

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1671-AIR-E **TCEQ ID:** RN102609724 **CASE NO.:** 36687

RESPONDENT NAME: Norit Americas, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Marshall Plant, 3200 University Avenue, Marshall, Harrison County</p> <p>TYPE OF OPERATION: Powdered activated carbon manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 27, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Curtis Miles, Manager of Regulatory Affairs, Norit Americas, Inc., 3200 University Avenue, Marshall, Texas 75670 Mr. Travis Mileur, Plant Manager, Norit Americas, Inc., 3200 University Avenue, Marshall, Texas 75670 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 7 and October 14, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 29 and October 23, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to submit annual compliance certifications ("ACCs") and semi-annual deviation reports ("SDRs") since March 29, 2006 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A) and (B), and 122.146(1), Federal Operating Permit ("FOP") No. O1379, General Terms and Conditions and Special Terms and Conditions ("STC") No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to perform stack sampling for particulate matter ("PM") on the No. 4 Dryer (Emission Point No. 4DRYDCSTK) [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 3068A, Special Condition ("SC") No. 3, FOP No. O1379, STC No. 6, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain records of venturi scrubber liquid flow rate [30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 56552, SC No. 12.D., and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to include all individually listed compounds which were known through process knowledge to have exceeded the reportable quantity during the May 22, 2008 emissions event on the initial report, and to submit the final record of the event within two weeks after the end of the</p>	<p>Total Assessed: \$28,760</p> <p>Total Deferred: \$5,752 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$11,504</p> <p>Total Paid to General Revenue: \$11,504</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a) On October 21, 2008, began keeping records of the venturi scrubber liquid flow rate; and</p> <p>b) On January 8, 2009, conducted stack sampling for PM on the No. 4 Dryer (Emission Point No. 4DRYDCSTK), and on January 26, 2009, submitted the stack test report to the TCEQ.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to:</p> <p>a) Within 30 days after the effective date of the Agreed Order, implement improvements to the reporting system in order to prevent the failure to submit ACCs and SDRs;</p> <p>b) Within 30 days after the effective date of this Agreed Order, implement procedures to ensure that all emissions events are properly reported and/or recorded; and</p> <p>c) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b.</p>

<p>emissions event. Specifically, the Respondent failed to report emissions of carbon monoxide ("CO") and hydrogen sulfide ("H₂S"), both of which exceeded their respective reportable quantities, on the initial report. The final report was due on June 5, 2008; however, it was not submitted until June 6, 2008 [30 TEX. ADMIN. CODE § 101.201(a)(2)(F), 101.201(b) and (c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5) Failure to prevent unauthorized emissions during an emissions event at Kiln 5 on May 22, 2008. During the event which lasted two hours and 22 minutes, the total unauthorized emissions from the Kiln 5 Emergency Stack were 8,486 pounds ("lbs.") of CO, 213 lbs. of H₂S, and 2,000 lbs. of PM. Since the Respondent failed to properly report the emissions event, the affirmative defense could not be met pursuant to 30 TEX. ADMIN. CODE § 101.222(b)(1) [30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 5725A, SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): AIR HH0019H

Attachment A
Docket Number: 2008-1671-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Norit Americas, Inc.
Penalty Amount: Twenty-Three Thousand Eight Dollars (\$23,008)
SEP Offset Amount: Eleven Thousand Five Hundred Four Dollars (\$11,504)
Type of SEP: Pre-approved
Third-Party Recipient: Texas PTA – *Clean School Bus Program*
Location of SEP: Texas Air Quality Control Region No. 022

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to ATexas Commission on Environmental Quality@ and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	2-Sep-2008
	PCW	20-Oct-2008
	Screening	20-Oct-2008
	EPA Due	26-May-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	Norit Americas, Inc.
Reg. Ent. Ref. No.	RN102609724
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36687	No. of Violations	5
Docket No.	2008-1671-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 20-Oct-2008

