

STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Articles 19 and
27 of the Environmental
Conservation Law of the State of
New York and Title 6 of the Official
Compilation of the Codes, Rules and
Regulations of the State of New York

DEC CASE NO.
R4-2014-0017-6

ORDER ON CONSENT

NORLITE CORPORATION

Respondent.

1. The New York State Department of Environmental Conservation (DEC or Department) is the State agency with jurisdiction over the environmental law and policy of the State pursuant to § 3-0301 of the Environmental Conservation Law (ECL). In particular, DEC is and has been responsible for the enforcement of the transportation, storage and disposal of hazardous waste and the protection of air resources pursuant to ECL Articles 27 and 19 and the rules and regulations promulgated there under.
2. Respondent, Norlite, LLC, is a Limited Liability Company of the State of Delaware that owns and operates a hazardous waste management facility and light aggregate plant at 628 South Saratoga St., City of Cohoes, County of Albany, New York (“facility”).
3. Respondent operates the facility pursuant to a RCRA permit (“permit”) (EPA Identification Number: NY D080469935) that contains special conditions) and RCRA regulations in 6 NYCRR Parts 372- 374 et seq.
4. On March 21, 2012, Department staff conducted an annual inspection of the facility to determine its compliance with applicable RCRA regulations and its permit.

AIR VIOLATION

5. Regulations at 6 NYCRR Section 211.2 states that “No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others”.

6. Regulations at 6 NYCRR Part 201-1.2 states "Except as otherwise provided by this Part, construction or operation of a new, modified or existing air contamination source without a registration or permit issued pursuant to this Part is prohibited."

7. On July 31, 2013, the facility released methyl methacrylate vapor to the atmosphere at approximately 10:30 P.M. Representatives from the Department, Albany County Sheriff's Office, New York State Department of Health, Cohoes fire and police departments responded. The release affected the comfortable enjoyment of City residents.

8. Respondent's July 31, 2013 release of methyl methacrylate vapor to the atmosphere that unreasonably interfered with the comfortable enjoyment of City residents and was emitted from an unpermitted vent are violations of 6 NYCRR Section 201-1.2 and 6 NYCRR Section 211.2.

December 11, 2012 VIOLATION

9. On December 11, 2012, a Department officer responded to the facility regarding a leak.

10. Module III of the permit requires that the Respondent shall only store hazardous wastes described in Attachment C of the permit. All container unloading and loading operations shall occur in the area having secondary containment meeting the requirements of Condition B of this module.

11. On December 11, 2012, Respondent had a discharge from a vacuum truck that was used to remove and store floor washing and rain water from cleaning of LLGF Storage Building and the truck was not parked in an authorized area.

12. Respondent violated Module III of the permit by storing the vacuum truck in an unauthorized area of the facility. The Respondent subsequently moved the vacuum truck into a permitted area and off-loaded the vehicle and this violation was corrected.

RCRA INSPECTION VIOLATIONS

SIGNAGE

13. Regulations at 6 NYCRR 373-2.10 (e) (4) and Condition IV.D.5 of the permit require Respondent to mark all tanks with the words "Hazardous Waste" and with other words that identify the contents of the tanks.

14. On March 21, 2012, Department staff observed that the Hazardous Waste sign on Tank 200 B in the Hazardous Waste Tanks Building (a.k.a. LLGF Storage Building) was on the floor and not affixed to the tank. This violation was corrected during the inspection by having plant personnel affix the sign to the tank.

15. Respondent's failure to have a Hazardous Waste sign affixed to Tank 200 B is a violation

of 6NYCRR Part 373-2.10(e)(4) and Condition IV.D.5 of the permit.

INSPECTIONS REPORTS

16. Regulations at 6 NYCRR 373-2.2(g) (4) provide that the owner or operator must record inspections in an inspection log or summary.

17. On March 21, 2012, Department staff compared Respondent's Fuel Farm Daily Inspection reports and RCRA Weekly Inspections reports and observed 45 different instances of inconsistent information in the reports.

18. Respondent violated 6 NYCRR 373-2.2(g) (4) on 45 occasions by failing to properly record information in its inspections logs.

BEST MANAGEMENT PRACTICES PLAN

19. Permit Attachment N / Special Condition #9c requires that Respondent maintain compliance with its Norlite Best Management Practices Plan (Revision 1 dated 4/30/92 and as revised 10/26/95) and update as necessary.

20. On March 21, 2012, Department staff reviewed Respondent's Best Management Practices Plan and observed that the plan was not updated to address personnel turnover, and to reflect new or changed operations at the facility.

21. Respondent's failure to update its Best Management Practices Plan is a violation of Permit Attachment N / Special Condition #9c.

FUGITIVE DUST PLAN

22. Permit Attachment O /Special Condition 9b requires Respondent to comply with the recommended control measures found in the approved Fugitive Dust Control Plan by Sci-Tech (dated 10/95 and updated 12/14/01) and to revise the plan, if appropriate; and submit revisions to the Department by March 31st of each year; and implement the plans including any revisions, within 30 days of approval by Department.

