comment period. The U.S. Environmental Protection Agency process for including supporting documentation through regulations.gov could be used as an example of the type of documents that are helpful in reviewing agency decisions. TCEQ's recent action on the Standard Air Permit for Concrete Batch Plants highlights this need. Many of the documents and data referenced during the TCEQ Commissioners meeting regarding the permit amendment were not easily accessible to the public, which is especially important during the comment period. In fact, there were no supporting documents made available during the comment period. This lack of information curtails the public's ability to review, understand, and provide comment on TCEQ decisions.

**1.3 Direct TCEQ to develop a guidance document to explain how it uses the factors in rule to make affected person determinations.**

Position: The HCAO agrees with this recommendation.

**1.4 Direct TCEQ to adopt a policy guiding its rule review process to ensure that identified deficiencies in the rules are addressed.**

Position: The HCAO agrees with this recommendation.

Additional Comments:

- 1) The HCAO recommends that the TCEQ be required to include an element of public participation in the quadrennial rule review process, including the ability to submit recommendations and comments to the TCEQ. Harris County is concerned that

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<sup>4</sup> Harris County has 2,927 chemical facilities reporting under the Emergency Planning and Community Right to Know Act (EPCRA)<sup>4</sup>, 1,734 of which have Extremely Hazardous Substances (EHS)<sup>4</sup>, and– the highest number of RMP Facilities in any County in the United States.

some of TCEQ’s rules are outdated. Currently, the only state process for the public to seek amendment of a rule is by submission of a rulemaking petition. For example, most of the TCEQ rules regarding federally-required Reasonably Available Control Technology (“RACT”) for the Houston-Galveston-Brazoria ozone nonattainment area haven’t been updated in 15 years, even though new technologies exist. Charts noting the last amendments to TCEQ RACT rules for volatile organic compounds (“VOCs”) and nitrous oxide (“NOx”) are provided below. An improved quadrennial review process would have allowed Harris County to raise concerns with the TCEQ and seek improved technology requirements through a formalized state law process.

Table 1: TCEQ RACT rules for NOx with last amendment dates

30 TAC 117 (NOx RACT Rules)		
Subchapter	Description	Last Modified
<a href="#">SUBCHAPTER B</a>	<a href="#">COMBUSTION CONTROL AT MAJOR INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL SOURCES IN OZONE NONATTAINMENT AREAS</a>	2007
<a href="#">SUBCHAPTER C</a>	<a href="#">COMBUSTION CONTROL AT MAJOR UTILITY ELECTRIC GENERATION SOURCES IN OZONE NONATTAINMENT AREAS</a>	2007
<a href="#">SUBCHAPTER D</a>	<a href="#">COMBUSTION CONTROL AT MINOR SOURCES IN OZONE NONATTAINMENT AREAS</a>	2007
<a href="#">SUBCHAPTER E</a>	<a href="#">MULTI-REGION COMBUSTION CONTROL</a>	2007
<a href="#">SUBCHAPTER F</a>	<a href="#">ACID MANUFACTURING</a>	2007
Last Modified 2010 or Before		
Last Modified Between 2011-2019		
Modified After 2019		

Table 2: TCEQ RACT rules for VOC with last amendment dates

<b>30 TAC 115 (VOC RACT Rules)</b>		
<b>Subchapter A: Definitions</b>	<b>Description</b>	<b>Last Modified</b>
Rule 115.10	Definitions (10)	
<b>Subchapter B: General Volatile Organic Compound Sources</b>		
Division 1	Storage of Volatile Organic Compounds (112)	2020
Division 2	Vent Gas Control (121)	2015
Division 3	Water Separation (131)	1995
Division 4	Industrial Wastewater (140)	2003
Division 5	Municipal Solid Waste Landfills (152)	1994
Division 6	Batch Processes (160)	2001
<b>Subchapter C: Volatile Organic Compound Transfer Operations</b>		
Division 1	Loading and Unloading of Volatile Organic Compounds (211)	2003
Division 2*3	Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities (221)	2014
Division 3*3	Control of Volatile Organic Compound Leaks from Transport Vessels (221)	1999
Division 4*3	Stage II Vapor Recovery Definitions (240)	2013
Division 5*3	Control of Reid Vapor Pressure of Gasoline (252)	-
<b>Subchapter D: Petroleum Refining and Petrochemical Processes</b>		
Division 1	Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries (311)	2003
Division 2	Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Counties (322)	-
Division 3	Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas (352)	2010
<b>Subchapter E: Solvent-Using Processes</b>		
Division 1	Degreasing and Clean-Up Processes (412)	2004
Division 2	Surface Coating Processes (421)	2015
Division 3	Graphic Arts (Printing) by Flexographic and Rotogravure Processes (432)	2011
Division 4	Offset Lithographic Printing (442)	2015
Division 5	Control Requirements for Surface Coating Processes (450)	2015
Division 6	Industrial Cleaning Solvents (460)	2011
Division 7	Miscellaneous Industrial Adhesives (470)	2015
<b>Last Modified 2010 or Before</b>		
<b>Last Modified Between 2011-2019</b>		
<b>Modified After 2019</b>		