Docket No. 2008-1671-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36687

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Miriam Hall

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	1	5%
	Other written NOV's	14	28%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced for one similar NOV and 14 unrelated NOV's. The penalty was reduced for three Notices of Audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 20-Oct-2008 **Docket No.** 2008-1671-AIR-E **PCW**
Respondent Norit Americas, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 36687 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102609724
Media [Statute] Air
Enf. Coordinator Miriam Hall
Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A) and (B), and 122.146(1), Federal Operating Permit ("FOP") No. O1379, General Terms and Conditions and Special Terms and Conditions ("STC") No. 8, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to submit annual compliance certifications ("ACCs") and semi-annual deviation reports ("SDRs") since March 29, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="25%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Norit Americas, Inc.
Case ID No. 36687
Reg. Ent. Reference No. RN102609724
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	30-Sep-2006	30-May-2009	2.67	\$133	n/a	\$133
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of implementing a record keeping system to ensure that the reports and certifications are submitted timely from the due date of the first missed report to the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$133

Screening Date 20-Oct-2008 Respondent Norit Americas, Inc. Case ID No. 36687 Reg. Ent. Reference No. RN102609724 Media [Statute] Air Enf. Coordinator Miriam Hall Violation Number <input type="text" value="2"/> Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 3068A, Special Condition ("SC") No. 3, FOP No. O1379, STC No. 6, and Tex. Health & Safety Code § 382.085(b) Violation Description Failed to perform stack sampling for particulate matter ("PM") on the No. 4 Dryer (Emission Point No. 4DRYDCSTK).	Docket No. 2008-1671-AIR-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i>																			
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
OR <table border="1" style="margin-left: 20px;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> </table>		Harm					Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>	Potential	<input type="text"/>	<input type="text"/>	x	
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Adjustment <input type="text" value="\$9,000"/>																				
<input type="text" value="\$1,000"/>																				
Violation Events																				
Number of Violation Events <input type="text" value="1"/> <input type="text" value="74"/> Number of violation days <table border="1" style="margin-left: 20px;"> <tr> <td rowspan="7" style="vertical-align: middle;"><i>mark only one with an x</i></td> <td>daily</td> <td><input type="text"/></td> </tr> <tr> <td>weekly</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td>quarterly</td> <td><input type="text"/></td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table>	<i>mark only one with an x</i>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	Violation Base Penalty <input type="text" value="\$1,000"/>				
<i>mark only one with an x</i>		daily	<input type="text"/>																	
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Economic Benefit (EB) for this violation																				
<table border="1" style="margin-left: 20px;"> <tr> <td>Estimated EB Amount</td> <td><input type="text" value="\$550"/></td> </tr> </table>	Estimated EB Amount	<input type="text" value="\$550"/>	<table border="1" style="margin-left: 20px;"> <tr> <td>Statutory Limit Test</td> <td><input type="text" value="\$1,300"/></td> </tr> <tr> <td>Violation Final Penalty Total</td> <td><input type="text" value="\$1,300"/></td> </tr> <tr> <td>This violation Final Assessed Penalty (adjusted for limits)</td> <td><input type="text" value="\$1,300"/></td> </tr> </table>	Statutory Limit Test	<input type="text" value="\$1,300"/>	Violation Final Penalty Total	<input type="text" value="\$1,300"/>	This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,300"/>											
Estimated EB Amount	<input type="text" value="\$550"/>																			
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Violation Final Penalty Total	<input type="text" value="\$1,300"/>																			
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Economic Benefit Worksheet

Respondent Norit Americas, Inc.
Case ID No. 36687
Reg. Ent. Reference No. RN102609724
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$9,290	21-Nov-2007	26-Jan-2009	1.18	\$550	n/a	\$550
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The actual cost for conducting a stack test on the dryer from the date of the last permit amendment to the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$9,290

