

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0345-AIR-E **TCEQ ID:** RN102609724 **CASE NO.:** 39243
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 July 12, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Travis Mileur, P.E., Plant Manager, Norit Americas, Inc., 3200 University Avenue, Marshall, Texas 75670 Mr. Ronald D. Thompson, C.E.O., 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 27, 2010</p> <p>Date of NOV/NOE Relating to this Case: February 11, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>1) Failure to submit an application for renewal at least six months prior to expiration of a Federal Operating Permit ("FOP") and continued to operate the Plant after the permit expired. Specifically, the Respondent failed to renew FOP No. O-1379 before the permit expiration date of November 17, 2009 [30 TEX. ADMIN. CODE §§ 122.133(2), 122.121, 122.143(4), and 122.241(b), TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), and FOP O-1379, General Terms and Conditions].</p> <p>2) Failure to include the Certification by a Responsible Official with the March 1, 2009 through August 31, 2009 deviation report [30 TEX. ADMIN. CODE §§ 122.143(4), 122.143(15), and 122.165(a)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP O-1379, General Terms and Conditions].</p> | <p>Total Assessed: \$15,251</p> <p>Total Deferred: \$3,050 <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: \$12,201</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order, submit an administratively complete permit application;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;</p> <p>c. Immediately upon the effective date of this Agreed Order, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the provisions in expired FOP O-1379;</p> <p>d. Within 30 days after the effective date of this Agreed Order, implement a plan to ensure the complete submittal of semi-annual deviation reports;</p> <p>e. 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 Provision d.; and</p> <p>e. Within 360 days after the effective date of this Agreed Order, submit written certification that either authorization to operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained.</p> |

Additional ID No(s): HH0019H



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|----------|-------------|-----------|------------|---------|------------|
| DATES | Assigned | 16-Feb-2010 | Screening | 3-Mar-2010 | EPA Due | 8-Nov-2010 |
| | PCW | 2-Mar-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. | 39243 | No. of Violations | 2 |
| Docket No. | 2010-0345-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Kirk Schoppe |
| | | 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 | \$424 |
| Approx. Cost of Compliance | \$5,250 |

*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 3-Mar-2010

Docket No. 2010-0345-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39243

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

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 | 13 | 26% |
| 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% |
| 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) 51%

>> 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 similar NOV, thirteen non-similar NOVs, and one 1660-styled Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 51%

Screening Date 3-Mar-2010

Docket No. 2010-0345-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39243

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.133(2), 122.121, 122.143(4), and 122.241(b), Tex. Health & Safety Code §§ 382.054 and 382.085(b), and Federal Operating Permit ("FOP") O-1379, General Terms and Conditions

Violation Description Failed to submit an application for renewal at least six months prior to expiration of a FOP and continued to operate the Plant after the permit expired. Specifically, the Respondent failed to renew FOP No. O-1379 before the permit expiration date of November 17, 2009, as documented during a record review conducted on January 27, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | X | | |

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 Number of violation days 106

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$10,000

Four monthly events are recommended based on the permit expiration date of November 17, 2009 to the screening date of March 3, 2010.

Good Faith Efforts to Comply

0.0% Reduction \$0

| | Before NOV | NOV to EDRP/ 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 \$10,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$414

Statutory Limit Test

Violation Final Penalty Total \$15,100

This violation Final Assessed Penalty (adjusted for limits) \$15,100

Economic Benefit Worksheet

Respondent Norit Americas, Inc.
Case ID No. 39243
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

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 | \$5,000 | 17-Nov-2009 | 15-Jul-2011 | 1.66 | \$414 | n/a | \$414 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost for the preparation and submittal of a new permit application. The date required is the date the permit expired. The final date is the expected 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

\$5,000

TOTAL

\$414

Screening Date 3-Mar-2010

Docket No. 2010-0345-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39243

PCW Revision October 30, 2000

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.143(15), and 122.165(a)(7), Tex. Health & Safety Code § 382.085(b), and FCP O-1379, General Terms and Conditions

Violation Description Failed to include the Certification by a Responsible Official with the March 1, 2009 through August 31, 2009 deviation report.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|---------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| Actual | | | | | 0% |
| Potential | | | | | |

>> Programmatic Matrix

| | Falsification | Harm | | | Percent |
|--|---------------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | | | x | 1% |

Matrix Notes

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

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 155 Number of violation days

| | | |
|-------------------------|------------|--|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | |
| single event | x | |

Violation Base Penalty \$100

One single event is recommended based on the missing certification of accuracy and completeness by a responsible official.

