

**From:** [Jonathan Walling](#)  
**To:** [REDACTED]  
**Cc:** [Shelton, Bill](#); [OCE](#)  
**Subject:** COVID-19 Request for Enforcement Discretion -Flint Hills Longview  
**Date:** Tuesday, March 31, 2020 8:49:54 PM

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Good evening, Mr. Maxwell:

The TCEQ will conditionally exercise enforcement discretion for quarterly opacity monitoring requirements to be conducted by a certified individual, as specified in 30 TAC Chapter 111, and Flint Hills' Title V Permit 01282 and New Source Review Permit 18105. In the event you are unable to obtain a certified third party to conduct these observations, it is approved for you to use Flint Hill's opacity reader whose certification expired December 18, 2019. This enforcement discretion is valid until June 30, 2020.

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 Director  
Texas Commission on Environmental Quality

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**From:** Maxwell, Benji <[REDACTED]>  
**Sent:** Tuesday, March 31, 2020 12:22 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)>; [Seager.Cheryl@epa.gov](mailto:Seager.Cheryl@epa.gov); Leroy Biggers <[leroy.biggers@tceq.texas.gov](mailto:leroy.biggers@tceq.texas.gov)>; Shelton, Bill <[REDACTED]>  
**Subject:** COVID-19 Request for Enforcement Discretion

Flint Hills Resources Longview, LLC ("FHR") has experienced or is anticipating an instance of noncompliance that was unavoidable due to the impact from the COVID-19 (coronavirus) on FHR and/or third-party resources. FHR has implemented a corporate-wide policy to restrict travel of all employees, such restriction being necessary to prevent the spread of COVID-19 in the workplace, to protect the health of our employees and third-party resources, and to ensure the continuity of our operations. Summarized below are the details of the request:

- Method 9 Opacity Readings as found in 30 TAC 111.111(a) - Visible Emissions for Specified Sources and the associated Title V (01282) and state NSR permit (18105) that incorporate these or similar requirements for Method 9 opacity readings.
  - FHR has one Method 9 certified opacity reader. The semi-annual certification for that individual has expired as of 12-18-2019. Due to the travel restrictions implemented by FHR, consistent with recommendations from local, state and federal authorities, FHR personnel were not able to attend "Smoke School" in March 2020 to be certified/re-certified.

- In the interim, FHR has contacted a third-party consulting firm to contract the required Method 9 readings. FHR intends to utilize third-party certified opacity readers, as long as they are available when needed.
- However, in the event, certified third-party opacity readers are not available when needed, FHR is seeking enforcement discretion to allow the FHR employee that was previously certified to conduct Method 9 observations with an expired certification.
- FHR expects the duration of this request to be until travel restrictions are lifted and training can be rescheduled.
- There are 5 points that require Method 9 quarterly observations.
- FHR will maintain adequate records to document activities related to this instance of noncompliance, including details of FHR's efforts to comply.

If you have any questions about this request or need additional information, please contact me at the email above, or via cell phone at 903-309-8407.

Regards,  
Benji Maxwell