

**From:** [Jonathan Walling](#)  
**To:** [REDACTED]  
**Cc:** [OCE](#)  
**Subject:** Request for enforcement discretion due to COVID response- Equistar Chemical LP Victoria TX Plant  
**Date:** Wednesday, July 22, 2020 1:16:58 PM  
**Attachments:** [image001.png](#)  
[Equistar VTO- opacity reader training enforcement discretion request.pdf](#)

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Good afternoon, Ms. Galvan:

The TCEQ has evaluated your request. The TCEQ will exercise enforcement discretion for the field recertification component for Method 9 opacity observations at Equistar's Victoria plant. It is understood that staff with expiring certifications will take the classroom component on-line prior to their August 2020 certification expiration. This certification requirement is found in 30 TAC § 111.111 (a)(1)(G), Title V Permit 1308, New Source Review Permit 811B, and 40 CFR 60, Appendix A.

Enforcement discretion for the field component will be valid until September 30, 2020.

Observations shall continue to be conducted by staff with previous certifications. Field recertifications shall be completed as soon as practicable by September 30, 2020. If field recertification is not achievable due to continued challenges created by the COVID-19 pandemic, please submit a new request for consideration.

This enforcement discretion is limited to the Texas Commission on Environmental Quality. It does not limit EPA's ability to enforce federal regulations.

Regulated entities must maintain records adequate to document activities related to any noncompliance under enforcement discretion, including details of the regulated entity's best efforts to comply.

Also provided is a link to smoke school providers currently authorized by TCEQ.

<https://www.tceq.texas.gov/licensing/licenses/smokelic>

Regards,

Jonathan Walling, Area Director  
Coastal & East Texas Area  
Texas Commission on Environmental Quality

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**From:** Galvan, Leila P <[REDACTED]>  
**Sent:** Monday, July 20, 2020 4:41 PM  
**To:** OCE <[OCE@tceq.texas.gov](mailto:OCE@tceq.texas.gov)>  
**Cc:** Ramiro Garcia <[ramiro.garcia@tceq.texas.gov](mailto:ramiro.garcia@tceq.texas.gov)>  
**Subject:** Request for enforcement discretion due to COVID response- Equistar Chemical LP Victoria TX Plant

Mr. Garcia

Attached is Equistar Chemical LP – Victoria TX Polymers Plant request for COVID Response enforcement discretion from Method 9 Semiannual field certification requirements.

Your consideration and review is appreciated.

Equistar Chemicals, LP  
Victoria TX Polymers Plant  
TCEQ Account No: VC-0065-E  
TCEQ Customer No: CN600124705  
TCEQ Regulated Entity No: RNI00215276

Thanks,

Leila P. Galvan  
Environmental Engineer

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Equistar Chemicals, LP  
2699 Old Bloomington Highway North  
P.O. Box 513  
Victoria, Texas 77902  
Phone: 361-572-2500

Dear Mr. Garcia,

For the reasons described below, EQUISTAR CHEMICAL LP - Victoria Polymer facility (EQUISTAR) seeks enforcement discretion from the 30 TAC §111.111(a)(1)(G) requirement that its opacity readers recertify their ability to perform Method 9 opacity observations every 180 days.

Concise statement supporting request for enforcement discretion

EQUISTAR operates a manufacturing facility in Victoria, Texas. At this site, a number of sources require routine Method 9 opacity observations under the site's Clean Air Act Title V permit and associated New Source Review permit. Four individuals are certified to conduct those observations at Victoria Polymer facility. These certifications will expire in mid/late August of 2020. In anticipation of these expiring certifications, the opacity readers had planned to attend a recertification smoke school Field certification in August 2020.

In light of the COVID-19 global pandemic, Governor Greg Abbott has issued various Orders and Guidance requiring all Texans to stay at home. The recent and impending social distancing and stay-at-home guidance being issued by the Centers for Disease Control and local City of Victoria/Victoria County government officials is also creating uncertainty regarding in-person gatherings. Therefore, EQUISTAR intends to postpone attendance of visible emissions in-person field recertification training in August 2020 to avoid potential exposure of our employees to COVID-19 in a group setting. Classroom training is online and does not require an extension.

Importantly, EQUISTAR does not believe this postponement in field recertification will impact the ability of its observers to accurately read opacity. Collectively, these observers have been certified and have been conducting opacity observations for many years. These opacity readers will continue to conduct required opacity observations, following all the same protocols and procedures they normally follow. EQUISTAR will document which observations were done by observers with lapsed certifications and will report those observations as required. However, EQUISTAR is asking that the TCEQ exercise its inherent enforcement discretion related to these anticipated deviations and not pursue enforcement for them given the current circumstances.

Anticipated duration of need for enforcement discretion

EQUISTAR's opacity observers will recertify their ability to perform Method 9 observations as soon as local, state and federal officials advise that travel, social distancing and stay-at-home directives are lifted and the classes are available. Currently, when those restrictions and guidance will be lifted is unknown; however field recertification is anticipated to be able to be completed by the end of 2020.

Citation of rule/permit provision for which enforcement discretion is requested

30 TAC §111.111(a)(1)(G)

Current certification of opacity readers for determining opacities under 40 CFR 60, Appendix A, Method 9, shall be accomplished by the successful completion of a TCEQ visible emissions evaluator's course and field certification by opacity readers no more than 180 days before the opacity reading. For the foregoing reasons, EQUSTAR respectfully requests that the TCEQ exercise its inherent enforcement discretion to not pursue enforcement related to these anticipated deviations. Should you have any additional questions, please feel free to contact me at (361) 572-2519.

Best regards,

Leila Galvan