TOTAL

\$550

Screening Date 20-Oct-2008	Docket No. 2008-1671-AIR-E	PCW	
Respondent Norit Americas, Inc.		<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36687		<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN102609724			
Media [Statute] Air			
Enf. Coordinator Miriam Hall			
Violation Number <input type="text" value="3"/>			
Rule Cite(s)	30 Tex. Admin. Code § 116.115(c), NSR Permit No. 56552, SC No. 12.D., and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to maintain records of venturi scrubber liquid flow rate.		
	Base Penalty	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
	<input type="text"/>	<input type="text" value="x"/>	Percent <input type="text" value="10%"/>
Matrix Notes	The special condition required records be kept on three operating parameters of the scrubber. The Respondent was keeping records of the other two parameters so about 67% of the permit condition was being met.		
	Adjustment	<input type="text" value="\$9,000"/>	
		Penalty	<input type="text" value="\$1,000"/>
Violation Events			
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days
		<input type="text" value="74"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
	One single event is recommended.		
Good Faith Efforts to Comply		<input type="text" value="10.0%"/> Reduction	Penalty <input type="text" value="\$100"/>
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
	Extraordinary	<input type="text"/>	Violation Subtotal <input type="text" value="\$900"/>
	Ordinary	<input type="text" value="x"/>	
	N/A	<input type="text" value="(mark with x)"/>	
Notes	The Respondent came into compliance on October 21, 2008.		
Economic Benefit (EB) for this violation		Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$5"/>	Violation Final Penalty Total <input type="text" value="\$1,200"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,200"/>

Economic Benefit Worksheet

Respondent Norit Americas, Inc.
Case ID No. 36687
Reg. Ent. Reference No. RN102609724
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	7-Aug-2008	21-Oct-2008	0.21	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of implementing a record keeping system for keeping the scrubber flow rates from the date the violation was first documented to the actual date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$5

Screening Date 20-Oct-2008
Respondent Norit Americas, Inc.
Case ID No. 36687
Reg. Ent. Reference No. RN102609724

Docket No. 2008-1671-AIR-E

PCW

*Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008*

Media [Statute] Air
Enf. Coordinator Miriam Hall
Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(2)(F), 101.201(b) and (c), and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to include all individually listed compounds which were known through process knowledge to have exceeded the reportable quantity during the May 22, 2008 emissions event on the initial report, and to submit the final record of the event within two weeks after the end of the emissions event. Specifically, the Respondent failed to report emissions of carbon monoxide ("CO") and hydrogen sulfide ("H2S"), both of which exceeded their respective reportable quantities, on the initial report. The final report was due on June 5, 2008; however, it was not submitted until June 6, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes
 The Respondent met more than 70% of the rule requirement.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 14 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$200

Two single events are recommended (one for each report).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$260

This violation Final Assessed Penalty (adjusted for limits) \$260

Economic Benefit Worksheet

Respondent Norit Americas, Inc.
Case ID No. 36687
Reg. Ent. Reference No. RN102609724
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	22-May-2008	30-May-2009	1.02	\$26	n/a	\$26
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of implementing procedures and training to ensure emissions events are reported properly from the date of the emissions event to the estimated completion date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$26