- 2) The HCAO recommends that the TCEQ include a process for local governments to have a stakeholder role in any formalized process for quadrennial rule review. Harris County, like all local governments, has the authority to inspect and enforce violations of TCEQ rules and permits for compliance with various state environmental statutes, and TCEQ rules and orders issued thereunder.

As mentioned above, PCS is the Harris County department designated to inspect facilities in Harris County for compliance with environmental quality laws and regulations, review permit applications, and submit comments to the TCEQ on permitting actions. PCS also works closely with the TCEQ’s Houston regional office that as a matter of course refers environmental complaints, including nuisance complaints, from Harris County citizens to PCS. As a part of its mission, PCS conducts investigations, routine, and complaint, and, when appropriate, issues Violation Notices (“VNs”) and refers cases to the Harris County Attorney’s Office or District Attorney’s Office for civil or criminal enforcement. Based on this experience with TCEQ regulated facilities and work in our communities, PCS comments or recommendations could aid the TCEQ evaluating the need to update a rule.

## **1.5 Direct TCEQ to review and update its website to improve accessibility and functionality.**

Position: The HCAO agrees with this recommendation.

Additional Comments: The TCEQ has indicated it is in the process of improving the public's access to online resources. As a part of that process, the HCAO submits the following more specific requests for online resource needs:

- 1) The HCAO requests that the TCEQ make all permit application documents, including TCEQ Notices of Deficiency and any applicant responses or permit application amendments available on-line during the permitting process either through the TCEQ website, or by requiring permit applicants to post the information online. During the COVID-19 pandemic, the TCEQ has made great efforts to ensure the public had access to pending permit applications. With the knowledge that libraries and government offices were closed, the TCEQ provided much of the above requested information on its own website. If this is too burdensome for the TCEQ to continue providing this information on its website, the HCAO requests that legislature amend statutory public notice requirements so the TCEQ can require all permit applicants to independently provide the information online. TCEQ rules already require certain landfill applications to make all permitting information available online, and this would be an expansion of that requirement.<sup>5</sup>
- 2) The HCAO recommends that a complete copy of all permits be easily located on the TCEQ website. Search capabilities of TCEQ records online is extremely cumbersome and it is difficult to locate any particular document, much less a complete copy of a particular permit. It is often easier to submit an open records request than spend hours sorting through TCEQ databases attempting to locate a particular piece of information.
- 3) The HCAO recommends that the TCEQ provide copies of internal memorandum and policy documents in an online searchable database. Often the only way to obtain these documents is by submitting an open records request.
- 4) The HCAO recommends that TCEQ make greater efforts to provide meaningful participation to Limited English Proficient (“LEP”) Texans. In response to a civil rights complaint, TCEQ has made progress in this area by, for example, translating

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<sup>5</sup> See 30 Texas Administrative Code § 330.57.



its penalty policy into Spanish and Vietnamese, translating agency Agenda notices, and hiring some bilingual staff. At stakeholder meetings, the TCEQ Chief Clerk’s staff has made clear that greater access in certain circumstances would require additional resources, such as funding more multilingual staff and contracts for translation and interpretation services. Translation of the TCEQ complaint process into Spanish is a priority issue for Harris County LEP environmental justice communities. Advocates have repeatedly asked the agency to translate its online complaint portal and complaint tracker. While the agency recently published a useful brochure in Spanish regarding the complaint process, the online tool and tracker remain inaccessible to approximately 20% of Harris County residents who are LEP people.

