

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1722-AIR-E **TCEQ ID:** RN102609724 **CASE NO.:** 38580

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: Activated carbon products 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 March 15, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Podlipny, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2603; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Curtis Miles, Manager of Regulatory Affairs, Norit Americas, Inc., P.O. Box 790, Marshall, Texas 75671 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: September 28, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 13, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to properly report unauthorized emissions during an event on January 5, 2009. Specifically, the Respondent reported on the initial notification that the only contaminant released during the event was carbon monoxide. However, hydrogen sulfide and particulate matter were also released during the unauthorized emissions event [30 TEX. ADMIN. CODE §§ 101.201(a)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01379, Special Terms and Conditions ("STC") 2F].</p> <p>2) Failure to submit the final report within two weeks of the emissions event on January 5, 2009. Specifically, the final report was due on January 19, 2009 but was not submitted until March 20, 2009 [30 TEX. ADMIN. CODE §§ 101.201(b) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01379, STC 2F].</p> <p>3) Failure to prevent unauthorized emissions during an event that occurred on January 5, 2009. Specifically, the unauthorized emissions released were 2,942.6 pounds ("lbs") of carbon monoxide, 93 lbs of hydrogen sulfide, and 809.3 lbs of particulate matter into the atmosphere during the twelve hour event (Incident No. 118423). The event</p>	<p>Total Assessed: \$3,456</p> <p>Total Deferred: \$691 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,765</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 by April 3, 2009, the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Regarding Incident No. 118423, training was provided and responsibilities involving the reporting chain of command were adjusted to reflect the duties of Plant personnel and management in the reporting process;</p> <p>b. Began reviewing all potential emissions events five days a week to determine if events are reportable; and</p> <p>c. Once per week, administrative staff reviews the State of Texas Environmental Electronic Reporting System to ensure that all initial events are followed by a final report.</p>

occurred due to compressed gas across the Plant being lost, causing a loss of control of various valves and the boiler feed pump. Safety interlocks vented the furnaces to prevent catastrophic loss, which caused the release of the unauthorized emissions into the atmosphere. Since the emissions event was reported late, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review Permit No. 5725A, Special Condition 1, and Federal Operating Permit No. O-01379, STC 6].

Additional ID No(s): HH0019H



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Oct-2009			
	PCW	19-Oct-2009	Screening	21-Oct-2009	EPA Due 10-Jul-2010

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.	38580	No. of Violations	3
Docket No.	2009-1722-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		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* **\$2,700**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 53.0% Enhancement *Subtotals 2, 3, & 7* **\$1,431**

Notes
The penalty was enhanced due to one NOV for a similar violation, fourteen NOVs for dissimilar violations, and one 1660 style order.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$675**

Economic Benefit 0.0% Enhancement* *Subtotal 6* **\$0**

Total EB Amounts \$24
Approx. Cost of Compliance \$2,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$3,456**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,456**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$3,456**

DEFERRAL 20.0% Reduction *Adjustment* **-\$691**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,765**

Screening Date 21-Oct-2009

Docket No. 2009-1722-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38580

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action. (number of NOVs meeting criteria)	1	5%
	Other written NOVs	14	28%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 judgements 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)	0	0%
	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%
<i>Please Enter Yes or No</i>			
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) 53%

>> 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 due to one NOV for a similar violation, fourteen NOVs for dissimilar violations, and one 1660 style order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 53%

Screening Date 21-Oct-2009

Docket No. 2009-1722-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38580

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.201(a)(2)(F) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-01379, Special Terms and Conditions ("STC") 2F

Violation Description

Failed to properly report unauthorized emissions during an event on January 5, 2009, as documented during an investigation conducted on September 28, 2009. Specifically, the Respondent reported on the initial notification that the only contaminant released during the event was carbon monoxide. However, hydrogen sulfide and particulate matter were also released during the unauthorized emissions event.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$25

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent returned to compliance on April 3, 2009 and the NOE is dated October 13, 2009.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$128

This violation Final Assessed Penalty (adjusted for limits) \$128

Economic Benefit Worksheet

Respondent: Norit Americas, Inc.
Case ID No.: 38580
Reg. Ent. Reference No.: RN102809724
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
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	\$250	6-Jan-2009	3-Apr-2009	0.24	\$3	n/a	\$3
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: Estimated cost for improving their recordkeeping/reporting system for including all compounds and substances released during emissions events on the appropriate reports. The Date Required is the date the report was due and the Final Date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$250 **TOTAL** \$3

Screening Date 21-Oct-2009

Docket No. 2009-1722-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38580

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(b) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-01379, STC 2F

Violation Description

Failed to submit the final report within two weeks of the emissions event on January 5, 2009, as documented during an investigation conducted on September 28, 2009. Specifically, the final report was due on January 19, 2009 but was not submitted until March 20, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event based on the untimely submission of the final report for the emissions event.