Good Faith Efforts to Comply

0.0% Reduction \$0

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent Norit Americas, Inc.
Case ID No. 39243
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 | \$250 | 30-Sep-2009 | 15-Jul-2010 | 0.79 | \$10 | n/a | \$10 |
| 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 of preparation and submittal of a Certification by a Responsible Official. The date required is the date the complete report was due. The final date is the expected 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

\$10

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 | 3335 |
| | 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: March 01, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 01, 2005 to March 01, 2010

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

Name: Kirk Schoppe Phone: 239 - 0489

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.

N/A

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.)

| | | | |
|-----|----|------------|----------|
| N/A | 1 | 03/21/2005 | (419240) |
| | 2 | 05/20/2005 | (419241) |
| | 3 | 06/16/2005 | (419242) |
| | 4 | 08/22/2005 | (440466) |
| | 5 | 08/26/2005 | (407421) |
| | 6 | 09/20/2005 | (440467) |
| | 7 | 10/18/2005 | (467749) |
| | 8 | 11/10/2005 | (432461) |
| | 9 | 11/16/2005 | (467750) |
| | 10 | 12/13/2005 | (467751) |
| | 11 | 01/18/2006 | (467752) |
| | 12 | 02/15/2006 | (455409) |
| | 13 | 02/27/2006 | (467747) |
| | 14 | 03/22/2006 | (467748) |
| | 15 | 03/23/2006 | (460109) |
| | 16 | 04/24/2006 | (497779) |
| | 17 | 04/24/2006 | (497780) |
| | 18 | 05/02/2006 | (464595) |
| | 19 | 07/21/2006 | (486833) |
| | 20 | 08/28/2006 | (484144) |
| | 21 | 08/28/2006 | (530961) |
| | 22 | 09/18/2006 | (519824) |
| | 23 | 09/18/2006 | (519825) |
| | 24 | 09/18/2006 | (519826) |
| | 25 | 09/18/2006 | (519827) |
| | 26 | 10/18/2006 | (516451) |
| | 27 | 10/19/2006 | (519828) |
| | 28 | 11/17/2006 | (544054) |
| | 29 | 12/18/2006 | (544055) |
| | 30 | 01/18/2007 | (544056) |
| | 31 | 02/20/2007 | (544053) |
| | 32 | 02/27/2007 | (541949) |
| | 33 | 03/20/2007 | (574561) |
| | 34 | 03/29/2007 | (593168) |
| | 35 | 04/18/2007 | (574562) |
| | 36 | 05/03/2007 | (593169) |
| | 37 | 05/11/2007 | (574563) |
| | 38 | 06/14/2007 | (574564) |
| | 39 | 07/19/2007 | (574565) |
| | 40 | 07/27/2007 | (593170) |
| | 41 | 08/20/2007 | (601317) |
| | 42 | 09/20/2007 | (601318) |
| | 43 | 09/21/2007 | (595345) |
| | 44 | 10/02/2007 | (607366) |
| | 45 | 10/22/2007 | (601320) |
| | 46 | 11/14/2007 | (619242) |
| | 47 | 12/14/2007 | (619243) |
| | 48 | 01/18/2008 | (619244) |
| | 49 | 01/30/2008 | (609743) |
| | 50 | 02/13/2008 | (616561) |
| | 51 | 02/18/2008 | (671746) |
| | 52 | 03/10/2008 | (638088) |
| | 53 | 03/20/2008 | (671747) |
| | 54 | 04/11/2008 | (671748) |

