

**Executive Summary – Enforcement Matter – Case No. 48972  
Cabot Norit Americas, Inc.  
RN102609724  
Docket No. 2014-1579-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Marshall Plant, 3200 University Avenue, Marshall, Harrison County

**Type of Operation:**

Activated carbon manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 6, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$80,797

**Amount Deferred for Expedited Settlement:** \$16,159

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$64,638

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 7, 2012 through May 9, 2012

**Date(s) of NOE(s):** June 22, 2012

**Executive Summary – Enforcement Matter – Case No. 48972**  
**Cabot Norit Americas, Inc.**  
**RN102609724**  
**Docket No. 2014-1579-AIR-E**

***Violation Information***

1. Failed to maintain the minimum pH level for Kiln 2. Specifically, the pH level for Kiln 2 fell below 6.4 standard units ("sq") on eight occasions from September 4, 2010 through August 31, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O3335, Special Terms and Conditions ("STC") No. 8, and New Source Review ("NSR") Permit No. 56552, Special Conditions ("SC") No. 9].
2. Failed to maintain the minimum pH level for Kiln 3. Specifically, the pH level for Kiln 3 fell below 6.4 sq on November 4, 2010 and July 12, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9].
3. Failed to maintain the minimum pH level for Kiln 4. Specifically, the pH level for Kiln 4 fell below 6.4 sq on 12 occasions from September 10, 2010 through November 4, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9].
4. Failed to maintain the minimum flow rate for Kiln 3. Specifically, the minimum flow rate of 550 gallons per minute ("GPM") was not met for Kiln 3 on January 22, 2011 and July 12, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9].
5. Failed to maintain the minimum flow rate for Kiln 4. Specifically, the minimum flow rate of 550 GPM was not met for Kiln 4 on July 13, 2011, July 14, 2011, and November 5, 2011 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. By December 31, 2010, developed a revised recordkeeping form with improved instructions and provided it to the operators to maintain the minimum pH level and the minimum GPM flow rate;
- b. By August 31, 2011, conducted team meetings to address the continued improvements to maintain the minimum pH level and the minimum GPM flow rate; and
- c. By September 30, 2012, instituted a new internal requirement to investigate every permit deviation and corrective action taken promptly to maintain the minimum pH level and the minimum GPM flow rate.

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**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jessica Schildwachter, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2617; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Gavin James Barrack, Facility General Manager, Cabot Norit Americas, Inc., P.O. Box 790, Marshall, Texas 75671

Amy L. Clyde, Safety, Health & Environmental Manager, Cabot Norit Americas, Inc., P.O. Box 790, Marshall, Texas 75671

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	25-Jun-2014	<b>Screening</b>	14-Jul-2014	<b>EPA Due</b>	
	<b>PCW</b>	26-Nov-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Cabot Norit Americas, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN102609724		
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48972	<b>No. of Violations</b>	5	
<b>Docket No.</b>	2014-1579-AIR-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jessica Schildwachter	
		<b>EC's Team</b>	Enforcement Team 5	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$47,250**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **81.0%** Enhancement **Subtotals 2, 3, & 7** **\$38,272**

Notes: Enhancement for one NOV with dissimilar violations and four orders with denial of liability. Reduction for one notice of intent to conduct an audit.

**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** **-\$4,725**

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

Total EB Amounts **\$941**  
 Estimated Cost of Compliance **\$10,000**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$80,797**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$80,797**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$80,797**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$16,159**

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** **\$64,638**

Screening Date 14-Jul-2014

Docket No. 2014-1579-AIR-E

PCW

Respondent Cabot Norit Americas, Inc.

Policy Revision 3 (September 2011)

Case ID No. 48972

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	4	80%
	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 ( <i>number of judgments or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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) 81%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations and four orders with denial of liability.  
Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 81%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 81%

Screening Date 14-Jul-2014

Docket No. 2014-1579-AIR-E

PCW

Respondent Cabot Norit Americas, Inc.

Policy Revision 3 (September 2011)

Case ID No. 48972

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit ("FOP") No. O3335, Special Terms and Conditions ("STC") No. 8, and New Source Review ("NSR") Permit No. 56552, Special Conditions ("SC") No. 9

Violation Description Failed to maintain the minimum pH level for Kiln 2. Specifically, the pH level for Kiln 2 fell below 6.4 on eight occasions from September 4, 2010 through August 31, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				7.0%
Potential			x	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 8 Number of violation days 8

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

Violation Base Penalty \$14,000

Eight single events are recommended (one event for each occasion).

