

New York State Department of Environmental Conservation
Facility DEC ID: 4010300016

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Date: 05/12/2023

NOTICE OF VIOLATION

Owner: NORLITE LLC
PO BOX 694
COHOES, NY 12047-0694

Facility: NORLITE LLC
628 S SARATOGA ST
COHOES, NY 12047

Contact: Prince Knight, NORLITE LLC
628 S Saratoga St
Cohoes, NY 12047

PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF NEW YORK STATE AIR POLLUTION CONTROL LAW, Article 19 of the Environmental Conservation Law ('ECL'), applicable regulations at 6 NYCRR Part 211.1, and DEC Air Title V Permit No. 4-0103-00016/00048, Facility ID 4010300016 (ATV Permit) in connection with operation of the above-named Facility as set forth herein.

PLEASE TAKE FURTHER NOTICE that this Notice of Violation pertains to data and Department Staff observations relative to PM-10 from September 13, 2022 up to and including March 27, 2023 only.

Compliance Status Determined On : 04/20/2023

Compliance Status Determined By : BENJAMIN POTTER
NYSDEC - REGION 4
1130 N WESTCOTT RD
SCHENECTADY, NY 12306

Basis for Determination : Data review, including PM-10 monitoring data, Norlite Finish Plant logs, and Norlite weather station data.

Pursuant to 6 NYCRR Part 211.1 and Condition 24, Item 24.1 of Norlite's ATV Permit:

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.

PM-10- Short-term Guideline Concentration

The Federal 24-hr PM10 standard is 150 µg/m³. This standard can be converted into a DAR-1 "equivalent" 1-hr PM10 concentration to make it applicable to determine an environmental rating. The DAR-1 "equivalent" concentration has been assigned to the NY number for PM (NY075-00-0) and other specific PM compounds for which the DAR-1 "equivalent" concentration is more conservative (lower concentration) than any calculated or derived Short-term Guideline Concentration (SGC) value. There are several measures available that Norlite could pursue at any time that would reasonably control off-site migration of PM-10 below the SGC.

As a guideline for assessing compliance with the federal 24-hr PM10 standard, the following DAR-1 "equivalent" 1-hr PM10 concentration was derived from the 24-hr PM10 standard: DAR-1 "equivalent" 1-hr PM-10 Concentration = $150 / 0.4 = 380$ µg/m³.

Exceedance of the DAR-1 PM10 SGC of a 1 hour exposure in excess of 380 ug/m³ is a public health concern due to an increased risk for acute irritation, physiological stress and inflammatory response. This concern is supported by a series of chamber studies which exposed human volunteers for just over 2 hours (130 minutes) to an elevated concentration of PM10 that is less than the SGC (213 ug/m³) (Behbod et al. 2013, Bellavia et al. 2013, Liu et al. 2015). These studies found evidence for an acute systemic inflammatory response including oxidative stress, elevated blood pressure and increases in blood leukocytes and neutrophils. While these effects were mild, the subjects were young and middle-aged, healthy non-exercising adults and so it is possible that those who are more sensitive due to life stage or pre-existing respiratory disease, and those who are more exposed due to physical exertion and associated increased respiratory rate, may have a greater response to the elevated PM10. This evidence adds to the general public health concern for noticeable degradation of air quality above the PM10 SGC to indicate that exceedance of this SGC increases the risk for an injurious effect to public health.

During the September 13, 2022 to March 27, 2023 particulate monitoring period, there were 3 hours in which the PM10 emissions from Norlite resulted in exceedances of the DAR-1 PM10 SGC of a 1 hour exposure in excess of 380 ug/m³.

PM-10 - Air Quality Index

The EPA Air Quality Index (AQI) is a nationally uniform color-coded index for reporting and forecasting daily air quality. When air quality is rapidly changing the NowCast calculation uses the most currently available hourly air quality data to compute the NowCast index. NowCast relies on the most recent 12-hour period of air quality data to compute the index. However, because of weighting factors in the NowCast computational algorithm, during periods of rapidly changing PM concentrations (either up or down), NowCast closely tracks a 3-hour average converted into an AQI. The AQI tells the public how clean or polluted the air is and how to avoid health effects associated with poor air quality.

The NowCast is designed to be responsive to rapidly changing air quality conditions, such as during a wildfire. The NowCast calculation uses longer averages during periods of stable air quality and shorter averages when air quality is changing rapidly. The NowCast allows AirNow's current conditions to align more closely with what people are actually seeing or experiencing. This gives people information they can use to protect their health when air quality is poor – and help them get outdoors and get exercise when air quality is good.

The Air Quality Guide for Particle Pollution includes cautionary statements and actions people can take to reduce their risk from exposure to air pollution at different levels of health concern.