23. On March 21, 2012, Department staff observed fines from its Finish Plant and Primary Shale Crusher silos that were formally stored in silos was stored on the ground and/or in makeshift structures which aren't reflected in the Fugitive Dust Control Plan.

24. Respondent violated Permit Attachment O /Special Condition 9b by failing to properly implement the plan.

WEBSITE

25. Permit General Condition C requires that the Respondent maintain a web site accessible to public that includes required information.
26. On March 21, 2012, Department staff reviewed Respondent's website and found that it failed to include all the required information.
27. Respondent violated Permit General Condition C by failing to maintain a website that contained the required information.

UNIVERSAL WASTE

28. Regulations at 6 NYCRR 374-3.2(d)(4)(i) require that the Respondent place universal waste lamps in a container that is closed, structurally sound, adequate to prevent breakage, compatible with the contents, and must lack evidence of leakage, spillage, or damage.
29. On March 21, 2013, Department staff observed two 4' long boxes of Universal Waste - Spent Fluorescent Lamps not closed and one box had an open hand hole and one box had the top flap open.
30. Respondent violated 6 NYCRR 374-3.2 (d) (4) (i) by having two open boxes of Universal Waste - Spent Fluorescent Lamps. Both boxes were closed by Respondent at the time of the inspection.

CAPS, FLANGES, PLUGS AND VALVES

31. Regulations at 6 NYCRR 373-3.28 (g) (1) requires each open-ended valve or line shall be equipped with a cap, blind flange, plug or a second valve.
32. On March 21, 2013, Department staff observed that the sampling port cap on pump 4 was not screwed in and was lying on the ground.
33. Respondent violated 6 NYCRR 373-3.28 (g) (1) by not having port cap on pump 4 sampling port. Respondent has since attached all its caps by chains.

CIVIL PENALTIES

34. ECL Section 71-2705(1) provides for a maximum civil penalty of \$37,500 for the first day of a violation and each day thereafter of a regulation promulgated under Title 13 of ECL Article 27.
35. ECL Section 71-2103(1) provides for a civil penalty of not less than five hundred dollars nor more than eighteen thousand dollars for a violation of a regulation and an additional penalty of not to exceed fifteen thousand dollars for each day during which such violation continues.

WAIVER OF HEARING

36. Respondent has affirmatively waived the right to notice and hearing in the manner provided by law, has consented to the issuing and entering of this Order, and agrees to be bound by the terms, provisions and conditions contained therein.

NOW, having considered this matter and being duly advised, it is ORDERED THAT:

I. Civil Penalty

Respondent is hereby assessed a civil penalty in the amount of ONE HUNDRED FORTY THREE THOUSAND TWO HUNDRED DOLLARS (\$143,200). The civil penalty shall be paid to the Department of Environmental Conservation by certified check with the return of the signed Order.

II. Settlement

Timely payment of the civil penalty called for above and full compliance with the terms and conditions of this Order is accepted as full settlement of the violations described above.

III. Communications

All communications required herein shall be made to: Department - DEC Region 4, 1130 North Westcott Road, Schenectady, NY 12306, Attn: Regional Engineer; and Respondent - Mark Coombs, Norlite LLC, 628 South Saratoga Street, P.O. Box 694, Cohoes, New York 12047.

IV. Access

Respondent shall allow duly authorized representatives of DEC access to the facility referred to in this Order without prior notice, at such times as may be desirable or necessary in order for DEC to inspect and determine the status of Respondent's compliance with this Order or the ECL.

V. Summary Abatement

This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

VI. Indemnification

Respondent shall indemnify and hold DEC, New York State, and their representatives and employees harmless for all claims, suits, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions hereof by

Respondent, its directors, officers, employees, servants, agents, successors or assigns.

VII. Entire Agreement; Modification

This Order constitutes the entire agreement of the parties, and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Commissioner or Regional Director of DEC indicating intent to modify this Order.

VIII. Effective Date

The effective date of this Order shall be the date it is signed by the Regional Director.

IX. Termination Date

This Order shall terminate upon the latter of the Respondent's compliance with the requirements of this Order or two years from the effective date of the Order.

X. Third Parties

This Order is made strictly for the purposes of the Department, the State of New York and the United States Environmental Protection Agency and is not intended for use by any third party.

DATED: Rotterdam, New York
February 2014

Joseph Martens

Commissioner
New York State Department of
Environmental Conservation

BY:

Eugene J. Kelly
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order on Consent, waives its rights to notice and hearing herein and agrees to be bound by the provisions, terms and

conditions contained herein.

BY: _____

TITLE: _____

DATE: _____

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the ____ day of _____ in the year 2014, before me, the undersigned,
personally appeared _____,
(Full name)
personally known to me who, being duly sworn, did depose and say that he/she/they reside at

(Full mailing address)

and that he/she/they is (are) the _____
(President or other officer or director or attorney in fact duly appointed)

of the _____,
(Full legal name of corporation)

the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.

Notary Public, State of New York