Good Faith Efforts to Comply

10.0%

Reduction \$1,400

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

Notes The Respondent completed corrective actions by September 30, 2012 after the June 22, 2012 NOE.

Violation Subtotal \$12,600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$518

Violation Final Penalty Total \$23,940

This violation Final Assessed Penalty (adjusted for limits) \$23,940

## Economic Benefit Worksheet

**Respondent** Cabot Norit Americas, Inc.  
**Case ID No.** 48972  
**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				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	4-Sep-2010	30-Sep-2012	2.07	\$518	n/a	\$518

#### Notes for DELAYED costs

Estimated cost to implement measures to ensure compliance with the minimum pH levels for Kilns 2, 3, and 4. The Date Required is the first date of non-compliance 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

\$5,000

**TOTAL**

\$518

**Screening Date** 14-Jul-2014  
**Respondent** Cabot Norit Americas, Inc.  
**Case ID No.** 48972  
**Reg. Ent. Reference No.** RN102609724  
**Media [Statute]** Air  
**Enf. Coordinator** Jessica Schildwachter

**Docket No.** 2014-1579-AIR-E

**PCW**

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

**Violation Number**

**Rule Cite(s)**  
 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9

**Violation Description**  
 Failed to maintain the minimum pH level for Kiln 3. Specifically, the pH level for Kiln 3 fell below 6.4 on November 4, 2010 and July 12, 2011.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="7.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Human health or the environment will or could be 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**

**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**

Two single events are recommended (one event for each occasion).

**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 checked="" type="checkbox"/>
N/A	<input type="text"/>	(mark with x)

**Notes**  
 The Respondent completed corrective actions by September 30, 2012 after the June 22, 2012 NOE.

**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** Cabot Norit Americas, Inc.  
**Case ID No.** 48972  
**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				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

Economic Benefit included in Violation No. 1.

### 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

Screening Date 14-Jul-2014

Docket No. 2014-1579-AIR-E

PCW

Respondent Cabot Norit Americas, Inc.

Policy Revision 3 (September 2011)

Case ID No. 48972

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9

Violation Description

Failed to maintain the minimum pH level for Kiln 4. Specifically, the pH level for Kiln 4 fell below 6.4 on 12 occasions from September 10, 2010 through November 4, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be 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 \$23,250

\$1,750

Violation Events

Number of Violation Events 12

12 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$21,000

Twelve single events are recommended (one event for each occasion).

Good Faith Efforts to Comply

10.0%

Reduction \$2,100

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent completed corrective actions by September 30, 2012 after the June 22, 2012 NOE.

Violation Subtotal \$18,900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$35,910

This violation Final Assessed Penalty (adjusted for limits) \$35,910

# Economic Benefit Worksheet

**Respondent** Cabot Norit Americas, Inc.  
**Case ID No.** 48972  
**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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit included in Violation No. 1.

### 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

Screening Date 14-Jul-2014

Docket No. 2014-1579-AIR-E

PCW

Respondent Cabot Norit Americas, Inc.

Policy Revision 3 (September 2011)

Case ID No. 48972

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9

Violation Description

Failed to maintain the minimum flow rate for Kiln 3. Specifically, the minimum flow rate of 550 gallons per minute ("GPM") was not met for Kiln 3 on January 22, 2011 and July 12, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be 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 \$23,250

\$1,750

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,500

Two single events are recommended (one event for each occasion).

Good Faith Efforts to Comply

10.0%

Reduction \$350

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

Notes

The Respondent completed corrective actions by September 30, 2012 after the June 22, 2012 NOE.

Violation Subtotal \$3,150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$423

Violation Final Penalty Total \$5,985

This violation Final Assessed Penalty (adjusted for limits) \$5,985

## Economic Benefit Worksheet

**Respondent** Cabot Norit Americas, Inc.  
**Case ID No.** 48972  
**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				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)	\$5,000	22-Jan-2011	30-Sep-2012	1.69	\$423	n/a	\$423

**Notes for DELAYED costs**

Estimated cost to implement measures to ensure compliance with the minimum GPM flow rate for Kilns 3 and 4. The Date Required is the first date of non-compliance 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

\$5,000

**TOTAL**

\$423

Screening Date 14-Jul-2014

Docket No. 2014-1579-AIR-E

PCW

Respondent Cabot Norit Americas, Inc.

Policy Revision 3 (September 2011)

Case ID No. 48972

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9

Violation Description

Failed to maintain the minimum flow rate for Kiln 4. Specifically, the minimum flow rate of 550 GPM was not met for Kiln 4 on July 13, 2011, July 14, 2011, and November 5, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be 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 \$23,250

\$1,750

Violation Events

Number of Violation Events 3

3 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,250

Three single events are recommended (one event for each occasion).