An AQI value of 101 to 150 is "Unhealthy for Sensitive Groups". When air quality is in this range, people who are in sensitive groups, whether the increased risk is due to medical conditions, exposure conditions, or innate susceptibility, may experience health effects when engaged in outdoor activities. However, exposures to ambient concentrations in this range are not likely to result in effects in the general population. For particle pollution, the sensitive groups include people with heart and lung disease, older adults, children, people with diabetes, and people of lower Social Economic Status. People in sensitive groups should reduce prolonged or heavy exertion. If being active outside, these people should take more breaks, do less intense activities, and watch for symptoms such as coughing or shortness of breath. People with asthma should follow their asthma action plans and keep quick relief medicine handy. People with heart disease should watch for the following symptoms that may indicate a serious problem: palpitations, shortness of breath, or unusual fatigue.

An AQI value of 151 to 200 is "Unhealthy". When air quality is in this range, everyone who is active outdoors may experience effects, and should reduce prolonged or heavy exertion. Members of sensitive groups are likely to experience more serious effects. People in sensitive groups should avoid prolonged or heavy exertion, and consider moving activities indoors or rescheduling.

An AQI value of 201 to 300 is "Very Unhealthy". When air quality is in this range, it is expected that there will be widespread effects among the general population and more serious effects in members of sensitive groups. The general population should avoid

prolonged or heavy exertion and consider moving activities indoors or rescheduling to a time when air quality is better. People in sensitive groups should avoid all physical activity outdoors and move activities indoors or reschedule to a time when air quality is better.

An AQI value of 301 and higher is "Hazardous". Air quality in this range triggers health warnings of emergency conditions by media outlets. The entire population is more likely to be affected by serious health effects. Everyone at this level of pollution should avoid all physical activity outdoors. Sensitive groups should remain indoors and keep activity low. Tips should be followed for keeping particle levels low indoors during this condition.

There are several measures available that Norlite could pursue at any time that would reasonably control off-site migration of PM-10 below the AQI of 101.

During the September 12, 2022 to March 27, 2023 particulate monitoring period, there were 13 hours in which the PM10 emissions from Norlite resulted in an AQI of 101-150.

During the September 12, 2022 to March 27, 2023 particulate monitoring period, there were 3 hours in which the PM10 emissions from Norlite resulted in an AQI of 151-200.

During the September 12, 2022 to March 27, 2023 particulate monitoring period, there was 1 hour in which the PM10 emissions from Norlite resulted in an AQI of 201-300.

PM-10 – 24-hour Averages

A number of adverse health impacts have been associated with exposure to PM 10 above 55 $\mu\text{g}/\text{m}^3$ based on a 24-hour average. At any time, Norlite could implement measures, including process operation, that would reasonably control off-site dust migration of 24-hour PM-10 concentrations below 50 $\mu\text{g}/\text{m}^3$.

During the September 12, 2022 to March 27, 2023 particulate monitoring period, Norlite PM-10 emissions exceeded 55 $\mu\text{g}/\text{m}^3$ on 5 days (calculated on a midnight to midnight basis).

PLEASE TAKE FURTHER NOTICE that ECL § 71-2103 provides that any person who violates ECL Article 19 or any rule or regulation promulgated pursuant thereto shall be liable for a civil penalty of up to \$18,000, plus an additional penalty not to exceed \$15,000 for each day that the violation continues and that such person may be enjoined from continuing such violation.

PLEASE TAKE FURTHER NOTICE that in addition, failure to comply with this NOTICE could subject you to criminal charges. ECL § 71-2105 provides that any person who willfully violates any provision of ECL Article 19, or any rule, regulation or order promulgated pursuant thereto, or the terms or conditions of any permit issued

thereunder, shall be guilty of a misdemeanor and, upon conviction, punished by a fine for each separate violation or by imprisonment for a term of not more than one year, or both such fine and imprisonment. Each day during which a violation continues constitutes a separate violation.

PLEASE TAKE FURTHER NOTICE that the Attorney General, on her own initiative, or at the request of the Commissioner of the Department, may initiate any appropriate action or proceeding to enforce any violation identified herein and any other provision of the ECL or any rule or regulation promulgated pursuant thereto.

PLEASE TAKE FURTHER NOTICE, that the Department is reviewing its options regarding the appropriate enforcement action, including assessment of civil penalties and injunctive relief for the violations which have already occurred. Compliance with this NOTICE by immediately correcting the violations shall not relieve you of any liability for civil penalties, injunctive relief, or other appropriate sanctions for the above-referenced violations. However, failure to immediately comply could result in a larger penalty than would otherwise be assessed, should you be adjudged to be in violation.

PLEASE TAKE FURTHER NOTICE, that you may submit information or evidence to the Department relevant to your compliance record, the nature of the violations, or any mitigating circumstances. Any such information or evidence may be used in an administrative enforcement proceeding, civil action, or criminal action. In the event that formal enforcement proceedings are initiated or criminal charges filed against you, you will have the right to a hearing. You may also request an informal conference to discuss this NOTICE and the events to which it relates. Any inquiries, submissions, and requests relating to this NOTICE should be directed to Victoria Ruglis, NYSDEC Region 4 Regional Attorney at Victoria.Ruglis@dec.ny.gov.

By:



BENJAMIN J. POTTER, PE
REGIONAL AIR POLLUTION CONTROL ENGINEER
NYSDEC – REGION 4
1130 N WESTCOTT ROAD
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