Screening Date 20-Oct-2008	Docket No. 2008-1671-AIR-E	PCW														
Respondent Norit Americas, Inc.		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 36687		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN102609724																
Media [Statute] Air																
Enf. Coordinator Miriam Hall																
Violation Number <input type="text" value="5"/>																
Rule Cite(s)	30 Tex. Admin. Code § 116.115(c), NSR Permit No. 5725A, SC No. 1, and Tex. Health & Safety Code § 382.085(b)															
Violation Description	Failed to prevent unauthorized emissions during an emissions event at Kiln 5 on May 22, 2008. During the event which lasted two hours and 22 minutes, the total unauthorized emissions from the Kiln 5 Emergency Stack were 8,486 pounds ("lbs.") of CO, 213 lbs. of H2S, and 2,000 lbs. of particulate matter. Since the Respondent failed to properly report the emissions event, the affirmative defense could not be met pursuant to 30 Tex. Admin. Code § 101.222(b)(1).															
	Base Penalty	<input type="text" value="\$10,000"/>														
>> Environmental, Property and Human Health Matrix																
OR	Harm															
	Release Major Moderate Minor															
	Actual <input type="text"/> <input checked="" type="text" value="x"/> <input type="text"/>															
	Potential <input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="50%"/>														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="0%"/>														
Matrix Notes	Human health or the environment has been exposed to significant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.															
	Adjustment	<input type="text" value="\$5,000"/>														
		<input type="text" value="\$5,000"/>														
Violation Events																
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="1"/> Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input checked="" type="text" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input checked="" type="text" value="x"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$5,000"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input checked="" type="text" value="x"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
	One monthly event is recommended.															
Good Faith Efforts to Comply																
	0.0% Reduction	<input type="text" value="\$0"/>														
	Before NOV NOV to EDRP/Settlement Offer															
	Extraordinary <input type="text"/>	<input type="text"/>														
	Ordinary <input type="text"/>	<input type="text"/>														
	N/A <input checked="" type="text" value="x"/> (mark with x)															
Notes	The Respondent does not meet the good faith criteria for this violation.															
	Violation Subtotal	<input type="text" value="\$5,000"/>														
Economic Benefit (EB) for this violation																
	Statutory Limit Test															
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$6,500"/>														
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,500"/>															

Economic Benefit Worksheet

Respondent Norit Americas, Inc.
Case ID No. 36687
Reg. Ent. Reference No. RN102609724
Media Air
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 4.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600356372 Norit Americas, Inc.	Classification: AVERAGE	Rating: 2.60																																																															
Regulated Entity:	RN102609724 MARSHALL PLANT	Classification: AVERAGE	Site Rating: 0.56																																																															
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td style="width: 20%;">EPA ID</td> <td style="width: 20%;">TXD008050189</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>30101</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>WQ0000703000</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>TPDES0000710</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>TX0000710</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>2265A</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>3068A</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>5725A</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>41090</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>HH0019H</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4820300001</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>56497</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>56552</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>72698</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>REGISTRATION</td> <td>78103</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>78421</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>EPA ID</td> <td>PSDTX1183</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>1379</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>ACCOUNT NUMBER</td> <td>HH0019H</td> </tr> <tr> <td>STORMWATER</td> <td>PERMIT</td> <td>TXR05K879</td> </tr> <tr> <td>STORMWATER</td> <td>PERMIT</td> <td>TXR05V438</td> </tr> </table>			INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008050189	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30101	WASTEWATER	PERMIT	WQ0000703000	WASTEWATER	PERMIT	TPDES0000710	WASTEWATER	PERMIT	TX0000710	AIR NEW SOURCE PERMITS	PERMIT	2265A	AIR NEW SOURCE PERMITS	PERMIT	3068A	AIR NEW SOURCE PERMITS	PERMIT	5725A	AIR NEW SOURCE PERMITS	PERMIT	41090	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HH0019H	AIR NEW SOURCE PERMITS	AFS NUM	4820300001	AIR NEW SOURCE PERMITS	PERMIT	56497	AIR NEW SOURCE PERMITS	PERMIT	56552	AIR NEW SOURCE PERMITS	REGISTRATION	72698	AIR NEW SOURCE PERMITS	REGISTRATION	78103	AIR NEW SOURCE PERMITS	PERMIT	78421	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1183	AIR OPERATING PERMITS	PERMIT	1379	AIR OPERATING PERMITS	ACCOUNT NUMBER	HH0019H	STORMWATER	PERMIT	TXR05K879	STORMWATER	PERMIT	TXR05V438
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Location:	3200 UNIVERSITY AVE, MARSHALL, TX, 75670																																																																	
TCEQ Region:	REGION 05 - TYLER																																																																	
Date Compliance History Prepared:	December 02, 2008																																																																	
Agency Decision Requiring Compliance History:	Enforcement																																																																	
Compliance Period:	December 02, 2003 to December 02, 2008																																																																	