Good Faith Efforts to Comply

10.0%

Reduction \$525

Before NOV. NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent completed corrective actions by September 30, 2012 after the June 22, 2012 NOE.

Violation Subtotal \$4,725

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,978

This violation Final Assessed Penalty (adjusted for limits) \$8,978

# Economic Benefit Worksheet

**Respondent** Cabot Norit Americas, Inc.  
**Case ID No.** 48972  
**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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit 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

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PENDING** Compliance History Report for CN600356372, RN102609724, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN600356372, Cabot Norit Americas, Inc. **Classification:** SATISFACTORY **Rating:** 6.84

**Regulated Entity:** RN102609724, MARSHALL PLANT **Classification:** SATISFACTORY **Rating:** 7.94

**Complexity Points:** 25 **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 3200 UNIVERSITY AVENUE MARSHALL, TX 75670-4842, HARRISON COUNTY

**TCEQ Region:** REGION 05 - TYLER

## ID Number(s):

**POLLUTION PREVENTION PLANNING ID NUMBER**  
P02060

**WASTEWATER EPA ID** TX0000710

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE**  
**REGISTRATION # (SWR)** 30101

**AIR NEW SOURCE PERMITS PERMIT** 3068A

**AIR NEW SOURCE PERMITS REGISTRATION** 41090

**AIR NEW SOURCE PERMITS AFS NUM** 4820300001

**AIR NEW SOURCE PERMITS PERMIT** 56552

**AIR NEW SOURCE PERMITS REGISTRATION** 78103

**AIR NEW SOURCE PERMITS EPA PERMIT** PSDTX1183

**AIR NEW SOURCE PERMITS REGISTRATION** 95581

**AIR NEW SOURCE PERMITS REGISTRATION** 119095

**AIR NEW SOURCE PERMITS REGISTRATION** 112509

**AIR NEW SOURCE PERMITS REGISTRATION** 110066

**AIR OPERATING PERMITS PERMIT** 3335

**STORMWATER PERMIT** TXR05AQ01

**WASTEWATER PERMIT** WQ0000703000

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID** TXD008050189  
**AIR NEW SOURCE PERMITS PERMIT** 2265A

**AIR NEW SOURCE PERMITS PERMIT** 5725A

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** HH0019H

**AIR NEW SOURCE PERMITS REGISTRATION** 56497

**AIR NEW SOURCE PERMITS REGISTRATION** 72698

**AIR NEW SOURCE PERMITS PERMIT** 78421

**AIR NEW SOURCE PERMITS REGISTRATION** 89199

**AIR NEW SOURCE PERMITS REGISTRATION** 102514

**AIR NEW SOURCE PERMITS REGISTRATION** 112511

**AIR NEW SOURCE PERMITS REGISTRATION** 106336

**AIR OPERATING PERMITS ACCOUNT NUMBER** HH0019H

**AIR OPERATING PERMITS PERMIT** 3335

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER**

HH0019H

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** October 23, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 23, 2009 to October 23, 2014

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Jessica Schildwachter

**Phone:** (512) 239-2617

## Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## **Components (Multimedia) for the Site Are Listed in Sections A - J**

### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 04/11/2010 ADMINORDER 2009-1722-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:STC 2F OP  
Description: Failure to list all individually listed compounds on the initial notification which were known through process knowledge to have exceeded the reportable quantity during the emissions event. The initial notification for Incident # 118423 only listed carbon monoxide, but the final notification included hydrogen sulfide and particulate matter, both above the reportable quantities.  
Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:STC 2F OP  
Description: Failure to submit the final report within two weeks after the end of the emissions event. The emissions event for Incident # 118423 ended on January 5, 2009 and was due to be submitted by January 19, 2009, but the final report was not submitted until March 20, 2009 (60 days after the final was due). 30 TAC 101.201(b) requires that the final report be submitted no later than two weeks after the end of the event.  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
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:SC 1 PERMIT  
STC 6 OP  
Description: Failure to prevent unauthorized emissions during an emissions event (Incident # 118423) at Kiln 5. Since NORIT failed to properly report the emissions event as described above, the affirmative defense was not met pursuant to 30 TAC 101.222(b)(1). During the event, NORIT released a total of 10,180 pounds of carbon monoxide (CO), a total of 256 pounds of hydrogen sulfide (H2S), and a total of 2,400 pounds of particulate matter (PM) over a 12 hour period.
- 2 Effective Date: 08/30/2010 ADMINORDER 2010-0345-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 30 TAC Chapter 122, SubChapter B 122.121  
30 TAC Chapter 122, SubChapter B 122.133(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter C 122.241(b)  
5C THSC Chapter 382 382.054  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:Federal Operating Permit No. O-1379 OP  
Description: 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.  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(15)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.165(a)(7)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:General Terms and Conditions OP  
Description: Failure to include the Certification by a Responsible Official with the March 1, 2009 through August 31, 2009 deviation report.
- 3 Effective Date: 03/03/2012 ADMINORDER 2011-0850-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:Special Condition 1(A) PERMIT  
Special Condition 5(C)(1) PA  
Special Condition 8(E) PA  
Description: Failed to comply with permitted emission rates, maximum outlet grain loading limit, and control efficiencies during a stack test conducted on December 21, 2010 on the Multi-Hearth Furnace No. 2 Stack (EPN MHF2STACK).

Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:Special Conditions 1(A) and 5(C)(1) PA

Description: Failed to comply with permitted emission rates and the maximum outlet grain loading limit during a stack test conducted on December 20, 2010 on the Multi-Hearth Furnace No. 2 Feed Bin [Emission Point Number ("EPN") M2FDBNDCVT].

4 Effective Date: 03/06/2014 ADMINORDER 2013-1533-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:General Terms and Conditions OP  
Special Terms and Conditions 2 OP

Description: Failure to properly notify the Tyler Regional Office of a reportable emissions event during the localized fire at MHF3 Cyclone #1.

Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)  
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
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:General Terms and Conditions OP  
Special Terms and Conditions 2 OP

Description: Failure to prevent unauthorized emissions during the localized fire at MHF3 Cyclone #1.

Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov:GC OP

Description: Failure to maintain the Ammonia (NH3) 2.75 lb/hr allowable emission rate at the Multi-Hearth Furnace No. 2 Stack (EPN MHF2STACK) below NSR Permit No. 102514 limits.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	November 18, 2009	(803986)
Item 2	November 24, 2009	(803985)
Item 3	December 21, 2009	(803988)
Item 4	December 30, 2009	(803983)
Item 5	January 11, 2010	(787332)
Item 6	January 16, 2010	(803989)
Item 7	February 16, 2010	(803982)
Item 8	March 23, 2010	(830605)
Item 9	April 17, 2010	(830606)
Item 10	May 13, 2010	(830607)
Item 11	May 20, 2010	(802609)
Item 12	June 17, 2010	(846174)
Item 13	July 16, 2010	(860771)
Item 14	July 23, 2010	(841721)
Item 15	July 29, 2010	(841640)
Item 16	August 17, 2010	(866736)
Item 17	September 07, 2010	(849995)
Item 18	October 04, 2010	(865559)
Item 19	October 14, 2010	(881414)
Item 20	October 28, 2010	(870691)
Item 21	November 01, 2010	(872197)
Item 22	November 15, 2010	(887944)

Item 23	December 13, 2010	(881314)
Item 24	December 16, 2010	(896137)
Item 25	December 21, 2010	(884490)
Item 26	January 17, 2011	(902214)
Item 27	February 08, 2011	(894536)
Item 28	February 17, 2011	(908990)
Item 29	March 14, 2011	(916255)
Item 30	March 23, 2011	(907054)
Item 31	April 14, 2011	(924529)
Item 32	May 18, 2011	(937933)
Item 33	June 14, 2011	(923010)
Item 34	June 17, 2011	(945244)
Item 35	July 12, 2011	(952530)
Item 36	August 19, 2011	(959213)
Item 37	August 25, 2011	(949340)
Item 38	September 17, 2011	(965216)
Item 39	October 17, 2011	(971284)
Item 40	November 18, 2011	(977441)
Item 41	December 20, 2011	(984212)
Item 42	January 20, 2012	(990502)
Item 43	February 06, 2012	(982735)
Item 44	February 20, 2012	(997874)
Item 45	February 27, 2012	(988766)
Item 46	March 13, 2012	(993694)
Item 47	March 19, 2012	(1003388)
Item 48	April 04, 2012	(994268)
Item 49	April 13, 2012	(997381)
Item 50	April 19, 2012	(1009954)
Item 51	May 17, 2012	(1016351)
Item 52	June 18, 2012	(1024075)
Item 53	June 22, 2012	(1013518)
Item 54	August 13, 2012	(1023795)
Item 55	October 22, 2012	(1060571)
Item 56	November 26, 2012	(1060572)
Item 57	November 28, 2012	(1041510)
Item 58	December 18, 2012	(1051283)
Item 59	December 19, 2012	(1060570)
Item 60	December 27, 2012	(1060573)
Item 61	January 14, 2013	(1053571)
Item 62	January 22, 2013	(1078779)
Item 63	January 24, 2013	(1053517)
Item 64	February 20, 2013	(1078778)
Item 65	March 19, 2013	(1089212)
Item 66	April 24, 2013	(1095605)
Item 67	May 21, 2013	(1106531)
Item 68	June 25, 2013	(1110208)
Item 69	July 23, 2013	(1117087)
Item 70	August 22, 2013	(1124845)
Item 71	September 20, 2013	(1129449)
Item 72	October 22, 2013	(1135176)
Item 73	November 19, 2013	(1140578)
Item 74	December 18, 2013	(1147033)
Item 75	February 19, 2014	(1160439)
Item 76	February 26, 2014	(1144896)
Item 77	March 20, 2014	(1167087)
Item 78	April 16, 2014	(1158138)
Item 79	April 17, 2014	(1174220)
Item 80	May 19, 2014	(1180408)
Item 81	June 18, 2014	(848830)
Item 82	June 19, 2014	(1187305)
Item 83	July 18, 2014	(1198360)

