

From: [Jonathan Walling](#)
To: [Peters, Howard S](#); [REDACTED]
Cc: [OCE](#)
Subject: Enforcement Discretion Request- LyondellBassell: Corpus Christi Complex- Extension
Date: Thursday, August 6, 2020 9:23:52 AM
Attachments: [image001.png](#)

Good morning, Mr. Peters:

The TCEQ has evaluated your request to extend the re-certification for the field portion of Method 9 visible emissions evaluation training.

At this time, the TCEQ is unable to extend enforcement discretion for the duration requested. Enforcement discretion will be offered and valid until September 30, 2020. Should the remaining recertification requirements not be achievable due to continued challenges presented by the COVID-19 pandemic, please submit a new request for consideration.

Observations shall continue to be conducted by staff with previous certifications.

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.

Regards,

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

From: Peters, Howard S <[REDACTED]>
Sent: Monday, August 3, 2020 10:46 AM
To: Jonathan Walling <jonathan.walling@tceq.texas.gov>; [REDACTED]
Cc: OCE <OCE@tceq.texas.gov>
Subject: RE: Enforcement Discretion Request- LyondellBassell: Corpus Christi Complex- REVISION

Mr. Johnathan Walling,

On June 18, 2020 Equistar Chemicals, LP Corpus Christi Complex ("Corpus Christi Complex") sent correspondence requesting enforcement discretion regarding the 6-month re-certification requirement for Federal Reference Method 9 visible emissions evaluation due to the increase in COVID-19 cases in Nueces County. On June 19th you responded that if re-certification of the field portion is not achievable due to the continued challenges of created by the COVID-19 pandemic to re-submit our request for enforcement discretion by the close of business on August 4, 2020 (see prior email below).

The Corpus Christi Complex has been actively tracking COVID-19 cases in Texas and Nueces County and unfortunately has seen a rise in both cases and fatalities in our area. The Corpus Christi Complex again requests enforcement discretion for the 6-month re-certification requirement. Currently, [REDACTED]

[REDACTED]. Recently, the Nueces County Coronavirus Task Force estimated that 1 in every 8 residents in the area is actively infected with COVID-19¹. The seven (7) day average number of infections in Nueces County is 257 people per day with that number being as high as 502 people per day².

The Corpus Christi Complex has reviewed ETA's "COVID-19 Protocol at Smoke School" <https://www.eta-is-opacity.com/schedule/> and several areas of concern were noted by our safety professionals, especially with the vague wording. First, there does not appear to be any COVID-19 gate screening available or protocol for participants to report recent COVID-19 contact (though these people may still be contagious). Second, the use of mask does not appear to be required, per ETA's website "Attendees should wear mask and according to local ordinances and rulings", ETA says "should" and not "shall" wear a mask. There is no defined mask type, it was noted during review that some thin cloth mask offer little protection from COVID-19 transmission. Third, there is the undefined statement "Diligently practice safe distancing" with no mention of what distance will be enforced. Prior testing at this location has demonstrated that there are limited backgrounds available (such as trees or other structures) for evaluation of the white opacity (for which a background is required). From prior experience at Smoke School, it has been observed that during testing attendees tend to congregate in a relatively small area to get an advantageous view to be able to pass the test. Fourth, the time required to perform the testing can take anywhere from an hour to several hours (depending on test results). Lastly, the ETA website states "To promote smaller test groups, an extra field day will be added to our sizable programs", but again this smaller size is not specified.

Having taken and passed the Method 9 visible emissions evaluation for several years the recertification risk during this COVID-19 period seems to outweigh the benefit of an additional test. Site personnel have become very diligent and are required to not take unnecessary risk, but with an open testing format, with the reasons stated above, other attendees may not have the same safety practices. If a Corpus Christi Complex site person attending Smoke School happens to become infected, COVID-19 could rapidly spread through an operating shift upon this person's return, which could result in a disruption to ethylene production (a key component to plastic used in manufacturing including PPE and medical devices). The re-certification testing is scheduled for August 11, 2020. The concern is not only for the health of the individual personnel attending the testing, but also the potential of exposing plant shift operating personnel that work in close proximity of one another. The duration of the of the enforcement discretion would be from August 13, 2020 until the next available re-certification test in the Corpus Christi area, which is February 12, 2021. This enforcement discretion would impact the stack observations in NSR Permit 4682B Special Condition 12 and the periodic monitoring requirements in Federal Operation Permit O1486.

Thank you for your consideration,

H. Scott Peters

¹ - <https://www.kiiitv.com/article/news/local/watch-live-city-of-corpus-christi-nueces-county-officials-join-tamucc-to-provide-covid-19-updates-in-the-coastal-bend/503-55e9ab3a-9bef-496f-8bb4-8c9ec20ee3a3>

²

<https://corpus.maps.arcgis.com/apps/opsdashboard/index.html#/fe742480193d4fff98f7af38c5104cfc>

From: Jonathan Walling <jonathan.walling@tceq.texas.gov>

Sent: Friday, June 19, 2020 4:53 PM

To: Peters, Howard S <[REDACTED]>; [REDACTED]

Cc: OCE <OCE@tceq.texas.gov>

Subject: Enforcement Discretion Request- LyondellBassell: Corpus Christi Complex- REVISION

This email originated outside LyondellBasell. Do not click on links or open attachments unless you recognize the sender.

Good afternoon, Mr. Peters:

The TCEQ has evaluated your request. If the Method 9 re-certification being sought is for both classroom and field portions, the classroom portions may be taken on-line. This is stated on your provider's web-site and is already approved by TCEQ. In addition, ETA states that additional social-distancing protocols are in-place to maximize the safety of participants. <https://www.eta-is-opacity.com/schedule/>.

If re-certification of the field portion is not achievable due to continued challenges created by the COVID-19 pandemic, please re-submit your request for enforcement discretion by close of business on August 4, 2020 for further consideration. The TCEQ is committed to working cooperatively and reasonably with the regulated community during the COVID-19 pandemic, as appropriate. The decision to disapprove the current request for an extension until February 2021 will not reflect on any future request that LyondellBassell may make. Each enforcement discretion request is evaluated based on its own merits. In this case, there still exists a possibility that re-certification could be achieved by August 11, 2020.

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

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

Regards,

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

From: Peters, Howard S <[REDACTED]>
Sent: Thursday, June 18, 2020 4:03 PM
To: OCE <OCE@tceq.texas.gov>; Ramiro Garcia <ramiro.garcia@tceq.texas.gov>
Cc: Trebatoski, Robert J. <[REDACTED]>
Subject: Enforcement Discretion Request

Office of Compliance and Enforcement,

Due to the rising levels of active Coronavirus cases in the Corpus Christi area and related health concerns Equistar is requesting enforcement discretion from the 6-month re-certification requirement for Federal Reference Method 9 visible emissions evaluation. The re-certification testing is scheduled for August 11, 2020. The concern is not only for the health of the individual personnel attending the testing, but also the potential of exposing plant shift operating personnel that work in close proximity of one another. The duration of the of the enforcement discretion would be from August 13, 2020 until the next available re-certification test in the Corpus Christi area, which is February 12, 2021. This enforcement discretion would impact the stack observations in NSR Permit 4682B Special Condition 12 and the periodic monitoring requirements in Federal Operation Permit O1486.

Thank you for your consideration,

H. Scott Peters
Environmental Engineer - Corpus Christi Complex
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www.lyondellbasell.com

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