Additional Recommendations to Improve Public Participation in TCEQ processes:

1) The HCAO requests that public notice requirements for TCEQ permit proceedings, rulemaking and other administrative process be updated. The current TCEQ process relies heavily on newspaper publication, posting signs at the proposed facility, and publication in the Texas Register to notify the public of permit applications.<sup>6</sup> These processes were designed for a different era and fail to effectively provide the public with notice of pending permit applications and decisions. A recent example of the deficiencies in the process was the application by Avant Garde to operate under the Standard Permit for Concrete Batch Plants in Harris County.<sup>7</sup> Concrete batch plant impacts on public health and the environment are a major concern for Harris County and its residents, and when made aware of a pending application, residents often file comments and seek a contested case hearing. Avant Garde proposed to construct a concrete batch plant across the street from an all-inclusive park, one of the few parks in the County that serves children with physical disabilities. The current public participation process for this type of application fails to notify residents so that they can become engaged in the process. Below is a timeline of the events for the Avent Garde application:

Submits Application for TCEQ Permit	December 17, 2021
Notice of Application to Public (final publication)	February 9, 2022
Notice of Public Meeting	March 15, 2022
First Hearing Request	April 1, 2022
Public Meeting	April 7, 2022
TCEQ issues registration	May 16, 2022

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<sup>6</sup> See generally, 30 Texas Administrative Code, Chapter 39

<sup>7</sup> TCEQ Registration No. 167453.

According to the TCEQ Commissioner Integrated Database, 746 comments were submitted on the Avant Garde application. The overwhelming majority of these comments were submitted after April 6, 2022, the same day that a local leader held a press conference on the permit application.<sup>8</sup> Prior to that date there was little community awareness of the pending application. The fact that over 700 comments were filed after the press conference shows how actively a community will engage with the TCEQ when fully aware of a pending permit application.

Accordingly, HCAO recommends the following to improve the public notice requirements:

- a) Notice by mail to all property owners, businesses, and residents within a set distance from the facility seeking a permit;
- b) Notice by posting at nearby schools and community centers; and
- c) Provide a mechanism for citizens concerned about pending applications in their area, perhaps by census tract, to access the Chief Clerk's mailing lists by registering for email and/or notices by mail for all applications within the area.

2) TCEQ rules regarding opportunities for contested case hearings and comment periods vary greatly between permit types. In the HCAO's experience, the applicable statutes and rules are cumbersome and extremely difficult for community members to decipher and contribute to public distrust with the TCEQ. For instance, in order to seek a contested case hearing in certain air permits a person must file a written request for a contested case hearing within 30 days of the publication of the Notice of Receipt of Application and Intent to Obtain a Permit ("NORI").<sup>9</sup> In contrast, the deadline to file a contested case hearing in other permits is tied to the TCEQ decision letter.<sup>10</sup> Once again, the Avant Garde permit proceeding discussed above provides an example. The deadline to seek a contested case hearing ran on March 11, 2022 – four days before the notice of the public meeting. The first request for a contested case hearing was submitted to the TCEQ on April 1, 2022, and during the public meeting numerous residents asked for a contested case hearing. The TCEQ took no steps to inform the public that this deadline had lapsed. The community only became aware that the deadline had lapsed after TCEQ issued the response to comments and issued the permit. The community made several calls to the TCEQ and received different answers regarding the ability to seek a contested case hearing, further adding to the confusion. Understandably, this created substantial anger in the community once they realized the deadline passed. The HCAO recommends the TCEQ provide

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<sup>8</sup> Only 26 comments were filed with the TCEQ on the Application prior to April 6.

<sup>9</sup> Tex. Health & Safety Code § 382.056(g).

<sup>10</sup> *Id.*, Texas Water Code § 5.556, *See* TCEQ guidance:

<https://www.tceq.texas.gov/downloads/publications/gi/public-participation-in-permitting-gi-445.pdf>

language in the notice to inform residents not only about the deadline for contested case hearing and comment periods but include language indicating that if no hearing requests are made in response to the NORI, the public will lose the right to do so later.

