

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4

1130 North Westcott Road, Schenectady, NY 12306-2014

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www.dec.ny.gov

August 28, 2020

Mr. David Maguffin
Norlite LLC.
628 South Saratoga Street
Cohoes, NY 12047
david.maguffin@tradebe.com

Re: Notice of Incomplete Application
Norlite, LLC
City of Cohoes, Albany County

Air Title V Permit Application
DEC ID Number 4-0103-00016/00048

RCRA Part 373 Permit Application
DEC ID: 4-0103-00016/00016
EPA ID: NYD080469935

Dear Mr. Maguffin:

On July 1, 2020, New York State Department of Environmental Conservation (DEC) received the applications to renew Norlite, LLC's existing Air Title V permit and Part 373 hazardous waste permit for the facility located at 628 South Saratoga Street in the City of Cohoes, New York. Upon initial review of the submitted application materials, DEC determined that the applications are incomplete. In addition, DEC determined that the opportunity for public comment on the application materials is necessary and that, consequently, the applications will be treated as new permit applications pursuant to 6 NYCRR Part 621.11(h)(3). Please provide the following additional information:

Environmental Justice

Pursuant to a preliminary screen, DEC determines that the facility is near an environmental justice area (Census Tract 012800, Block Group 1) and that potential adverse environmental impacts related to the applications are likely to affect an environmental justice area. Accordingly, environmental justice concerns shall be incorporated into this permit process pursuant to DEC Commissioner Policy 29, Environmental Justice (CP-29).

Please develop and submit a proposed CP-29 public participation plan identifying, at a minimum: (i) all stakeholders, including residents adjacent to and in the vicinity of the facility, local elected officials, community-based organizations, and other community residents; (ii) a complete description of the procedures that will be used to distribute and post written information on the permit process in an easy-to-read, understandable format using plain



language; (iii) a complete description of the procedures to be used to hold at least two public information meetings at locations and times convenient to the stakeholders to keep the public fully informed about the permit process; and (iv) a complete description of the procedures to be used to establish easily accessible document repositories to make available pertinent information, including but not limited to application materials, reports, meeting presentation materials, media releases, and correspondence between Norlite and DEC. Please take notice that DEC will require in the public participation plan that the public notice, information repository, and recordkeeping procedures are no less comprehensive than the procedures for expanded public participation under 6 NYCRR Subpart 373-1.10.

In addition, in accordance with CP-29,¹ a health outcome report shall be prepared as part of the new permit application. Guidance on the preparation of this report is available from the New York State Department of Health (DOH).²

Human Health and Ecological Risk Assessment

Numerous public health concerns have arisen recently regarding the facility's operations, as well as questions relating to whether and to what extent, if any, such operations are resulting in exposures that increase the risk of health effects for residents of the local community beyond direct inhalation exposure. Concerns have also been raised about potential ecological effects on the surrounding area from emissions.

DEC had required that Norlite prepare and submit an Updated Multi-Pathway Risk Assessment Technical Report, which was prepared by ENSR Corporation in April 2002 and revised in October 2002, in connection with one of Norlite's prior permit renewal applications. DEC recognizes the conclusions stated in those past assessments but also recognizes that changes to the air pollution control system and feed rates have the potential to result in changes in emission rates of air contaminants and that no formal multi-pathway human health risk assessment has been undertaken and submitted to DEC regarding the facility's operations since 2005. Accordingly, a Second Updated Multi-Pathway Human Health and Ecological Risk Assessment Report (the Second Updated Report) shall be submitted for DEC and DOH approval. This report will be prepared in accordance with the U.S. Environmental Protection Agency's (EPA) Human Health Risk Assessment Protocol (2005).³ Norlite will assess any changes in the human and ecological health risk assessment methods from the 2005 report and address them in the submitted protocol for the Second Updated Report.⁴ Guidance on the development of an Ecological Risk Assessment is available from the EPA.⁵

Please submit to DEC for approval a proposed protocol for the Second Updated Report. The protocol shall be made available for public review and comment as part of the environmental