Good Faith Efforts to Comply

25.0% Reduction

\$25

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent returned to compliance on April 3, 2009 and the NOE is dated October 13, 2009.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$128

This violation Final Assessed Penalty (adjusted for limits) \$128

Economic Benefit Worksheet

Respondent: Norit Americas, Inc.
Case ID No.: 38580
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
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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	\$250	19-Jan-2009	3-Apr-2009	0.20	\$3	n/a	\$3
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

Estimated cost for improving the recordkeeping/reporting system for timely submittals of emissions event reports. The Date Required is the date the report was due and the Final Date is the 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

\$250

TOTAL

\$3

Screening Date 21-Oct-2009

Docket No. 2009-1722-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38580

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F), 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review Permit No. 5725A, Special Condition 1, and Federal Operating Permit No. O-01379, STC 6

Violation Description

Failed to prevent unauthorized emissions during an event that occurred on January 5, 2009, as documented during an investigation conducted on September 28, 2009. Specifically, the unauthorized emissions released were 2,942.6 pounds ("lbs") of carbon monoxide, 93 lbs of hydrogen sulfide, and 809.3 lbs of particulate matter into the atmosphere during the twelve hour event (Incident No. 118423). The event occurred due to compressed gas across the Plant being lost, causing a loss of control of various valves and the boiler feed pump. Safety interlocks vented the furnaces to prevent catastrophic loss, which caused the release of the unauthorized emissions into the atmosphere. Since the emissions event was reported late, it does not meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on the emissions event.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent returned to compliance on April 3, 2009 and the NOE is dated October 13, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$3,200

This violation Final Assessed Penalty (adjusted for limits) \$3,200

Economic Benefit Worksheet

Respondent: Norit Americas, Inc.

Case ID No.: 38580

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
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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)	\$1,500	5-Jan-2009	3-Apr-2009	0.24	\$18	n/a	\$18

Notes for DELAYED costs: Estimated cost for additional oversight and management practices designed to ensure proper operation and maintenance practices are followed. The Date Required is based on the date of the emissions event and the Final Date is the 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

\$1,500

TOTAL

\$18

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600356372 Norit Americas, Inc.	Classification: AVERAGE	Rating: 2.98
Regulated Entity:	RN102609724 MARSHALL PLANT	Classification: AVERAGE	Site Rating: 2.83
ID Number(s):	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	REGISTRATION	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 NEW SOURCE PERMITS	REGISTRATION	89199
	AIR OPERATING PERMITS	PERMIT	1379
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HH0019H
	AIR OPERATING PERMITS	PERMIT	3335
	STORMWATER	PERMIT	TXR05K879
	STORMWATER	PERMIT	TXR05V438
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HH0019H

Location: 3200 UNIVERSITY AVE, MARSHALL, TX, 75670

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: January 29, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 19, 2004 to October 19, 2009

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

Name: Heather Podlipny Phone: 239 - 2603

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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.

Effective Date: 06/01/2009

ADMINORDER 2008-1671-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 30 TAC Chapter 122, SubChapter B 122.145(2)(B)
 30 TAC Chapter 122, SubChapter B 122.146(1)
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC and STC No. 8 OP

Description: Failed to submit annual compliance certifications ("ACCs") and semi-annual deviation

reports ("SDRs") since March 29, 2006

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: S.C. No. 3 PA
S.T.C. No. 6 OP

Description: Failed to perform stack sampling for PM on the No. 4 Dryer (Emission Point No. 4DRYDCSTK)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: S.C. No. 12.D. PA

Description: Failed to maintain records of venturi scrubber liquid flow rate.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)
30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)

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 2 weeks after the end of the emissions event. Specifically, the Respondent failed to report emissions of CO and H2S, both of which exceeded their respective reportable quantities, on the initial report. The final report was due on June 5, 2008; how

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 5725A, Special Condition 1 PA

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 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).

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	11/09/2004	(351370)
2	11/19/2004	(351367)
3	11/19/2004	(351369)
4	12/27/2004	(381467)
5	01/12/2005	(344559)
6	02/21/2005	(350229)
7	02/22/2005	(381464)
8	02/23/2005	(381465)
9	02/23/2005	(381466)
10	03/21/2005	(419240)
11	05/20/2005	(419241)
12	06/16/2005	(419242)
13	08/22/2005	(440466)
14	08/26/2005	(407421)
15	09/20/2005	(440467)
16	10/18/2005	(467749)
17	11/10/2005	(432461)
18	11/16/2005	(467750)
19	12/13/2005	(467751)
20	01/18/2006	(467752)
21	02/15/2006	(455409)
22	02/27/2006	(467747)