3) The HCAO recommends that the TCEQ provide information on the Commissioner Integrated Database indicating when comment periods end. Often the deadline to file a comment will end 30 days after notice in the newspaper. However, only the TCEQ and the applicant are aware of the final newspaper publication date. Including this date in the system will better inform the public of the comment submission deadline.

## **Staff Report Issue 2: TCEQ’s Compliance Monitoring and Enforcement Processes Need Improvements to Consistently and Equitably Hold Regulated Entities Accountable.**

### **2.1 Require TCEQ’s compliance history rating formula to consider all evidence of noncompliance while decreasing the current emphasis on site complexity and direct the agency to regularly update compliance history ratings.**

Position: The HCAO agrees with this recommendation.

### **2.2 Require the TCEQ to consider all violations when classifying an entity as a repeat violator**

Position: The HCAO agrees with this recommendation.

#### Additional Recommendation:

As stated above, PCS conducts investigations, routine and complaint, to determine compliance with Texas law and TCEQ rules and permits. If PCS finds violations, it may issue VNs pursuant to the Texas Clean Air Act, Texas Solid Waste Disposal Act, the Texas Water Code and the rules and permits issued thereunder. However, the vast majority of these violations are not included in TCEQ compliance history calculations because the only violations included in the TCEQ Compliance History (“CH”) scores are those that result in civil litigation and are resolved through a final judgment.<sup>11</sup> Therefore, the majority of PCS’s documented violations of TCEQ rules are not included in TCEQ CH scores.

Violations resulting from community complaints forwarded to PCS by the TCEQ illustrate the information gap. In the last 5 years, TCEQ forwarded 1,125 complaints to PCS. In response, PCS conducted complaint investigations which resulted in the issuance of 172 VNs for violations of TCEQ rules. This includes violations of 30 Tex. Administrative

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<sup>11</sup> Civil enforcement is pursued by Harris County according to statutory authority in Texas Water Code § 7.351

Code § 101.4, which prohibits “the discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.” Of these violations, a small subset resulted in civil litigation and were incorporated into CH scores. Therefore, the vast majority of these VNs were not included in TCEQ compliance history scores. The result is that documented off-site impacts are not included in TCEQ permitting and enforcement determinations even when either PCS or TCEQ could have conducted an enforcement action. Accordingly, HCAO requests that the TCEQ evaluate how it might better include these violations in CH scores. Otherwise, TCEQ is making regulatory decisions without the benefit of the complete compliance status at a facility.

**2.3 Require TCEQ regulated entities with temporary or open-ended permits to annually conform their operational status.**

Position: The HCAO agrees with this recommendation.

**2.4 Direct TCEQ to reclassify recordkeeping violations based on the potential risk and severity of the violation.**

Position: The HCAO agrees with this recommendation.

**2.5 Direct TCEQ to develop and implement clear guidance to evaluate affirmative defense request for air emissions.**

Position: The HCAO agrees with this recommendation.

Additional Recommendation: In its response to the Staff Report, the TCEQ noted that it previously reviewed its emission event investigative processes and “created a centralized emission event review section to review all reported emission events.” Further, the TCEQ stated it will “ensure that there is clear guidance for evaluating affirmative defense claims and an agency-wide approach to provide transparent and consistent evaluations.” The HCAO request that any policy or guidance document used to evaluate affirmative defense claims be publicly available on TCEQ’s website.

**2.6 Direct TCEQ to modify its approach to nuisance complaints to make better use of the agency’s investigative resources.**

Position: The HCAO agrees with this recommendation.

## **Staff Report Issue 4: TCEQ and the Office of Public Interest Counsel (“OPIC”) Lack Certain Transparent and Efficient Processes for OPIC to More Effectively Represent the Public’s Interest.**

### **3.1 Direct OPIC to consider developing and using umbrella contacts to procure expert assistance.**

Position: The HCAO agrees with this recommendation.

Additional Recommendation: The HCAO recommends that the Legislature ensure that OPIC is provided with sufficient funding to retain and fully utilize expert assistance that OPIC deems appropriate to participate in permit, enforcement, and rulemaking matters.

