Storms Leave States in Troubled Waters

Lawmakers Lend a Hand With Disaster Relief

As Hurricane Maria left Puerto Rico and the U.S. Virgin Islands, residents discovered the same problem that Houston and South Florida faced after hurricanes Harvey and Irma: Receding floodwaters exposed environmental contamination.

Floodwaters in Texas and Florida were fouled with toxic chemicals and sewage. After Harvey, pollutants from Superfund sites and chemical facilities in the Houston area mixed with floodwaters, leading Texas Governor Greg Abbott (R) to warn residents to stay out of the water. The EPA confirmed that 13 Superfund sites in Texas were flooded by Harvey and were “experiencing possible damage” due to the storm. The flooding caused explosions at the Arkema chemical plant in Crosby, Texas. Chemicals have washed up in neighborhoods, and poisonous globes of mercury have been found along the San Jacinto River, across from a hazardous waste site.

The Texas Commission on Environmental Quality issued guidance on the environmental hazards, including how to determine whether drinking water is safe and how to handle wastewater runoff. Some residents remain concerned, however, about industrial chemicals in the floodwaters still lingering in many parts of the Texas coast.

Abbott has said that a special session of the Legislature, which isn’t scheduled to meet again until January 2019, won’t be necessary to deal with Harvey recovery. In South Florida, the problem has been sewage. The region’s flat terrain requires wastewater pump stations to move sewage. When Irma struck the electrical grid, the pumps shut down, causing 6 million gallons of wastewater to spill into Miami’s Biscayne Bay. In Fort Lauderdale, a one-minute power outage at the sewage plant allowed 86,000 gallons of treated wastewater to spill into the Intracoastal Waterway. Orlando’s wastewater system flowed backward, leading to 10,000 gallons seeping out of manhole covers.

In the town of Miramar, the site of the largest raw sewage mess, 300,000 gallons of wastewater streamed from a broken pipe for more than a day, soaking front yards, seeping into the canal and requiring a large cleanup. Residents were concerned about well water being contaminated.

“There’s still fecal matter that seems to be floating,” one resident noted.

The Florida Department of Health cautioned residents to avoid areas affected by sewage and make certain septic systems were functioning.

Before the storm, the EPA estimated that necessary upgrades to Florida’s wastewater systems would cost the state $18.4 billion. After Irma, the need for those upgrades is even more urgent.

This is not the first time that Superfund sites have been struck by a hurricane. Superstorm Sandy flooded New Jersey and New York, both home to numerous toxic sites. Chemicals from the sites placed an additional burden on the EPA and the states to make certain that receding floodwaters were not contaminated.

“There’s lots of local contamination that happens in a major storm,” says Tom Burke, who once worked at the New Jersey Department of Environmental Protection and the EPA. “I think, in retrospect, the New York and New Jersey metropolitan area was very lucky that in many sites the caps held, and the contamination was luckily not major.”

The full extent of Irma’s damage remains to be seen, but the storm already has exacted high costs to people and property. By late September, at least 42 deaths in Florida had been attributed to the storm, and 32 state agencies had spent more than $273,522,000 on preparation and recovery efforts, according to The Associated Press. By comparison, the final tally for Hurricane Matthew, which hit the state in October last year, was about $269,000,000.

Florida Governor Rick Scott (R) and state lawmakers had not determined whether a special session was necessary to tackle storm-related issues.

—Doug Farquhar
Another Strategy in the Opioid Battle

Limiting opioid prescriptions has emerged as one of the most recent policy trends for state lawmakers who are scrambling to reduce the ongoing high rates of addiction, overdose and death from both legal and illegal opioids.

Almost half of the opioid-related deaths in the U.S.—42 of 91 daily—involve a prescription painkiller. Despite recent declines, opioid prescribing rates remain nearly three times higher than 1999 levels, according to the Centers for Disease Control and Prevention.

Using opioids to treat acute pain can lead to long-term use, and the risks increase based on the length or dose of the initial prescription, according to the CDC. In response to the crisis, Massachusetts lawmakers enacted comprehensive legislation in 2016 that included a first-in-the-nation limit on initial opioid prescriptions to a seven-day supply. In just over a year, 16 states have followed with similar limits or guidelines.

Most of these laws limit first-time opioid prescriptions to a seven-day supply, though some set the limit at three, five or 14 days.

Six legislatures have enacted bills in the last two years directing or authorizing other entities—typically, health provider boards (medical or nursing boards, for example) or the state health official—to set the limits or provide the guidelines.

Federal agencies and health care providers also are responding to the crisis. In March 2016, the CDC released the “Guideline for Prescribing Opioids for Chronic Pain,” a voluntary set of recommendations for providers. A new report finds that the declines in opioid prescribing rates “suggest that health care providers have responded, becoming more cautious in their opioid prescribing practices.”

Between July and September, the CDC awarded more than $40 million to states to help them fight the opioid epidemic. With federal and state resources, lawmakers and other leaders will continue to craft innovative policies to address this persistent public health problem.

—Kate Blackman

Homemade Cookies Make a Comeback

Food freedom laws ease regulations on the production and sale of homemade and locally grown foods.

They exempt producers from what supporters say is a burden of permits, inspections and licensing requirements, and give consumers the freedom to buy foods not inspected by the state. Three legislatures have adopted them, and several more are considering the idea.

Wyoming’s Food Freedom Act, from 2015, was the first of its kind. It exempted many homemade foods from licensing requirements and allowed farmers to sell directly to consumers.

“Wyoming has had roaring success [with the law], and we continue to capitalize on those aspects,” says Wyoming Senator Tyler Lindholm (R), the bill’s lead sponsor.

The Legislature amended the act this year, clarifying which homemade products are exempt from regulations, and adding rabbit and fish to the exempted list. The amendment also permits state agencies to provide assistance, consultation and inspection services when requested. Producers may now sell inspected and uninspected foods side by side at farmers markets, farms and ranches, as long as they are sold at separate cash registers.

Critics say food freedom laws may endanger consumers by giving them a sense that inspections are unneeded. An editorial in Wyoming’s Tribune-Eagle warned that the law could create “an outbreak of food poisoning and threaten the lives of children, the elderly and pregnant women as well as make the rest of the state sick.”

North Dakota lawmakers also enacted a food freedom law this year. It allows unlicensed, uninspected producers to sell all foods, except meat, meat products and raw dairy products, directly to consumers. (Federal law prohibits the unregulated sale of meat and meat products.) The new law allows producers to sell up to 1,000 domestic fowl of their own raising every year without regulation. Other foods that require refrigeration, such as baked goods containing cream, custard or cheese, must be labeled with this statement: “This product is made in a home kitchen that is not inspected by the state or local health department.”

Maine’s Act to Recognize Local Control Regarding Food Systems allows local governments to exempt producers of food sold and consumed locally from state licensing and inspection requirements. Food produced for wholesale or retail distribution, however, “must be grown, produced or processed in compliance with all applicable state and federal laws, rules and regulations.” The bill is the first to give control of food produced and sold locally to municipal governments.

Legislators have introduced similar bills in California, Florida, Hawaii, Illinois, Mississippi, Missouri, Montana, New Jersey, South Dakota, Utah and Virginia.

—Kristina Ellis