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Miriam Hall Phone: (512) 239 - 1044

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO | |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/29/2003	(293606)
2	02/18/2004	(293588)
3	02/18/2004	(293591)
4	02/18/2004	(293597)
5	03/23/2004	(293590)
6	04/07/2004	(293593)
7	06/17/2004	(293595)
8	08/12/2004	(351366)
9	08/17/2004	(288702)
10	08/30/2004	(351368)
11	11/09/2004	(351370)
12	11/19/2004	(351367)
13	11/19/2004	(351369)
14	12/27/2004	(381467)
15	01/12/2005	(344559)
16	02/21/2005	(350229)
17	02/22/2005	(381464)
18	02/23/2005	(381465)
19	02/23/2005	(381466)
20	03/21/2005	(419240)
21	05/20/2005	(419241)
22	06/16/2005	(419242)
23	08/22/2005	(440466)
24	08/26/2005	(407421)
25	09/20/2005	(440467)
26	10/18/2005	(467749)
27	11/10/2005	(432461)
28	11/16/2005	(467750)
29	12/13/2005	(467751)
30	01/18/2006	(467752)
31	02/15/2006	(455409)
32	02/27/2006	(467747)
33	03/22/2006	(467748)
34	03/23/2006	(460109)
35	04/24/2006	(497779)
36	04/24/2006	(497780)
37	05/02/2006	(464595)
38	07/21/2006	(486833)
39	08/28/2006	(484144)
40	08/28/2006	(530961)
41	09/18/2006	(519824)
42	09/18/2006	(519825)
43	09/18/2006	(519826)
44	09/18/2006	(519827)
45	10/18/2006	(516451)
46	10/19/2006	(519828)
47	11/17/2006	(544054)
48	12/18/2006	(544055)
49	01/18/2007	(544056)
50	02/20/2007	(544053)
51	02/27/2007	(541949)
52	03/20/2007	(574561)
53	03/29/2007	(593168)
54	04/18/2007	(574562)
55	05/03/2007	(593169)
56	05/11/2007	(574563)
57	06/14/2007	(574564)
58	07/19/2007	(574565)
59	07/27/2007	(593170)

60 08/20/2007 (601317)
 61 09/20/2007 (601318)
 62 09/21/2007 (595345)
 63 10/02/2007 (607366)
 64 10/22/2007 (601320)
 65 11/14/2007 (619242)
 66 12/14/2007 (619243)
 67 01/18/2008 (619244)
 68 01/30/2008 (609743)
 69 02/13/2008 (616561)
 70 02/18/2008 (671746)
 71 03/10/2008 (638088)
 72 03/20/2008 (671747)
 73 04/11/2008 (671748)
 74 05/05/2008 (699422)
 75 05/20/2008 (689672)
 76 06/13/2008 (699423)
 77 06/19/2008 (689673)
 78 07/08/2008 (689674)
 79 08/29/2008 (700277)
 80 10/23/2008 (705425)
 81 11/05/2008 (706543)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/13/2004 (288702)
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: It was determined that Norit Americas failed to meet the conditions of NSR permit No. 5725A, Condition 8
 Date: 08/31/2004 (351367) CN600356372
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2004 (381467) CN600356372
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2005 (381464) CN600356372
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2006 (497780) CN600356372
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/28/2006 (530961) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 03/29/2007 (593168) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 03/31/2007 (574562) CN600356372
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/03/2007 (593169) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 07/27/2007 (593170) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 09/21/2007 (595345) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)
 5C THC Chapter 382, SubChapter A 382.014
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to submit a 2006 Emissions Inventory; Category B19 (g)(3)
 Date: 10/02/2007 (607366) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 12/31/2007 (619244) CN600356372
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/05/2008 (699422) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 06/13/2008 (699423) CN600356372
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

Notice of Intent Date: 02/06/2004 (263945)
 No DOV Associated
 Notice of Intent Date: 06/04/2004 (277212)
 No DOV Associated
 Notice of Intent Date: 09/09/2004 (335256)
 No DOV Associated