### **3.2 Direct TCEQ Commissions to take formal action on OPIC’s rulemaking recommendations.**

Position: The HCAO agrees with this recommendation.

## **II. Additional Recommendations**

- 1) TCEQ will now require a plain language summary of each proposed permit action. Consistent with community demands, the HCAO asks that TCEQ require applicants to explain the short- and long-term health effects of the pollutants that are regulated by the proposed permit.
- 2) The Texas Water Code provides for a civil penalty for violations of TCEQ rules, permits and orders related to the Texas Solid Waste Disposal Act, the Texas Clean Air Act, and Chapter 26 of the Texas Water Code are assessed at no less than \$50 nor greater than \$25,000 per day per violation.<sup>12</sup> The penalties at their current thresholds were adopted in 1997 – 25 years ago. Factoring in inflation – it is cheaper to violate TCEQ rules and orders today that it was 20 years ago. In order to make sure that there is sufficient penalty power to deter violations and ensure companies are not afforded an economic benefit for noncompliance, HCAO asks the legislature to consider increasing the statutory maximum.
- 3) Harris County, located in close proximity to the Gulf of Mexico, is a hurricane and flood-prone. Harris County has about 2,500 miles of channels and has classified 22

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<sup>12</sup> Texas Water Code § 7.102

major watersheds that drain into four major waterways.<sup>13</sup> These identified watersheds include creeks and bayous where water levels can rise and fall quickly.<sup>14</sup> A major flooding event happens somewhere in Harris County about every two years. The public health and safety risk associated with these extreme weather events is compounded by industrial plants spread out throughout Harris County.

The 2017 Arkema incident, a notable reactive chemical incident during Hurricane Harvey, was a weather-related disaster. This incident could have been prevented or even mitigated if the operator had been required to take additional precautions to prevent such incidences. However, the Arkema incident was not the only incident to occur during Hurricane Harvey. According to the U.S. Chemical Safety and Hazard Investigation Board (“CSB”), data from the National Response Center indicated that 201 incidents involving releases to the environment were in some way caused by Hurricane Harvey.<sup>15</sup> Some of the largest releases to the environment were from large storage tanks. Examples of those releases are a 461,000-gallon release gasoline, and a 440-hour event at Valero that emitted over 200,000 pounds of pollutants. Modeling from the SSPEED Center at Rice University estimates that should a small category 4 storm hit the ship channel, “upwards of 2,200 petroleum and chemical storage tanks would experience some form of inundation, potentially releasing updates of 90 million gallons of oil and hazardous substances.”<sup>16</sup> Given these risks, the HCAO requests that the legislature require facilities to evaluate risks from extreme weather events and be required to implement measures to mitigate those risks.

We appreciate your consideration of these comments and recommendations. If you have any questions, please contact me at [sarah.utley@harriscountytexas.gov](mailto:sarah.utley@harriscountytexas.gov) or (713) 274-5124.

Sincerely,

CHRISTIAN D. MENEFE  
Harris County Attorney

JONATHAN G. C. FOMBONNE  
First Assistant County Attorney

TIFFANY S. BINGHAM

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<sup>13</sup> Harris County Flood Control District, More information available at: <https://www.hcfd.org/About/Flooding-and-Floodplains/Drainage-Network>

<sup>14</sup> SSPEED Center, Houston A Year After Harvey: Houston We Are and Where we Need to Be (SSPEED Center After Harvey Report), Rice University’s Baker Institute for Public Policy, Jam Blackburn and Phil Bedient, PhD., (August 2018). Available at: [https://8ed4fb93-0a65-4904-a19c-83610559d0e9.filesusr.com/ugd/d29356\\_e091a002a4044214a943df4d5d2100df.pdf](https://8ed4fb93-0a65-4904-a19c-83610559d0e9.filesusr.com/ugd/d29356_e091a002a4044214a943df4d5d2100df.pdf)

<sup>15</sup> Arkema CSB Report, Page 124.

<sup>16</sup> SSPEED Center After Harvey Report at Page 34

Managing Counsel,  
Affirmative Litigation,  
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By:   
\_\_\_\_\_  
Sarah Jane Utley  
Environmental Division Director