¹ <https://www.dec.ny.gov/regulations/36951.html>

² Background information and updated Guidance for Health Data Review and Analysis Relating to NYSDEC Environmental Justice Requirements for CP-29, updated June 2017, can be found here: https://www.health.ny.gov/environmental/investigations/environmental_justice/hod/index.htm

³ See <https://archive.epa.gov/epawaste/hazard/tsd/td/web/html/risk.html>;
<https://archive.epa.gov/epawaste/hazard/tsd/td/web/html/ecorisk.html>;
<https://archive.epa.gov/epawaste/hazard/tsd/td/web/html/combustion.html>

⁴ <https://www.epa.gov/risk/human-health-risk-assessment>

⁵ <https://www.epa.gov/risk/guidelines-ecological-risk-assessment>

justice public participation process described above. DEC will review the protocol and any public participation comments before approving or conditionally approving the protocol. DEC's review will be informed by the EPA's Human Health Risk Assessment Protocol (2005) and will include review and comment from DOH. When the protocol is approved, Norlite will be obligated to prepare and submit the Second Updated Report in accordance with the approved protocol before DEC will make a final determination on the Part 373 hazardous waste permit application.

Community Risk and Resiliency Act

Section 9 of the New York State Climate Protection and Community Leadership Act added a new Section 17-b to the Community Risk and Resiliency Act, which provides that major permits for certain regulatory programs "shall require applicants to demonstrate that future physical climate risk has been considered." Critical facilities, including facilities designed for bulk storage of chemicals, hazardous or toxic substances or floatable materials, must be designed, constructed and continue to remain fully operational and functional under the highest sea level rise projections for the particular geographic area. The Environmental Assessment Form submitted with the applications notes that the facility is located within the 100-year floodplain.

Please clarify all of the ways in which Norlite has considered future physical climate risk as required by Section 17-b of the Community Risk and Resiliency Act.

State Environmental Quality Review Act

As required by DEC regulations at 6 NYCRR Part 617, an entire set of activities or steps must be considered as one "action" upon which a determination under the State Environmental Quality Review Act is made. Please identify with specificity whether there are any known or suspected permit modifications that may be required in connection with the Air Title V permit and/or Part 373 hazardous waste permit prior to December 31, 2020, even if the plans or reports are not at their final design stage.

Incomplete Forms

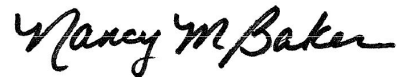
Norlite failed to include the 6 NYCRR Part 373 Permit Application Technical Completeness Checklist, which was provided to Norlite on April 28, 2020. A completed copy of the checklist is required as part of the application.

Facility and Site Inspection

DEC staff may inspect the facility and surrounding area to verify existing conditions, determine the accuracy of materials submitted in the application, assess impacts on the environment in the immediate and surrounding area, and determine whether the project satisfies applicable permitting standards. The inspection may require one or more site visits. During the inspection, please take notice that measurements may be made, physical characteristics of the site may be analyzed, including but not limited to soils and vegetation, and photographs may be taken. If held, the inspection will occur on a date(s) and at a time(s) between 7:00 a.m. and 7:00 p.m. Monday through Friday, for which DEC will endeavor to provide 24-hour prior written notice.

Review of your applications will continue when your response is received. This Notice of Incomplete Application does not waive or restrict DEC from requiring, by further written notice, additional information for administrative completeness or technical review. If you have any questions, please feel free to contact Kate Kornak, Deputy Regional Permit Administrator, at Kate.Kornak@dec.ny.gov or (518) 357-2459.

Sincerely,

A handwritten signature in black ink that reads "Nancy M Baker". The signature is written in a cursive style with a large, stylized "N" and "B".

Nancy Baker
Regional Permit Administrator

Ec: Norlite/Tradebe (Prince Knight III, Tita LaGrimas, Sergio Nusimovich, Ivan Nusimovich)
NYSDEC Region 4
NYSDEC Central Office
NYSDOH
City of Cohoes
Town of Colonie