Item 84 August 14, 2014 (1198361)  
Item 85 September 05, 2014 (1192485)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 01/21/2014 (1134589) CN600356372  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(G)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Special Terms and Conditions 2 PERMIT  
Description: Failure to properly report all individual listed compounds or mixtures of air  
contaminants on the final report for several reportable emissions events

**F. Environmental audits:**

Notice of Intent Date: 10/19/2012 (1058534)  
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  
CABOT NORIT AMERICAS, INC.  
RN102609724**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2014-1579-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cabot Norit Americas, Inc. ("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 together stipulate that:

1. The Respondent owns and operates a activated carbon manufacturing plant located 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 Executive Director 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 June 27, 2012.
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 Eighty Thousand Seven Hundred Ninety-Seven Dollars (\$80,797) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Sixty-Four Thousand Six Hundred Thirty-Eight Dollars (\$64,638) of the administrative penalty and Sixteen

Thousand One Hundred Fifty-Nine Dollars (\$16,159) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. By December 31, 2010, developed a revised recordkeeping form with improved instructions and provided it to the operators to maintain the minimum pH level and the minimum gallons per minute ("GPM") flow rate;
  - b. By August 31, 2011, conducted team meetings to address the continued improvements to maintain the minimum pH level and the minimum GPM flow rate; and
  - c. By September 30, 2012, instituted a new internal requirement to investigate every permit deviation and corrective action taken promptly to maintain the minimum pH level and the minimum GPM flow rate.
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 maintain the minimum pH level for Kiln 2, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit ("FOP") No. O3335, Special Terms and Conditions ("STC") No. 8, and

New Source Review ("NSR") Permit No. 56552, Special Conditions ("SC") No. 9, as documented during a record review conducted from May 7, 2012 through May 9, 2012. Specifically, the pH level for Kiln 2 fell below 6.4 on eight occasions from September 4, 2010 through August 31, 2011.

2. Failed to maintain the minimum pH level for Kiln 3, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9, as documented during a record review conducted from May 7, 2012 through May 9, 2012. Specifically, the pH level for Kiln 3 fell below 6.4 on November 4, 2010 and July 12, 2011.
3. Failed to maintain the minimum pH level for Kiln 4, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9, as documented during a record review conducted from May 7, 2012 through May 9, 2012. Specifically, the pH level for Kiln 4 fell below 6.4 on 12 occasions from September 10, 2010 through November 4, 2011.
4. Failed to maintain the minimum flow rate for Kiln 3, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9, as documented during a record review conducted from May 7, 2012 through May 9, 2012. Specifically, the minimum flow rate of 550 GPM was not met for Kiln 3 on January 22, 2011 and July 12, 2011.
5. Failed to maintain the minimum flow rate for Kiln 4, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O3335, STC No. 8, and NSR Permit No. 56552, SC No. 9, as documented during a record review conducted from May 7, 2012 through May 9, 2012. Specifically, the minimum flow rate of 550 GPM was not met for Kiln 4 on July 13, 2011, July 14, 2011, and November 5, 2011.

### 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: Cabot Norit Americas, Inc., Docket No. 2014-1579-AIR-E" to:

Financial Administration Division, Revenue Operations 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pamela M. ...  
For the Executive Director

6/11/15  
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.

G. Barrack  
Signature

2/4/2015  
Date

GAVIN JAMES BARRACK  
Name (Printed or typed)  
Authorized Representative of  
Cabot Norit Americas, Inc.

FACILITY GENERAL MANAGER  
Title

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