55 05/05/2008 (699422)
 56 05/20/2008 (689672)
 57 06/13/2008 (699423)
 58 06/19/2008 (689673)
 59 07/08/2008 (689674)
 60 08/19/2008 (710391)
 61 08/29/2008 (700277)
 62 09/19/2008 (710392)
 63 10/19/2008 (710393)
 64 10/23/2008 (705425)
 65 10/27/2008 (720822)
 66 11/05/2008 (706543)
 67 11/17/2008 (727247)
 68 12/17/2008 (749957)
 69 01/19/2009 (727246)
 70 01/19/2009 (727248)
 71 02/06/2009 (758943)
 72 02/25/2009 (735639)
 73 03/20/2009 (749954)
 74 04/13/2009 (749955)
 75 04/13/2009 (749956)
 76 06/11/2009 (768142)
 77 06/29/2009 (760301)
 78 08/31/2009 (484812)
 79 10/12/2009 (778693)
 80 10/13/2009 (777682)

81 10/13/2009 (778676)
 82 01/11/2010 (787332)
 83 02/11/2010 (789871)

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

Date: 06/30/2006 (497780) CN600356372
 N/A 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

Date: 02/11/2010 (789871)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 2 PA
Special Terms and Conditions No. 6 OP

Description: Failure to maintain opacity below 10 percent at the Packhouse Vacuum (EPN PCKVACDCSK) exhaust.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP

Description: Failure to maintain a minimum pH level of 6.4 at Kiln 2.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP

Description: Failure to maintain a minimum gallons per minute (GPM) rate of 550 GPM scrubber liquid flow rate at Kiln 2.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP

Description: Failure to maintain a minimum pH level of 6.4 at Kiln 3.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP

Description: Failure to maintain a minimum gallons per minute (GPM) rate of 550 GPM scrubber liquid flow rate at Kiln 3.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA

Special Terms and Conditions No. 6 OP

Description: Failure to maintain a minimum pH level of 6.4 at Kiln 4.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP

Description: Failure to maintain a minimum gallons per minute (GPM) rate of 550 GPM scrubber liquid flow rate at Kiln 4.

Self Report? NO Classification: Moderate

Citation: Special Condition No. 14A PA
30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Terms and Conditions No. 6 OP

Description: Failure to a maintain records for the Multihearth Furnace No. 2.

F. Environmental audits.

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. 2010-0345-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 notice of the violations alleged in Section II ("Allegations") on or about February 16, 2010.
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 Fifteen Thousand Two Hundred Fifty-One Dollars (\$15,251) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Two Hundred One Dollars (\$12,201) of the administrative penalty and Three Thousand Fifty Dollars (\$3,050) 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 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.
10. 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.
11. 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 an application for renewal at least six months prior to expiration of a Federal Operating Permit ("FOP") and continued to operate the Plant after the permit expired, in violation of 30 TEX. ADMIN. CODE §§ 122.133(2), 122.121, 122.143(4), and 122.241(b), TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), and FOP O-1379, General Terms and Conditions, as documented during a record review conducted on January 27, 2010. Specifically, the Respondent failed to renew FOP No. O-1379 before the permit expiration date of November 17, 2009.
2. Failed to include the Certification by a Responsible Official with the March 1, 2009 through August 31, 2009 deviation report, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.143(15), and 122.165(a)(7), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP O-1379, General Terms and Conditions, as documented during a record review conducted on January 27, 2010.

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. 2010-0345-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE § 122.130 to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
 - c. Immediately upon the effective date of this Agreed Order, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, which ever is earlier, comply with the provisions in expired FOP O-1379;
 - d. Within 30 days after the effective date of this Agreed Order, implement a plan to ensure the complete submittal of semi-annual deviation reports;
 - e. 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 No. 2.d.;
 - f. Within 360 days after the effective date of this Agreed Order, submit written certification that either authorization to operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained; and
 - g. The certifications required by Ordering Provision Nos. 2.e. and f. 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 fines 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

3. 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.
4. 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.
5. 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.
6. 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.
7. 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

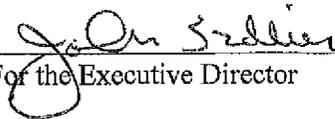
by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

8. 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

Date 6/18/2010

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

Date May 13, 2010

Ronald D. Thompson

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

Title CEO

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.