G. Type of environmental management systems (EMSs).
 N/A

H. Voluntary on-site compliance assessment dates.
 N/A

I. Participation in a voluntary pollution reduction program.
 N/A

J. Early compliance.
 N/A

Sites Outside of Texas
 N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NORIT AMERICAS, INC.
RN102609724

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1671-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Norit Americas, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a powdered activated carbon manufacturing plant at 3200 University Avenue in Marshall, Harrison County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about September 3 and October 28, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Eight Thousand Seven Hundred Sixty Dollars (\$28,760) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Five Hundred Four Dollars (\$11,504) of the administrative penalty and Five Thousand Seven Hundred Fifty-Two Dollars

(\$5,752) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eleven Thousand Five Hundred Four Dollars (\$11,504) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. October 21, 2008, began keeping records of the venturi scrubber liquid flow rate; and
 - b. On January 8, 2009, conducted stack sampling for particulate matter ("PM") on the No. 4 Dryer (Emission Point No. 4DRYDCSTK), and on January 26, 2009, submitted the stack test report to the TCEQ.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit annual compliance certifications ("ACCs") and semi-annual deviation reports ("SDRs") since March 29, 2006, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A) and (B), and 122.146(1), Federal Operating Permit ("FOP") No. O1379, General Terms and Conditions and Special Terms and Conditions ("STC") No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 7, 2008.
2. Failed to perform stack sampling for PM on the No. 4 Dryer (Emission Point No. 4DRYDCSTK), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 3068A, Special Condition ("SC") No. 3, FOP No. O1379, STC No. 6, and

TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 7, 2008.

3. Failed to maintain records of venturi scrubber liquid flow rate, in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 56552, SC No. 12.D., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 7, 2008.
4. Failed to include all individually listed compounds which were known through process knowledge to have exceeded the reportable quantity during the May 22, 2008 emissions event on the initial report, and to submit the final record of the event within two weeks after the end of the emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(2)(F), 101.201(b) and (c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 14, 2008. Specifically, the Respondent failed to report emissions of carbon monoxide ("CO") and hydrogen sulfide ("H₂S"), both of which exceeded their respective reportable quantities, on the initial report. The final report was due on June 5, 2008; however, it was not submitted until June 6, 2008.
5. Failed to prevent unauthorized emissions during an emissions event at Kiln 5 on May 22, 2008, in violation of 30 TEX. ADMIN. CODE § 116.115(c), NSR Permit No. 5725A, SC No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 14, 2008. During the event which lasted two hours and 22 minutes, the total unauthorized emissions from the Kiln 5 Emergency Stack were 8,486 pounds ("lbs.") of CO, 213 lbs. of H₂S, and 2,000 lbs. of PM. Since the Respondent failed to properly report the emissions event, the affirmative defense could not be met pursuant to 30 TEX. ADMIN. CODE § 101.222(b)(1).

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Norit Americas, Inc., Docket No. 2008-1671-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eleven Thousand Five Hundred Four Dollars (\$11,504) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of the Agreed Order, implement improvements to the reporting system in order to prevent the failure to submit ACCs and SDRs;
 - b. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure that all emissions events are properly reported and/or recorded; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734; and

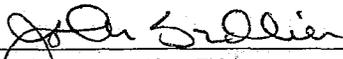
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/2/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

2/10/09
Date

TRAVIS MILEUR
Name (Printed or typed)
Authorized Representative of
Norit Americas, Inc.

PLANT MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2008-1671-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Norit Americas, Inc.
Penalty Amount: Twenty-Three Thousand Eight Dollars (\$23,008)
SEP Offset Amount: Eleven Thousand Five Hundred Four Dollars (\$11,504)
Type of SEP: Pre-approved
Third-Party Recipient: Texas PTA – *Clean School Bus Program*
Location of SEP: Texas Air Quality Control Region No. 022

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. **Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to ATexas Commission on Environmental Quality@ and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