23 03/22/2006 (467748)
24 03/23/2006 (460109)
25 04/24/2006 (497779)
26 04/24/2006 (497780)
27 05/02/2006 (464595)
28 07/21/2006 (486833)
29 08/28/2006 (484444)
30 08/28/2006 (530961)
31 09/18/2006 (519824)
32 09/18/2006 (519825)
33 09/18/2006 (519826)
34 09/18/2006 (519827)
35 10/18/2006 (516451)
36 10/19/2006 (519828)
37 11/17/2006 (544054)
38 12/18/2006 (544055)
39 01/18/2007 (544056)
40 02/20/2007 (544053)
41 02/27/2007 (541949)
42 03/20/2007 (574561)
43 03/29/2007 (583168)
44 04/18/2007 (574562)
45 05/03/2007 (593169)
46 05/11/2007 (574563)
47 06/14/2007 (574564)
48 07/19/2007 (574565)
49 07/27/2007 (593170)
50 08/20/2007 (601317)
51 09/20/2007 (601318)
52 09/21/2007 (595345)
53 10/02/2007 (607366)
54 10/22/2007 (601320)
55 11/14/2007 (619242)
56 12/14/2007 (619243)
57 01/18/2008 (619244)
58 01/30/2008 (609743)
59 02/13/2008 (616561)
60 02/18/2008 (671746)
61 03/10/2008 (638088)
62 03/20/2008 (671747)
63 04/11/2008 (671748)
64 05/05/2008 (699422)
65 05/20/2008 (689672)
66 06/13/2008 (699423)
67 06/19/2008 (689673)
68 07/08/2008 (689674)
69 08/19/2008 (710391)
70 08/29/2008 (700277)
71 09/19/2008 (710392)
72 10/19/2008 (710393)
73 10/23/2008 (705425)
74 10/27/2008 (720822)
75 11/05/2008 (706543)
76 11/17/2008 (727247)
77 12/17/2008 (749957)
78 01/19/2009 (727246)
79 01/19/2009 (727248)
80 02/06/2009 (758943)
81 02/25/2009 (735639)

82 03/20/2009 (749954)
 83 04/13/2009 (749955)
 84 04/13/2009 (749956)
 85 06/11/2009 (768142)
 86 06/29/2009 (760301)
 87 08/31/2009 (484812)
 88 10/12/2009 (778693)
 89 10/13/2009 (777682)
 90 10/13/2009 (778676)

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

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)
 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)
 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)		
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:	10/27/2008 (720822)		
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:	02/06/2009 (758943)	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		

F. Environmental audits.

G. Type of environmental management systems (EMSs).

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. 2009-1722-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 an activated carbon products 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 notice of the violations alleged in Section II ("Allegations") on or about October 18, 2009.
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 Three Thousand Four Hundred Fifty-Six Dollars (\$3,456) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Seven Hundred Sixty-Five Dollars (\$2,765) of the administrative penalty and Six Hundred Ninety-One Dollars (\$691) 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.
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 by April 3, 2009, the Respondent has implemented the following corrective measures at the Plant:
 - a. Regarding Incident No. 118423, training was provided and responsibilities involving the reporting chain of command were adjusted to reflect the duties of Plant personnel and management in the reporting process;
 - b. Began reviewing all potential emissions events five days a week to determine if events are reportable; and
 - c. Once per week, administrative staff reviews the State of Texas Environmental Electronic Reporting System to ensure that all initial events are followed by a final report.
 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 properly report unauthorized emissions during an event on January 5, 2009, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01379, Special Terms and Conditions ("STC") 2F, as documented during an investigation conducted on September 28, 2009. Specifically, the Respondent reported on the initial notification that the only contaminant released during the event was carbon monoxide. However, hydrogen sulfide and particulate matter were also released during the unauthorized emissions event.

2. Failed to submit the final report within two weeks of the emissions event on January 5, 2009, in violation of 30 TEX. ADMIN. CODE §§ 101.201(b) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-01379, STC 2F, as documented during an investigation conducted on September 28, 2009. Specifically, the final report was due on January 19, 2009 but was not submitted until March 20, 2009.
3. Failed to prevent unauthorized emissions during an event that occurred on January 5, 2009, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review Permit No. 5725A, Special Condition 1, and Federal Operating Permit No. O-01379, STC 6, as documented during an investigation conducted on September 28, 2009. Specifically, the unauthorized emissions released were 2,942.6 pounds ("lbs") of carbon monoxide, 93 lbs of hydrogen sulfide, and 809.3 lbs of particulate matter into the atmosphere during the twelve hour event (Incident No. 118423). The event occurred due to compressed gas across the Plant being lost, causing a loss of control of various valves and the boiler feed pump. Safety interlocks vented the furnaces to prevent catastrophic loss, which caused the release of the unauthorized emissions into the atmosphere. Since the emissions event was reported late, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

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. 2009-1722-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 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.
3. 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.

4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. 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

2/17/2010
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

12/29/09
Date

Curtis Miles

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

Manager of Regulatory Affairs

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.

