

When Extreme Weather Becomes a Dispute



AN INTENSE WEATHER
ACROSS SOUTH-CENTRAL
SYSTEM IS MOVING
CHILE

10 REGIONS

Under preventive
emergency (Atacama –
Los Ríos) (july 2026)

17–19 JUL

Peak rainfall window —
up to 180 mm forecast

The current storm system in Chile provides a timely reminder of the analytical challenges that extreme weather events create.

Winter Storm Uri: One event, many disputes

February 2021: an extreme freeze crippled Texas gas and power markets, triggering a wave of force-majeure notices under NAESB (North American Energy Standards Board) supply contracts.

20,000 MW

of rolling blackouts ordered by ERCOT (Electric Reliability Council of Texas) — the largest manually controlled load-shedding event in U.S. history

4.5M

Texas customers lost power, some for several days

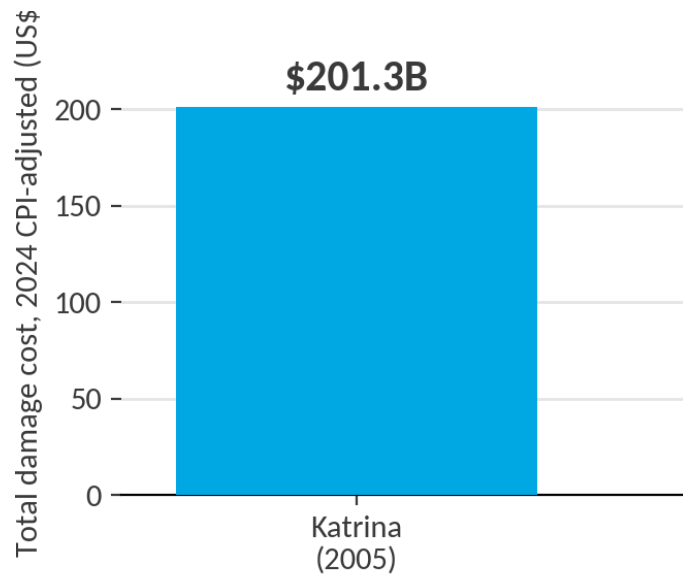
ANALYTICAL TAKEAWAY

Instead of asking whether a storm occurs, many disputes focus on whether its consequences are reasonably foreseeable under the contractual allocation of risk.

Source: FERC, NERC & Regional Entity Staff Report on the Feb. 2021 cold-weather outages (Nov. 2021).

Katrina: Wind and Water Don't Split Cleanly

2005: thousands of business-interruption claims in Louisiana and Mississippi hinged on one question — which peril caused the loss, wind (typically covered) or storm surge (often excluded)?



ANALYTICAL TAKEAWAY

A central analytical challenge is distinguishing among multiple potential causes of loss, rather than treating the damage as a single event.

Source: NOAA NCEI, "Costliest U.S. Tropical Cyclones" (updated Jan. 2025).
Figures include insured and uninsured losses.

Hurricane Ian: Insurers Rewrote the Fight in Advance

By the time Hurricane Ian occurred, many insurance policies had already incorporated revised flood definitions and anti-concurrent-causation language.

Pre-2022 wording

Broad flood definitions;
causation left open to
concurrent-cause arguments.



Modern policy wording

Insurance Services Office (ISO)
amended flood definitions plus
anti-concurrent-causation
clauses.

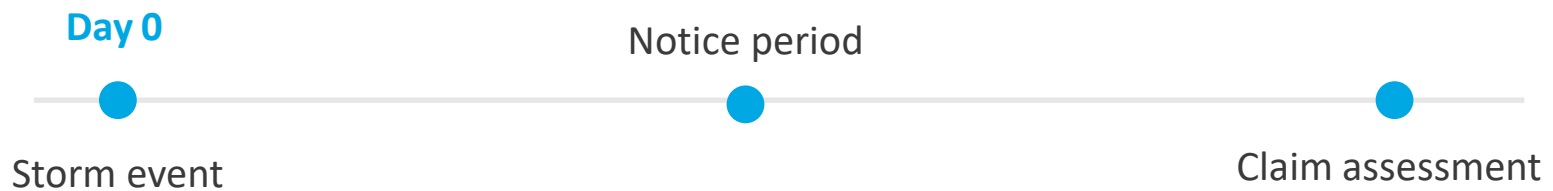
Illustrative summary of post-Katrina/Harvey policy-wording trends; specific wording varies by insurer and jurisdiction.

ANALYTICAL TAKEAWAY

The case illustrates how contractual wording evolves after major disasters, changing the analytical framework for future disputes.

FIDIC: The Clock Starts Before the Argument Does

FIDIC (International Federation of Consulting Engineers) Red Book force-majeure (1999) / exceptional-event (2017) clauses turn on the site's own climatic history — and on a strict, contractual notice clock.



ANALYTICAL TAKEAWAY

Many construction contracts require contemporaneous notice, making the timing and quality of information an important part of the analytical record.

Current Events in Chile Highlight the Same Questions

DMC's highest alert level and Senapred's preventive emergency span 10 regions, with the system's peak forecast for July 17–19 — the window to start the record is now.



Weather data
Official record



Operational data
Site activity



Contractual timeline
Notices and
milestones



Physical evidence
Observed impacts

DMC = Dirección Meteorológica de Chile; Senapred = Servicio Nacional de Prevención y Respuesta ante Desastres.

Recent weather events illustrate information that often becomes relevant when later assessing causation, contractual performance or damages.

Five Analytical Questions in Climate-Related Disputes

- 1 **What caused the loss?** Separating weather effects from pre-existing vulnerabilities.
- 2 **Was the event exceptional?** Historical climate data often matters more than anecdotal descriptions.
- 3 **What contemporaneous evidence exists?** Operational records, weather information and contractual communications may all contribute to the factual record.
- 4 **What is the appropriate counterfactual?** Estimating damages requires comparing observed outcomes with the most likely counterfactual absent the event.
- 5 **Which issues require multidisciplinary expertise?** Meteorology, engineering and economics often need to be considered together.