

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of Environmental Quality, Region 4

1130 North Westcott Road, Schenectady, NY 12306-2014

P: (518) 357-2045 | F: (518) 357-2593

www.dec.ny.gov

CERTIFIED MAIL RETURN RECEIPT REQUESTED

October 11, 2022

Mr. Prince Knight
Norlite LLC
628 South Saratoga Street
Cohoes, NY 12047
prince.knight@tradebe.com

Re: Norlite, LLC
City of Cohoes, Albany County
DEC Air Title V Permit No. 4-0103-00016/00048
Facility ID 4010300016

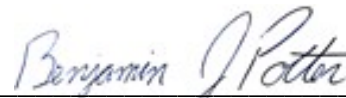
NOTICES OF VIOLATION

Dear Prince Knight:

PLEASE TAKE NOTICE THAT YOU ARE IN VIOLATION OF THE NEW YORK STATE AIR POLLUTION CONTROL LAW, Article 19 of the Environmental Conservation Law ("ECL"), and applicable regulations as set forth herein, in connection with operation of a facility located on 628 South Saratoga Street, City of Cohoes, Albany County, New York. Operation of the facility in the documented manner constitutes a violation of Article 19 of the ECL and the regulations promulgated there under. Enclosed please find Notice of Violations (NOVs) dated October 11, 2022.

Any inquiries, submissions, and requests relating to these Notices should be directed to Victoria Ruglis, NYSDEC Region 4 Regional Attorney at Victoria.Ruglis@dec.ny.gov.

By: _____



BENJAMIN J. POTTER, P.E.
REGIONAL AIR POLLUTION CONTROL ENGINEER
NYSDEC – REGION 4

Enclosures



CERTIFIED MAIL RETURN RECEIPT REQUESTED

Date: 10/11/2022

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 up to and including July 10, 2022 only.

Compliance Status Determined On : 07/10/2022

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

Basis for Determination : Data review, including PM-10 and Crystalline Silica monitoring data, Norlite Finish Plant logs, and wind conditions (based on both Albany airport data and Norlite weather station data); and

Observations of New York State Department of Environmental Conservation (NYSDEC or Department) Staff.

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.

Pursuant to Condition 5-124.2 of the ATV Permit, the Facility shall comply with all elements of the Fugitive Dust Control Plan revised October 2014 (Fugitive Dust Plan) and annually evaluate the emission reduction methods outlined in Table 12 to maintain or improve the emission reductions achieved as shown in Table 11 of the Fugitive Dust Plan.

Sections 4.2, 5.3, 6.5, 6.7, 6.12, and Appendix J of the Fugitive Dust Plan outline Norlite's methods to control fugitive dust in and around the Finish Plant, including maintaining an 18-inch material drop height from the Radial Stacker, spraying water, using dust covers on conveyors, moving material through enclosed chutes, following procedures when moving/loading materials with front end loaders, controlling pile heights, preventing material from getting onto road surfaces and/or removing material from road surfaces, and shutting down Finish Plant operations if wind speeds are too high.

Crystalline Silica

DEC issued Guidelines for the Evaluation and Control of Ambient Air Contaminants Under 6 NYCRR Part 212 (DAR-1) to provide guidance for the control of criteria and toxic air contaminants emitted from process emission sources in New York State. These guidelines pertain to the acceptable air concentrations, in micrograms per dry standard cubic meter ($\mu\text{g}/\text{dscm}$) for annual emission rates, referred to as the annual guideline concentration (AGC). The AGC for Crystalline Silica is $2 \mu\text{g}/\text{m}^3$. There are several measures available that Norlite could pursue at any time that would reasonably control off-site Crystalline Silica migration below the AGC. Crystalline Silica is contained in the particulate migrating off-site. With effective control of dust and reduced generation of dust, Crystalline Silica migration from Norlite could be reasonably controlled.

Based upon air monitoring data collected between March 17, 2021 and May 17, 2022, the arithmetic average of Norlite crystalline silica emissions is $2.4 \mu\text{g}/\text{m}^3$, above the AGC of $2 \mu\text{g}/\text{m}^3$.

Based upon 50 valid air monitoring samples collected between March 17, 2021 and May 17, 2022, Norlite crystalline silica emissions were above the AGC of $2 \mu\text{g}/\text{m}^3$ on 23 of the 50 days (46%).

Based upon 19 valid air monitoring samples collected between January 29, 2022 and May 17, 2022, Norlite crystalline silica emissions during the first several months of 2022 averaged 2.7 µg/m³.

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 ER. 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 µg/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 µg/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 August 1, 2021 to July 10, 2022 particulate monitoring period, there were 15 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 µg/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 August 1, 2021 to July 10, 2022 particulate monitoring period, there were 55 hours in which the PM10 emissions from Norlite resulted in an AQI of 101-150.

During the August 1, 2021 to July 10, 2022 particulate monitoring period, there were 13 hours in which the PM10 emissions from Norlite resulted in an AQI of 151-200.

During the August 1, 2021 to July 10, 2022 particulate monitoring period, there were 3 hours in which the PM10 emissions from Norlite resulted in an AQI greater than 301.

On May 5, 2022, Norlite hourly PM10 emissions exceeded 900 $\mu\text{g}/\text{m}^3$. This hourly PM-10 average corresponds with an AQI greater than 500, which falls within hazardous levels. This level of air pollution exceeds the hazardous level on the AQI chart.

PM-10 - 24-hour Averages

A number of adverse health impacts have been associated with exposure to PM 10 above 50 $\mu\text{g}/\text{m}^3$ 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 $\mu\text{g}/\text{m}^3$. Ambient background concentrations monitored at the DEC monitoring station at 175 Green Street, Albany, NY 12202 are consistently well below 50 $\mu\text{g}/\text{m}^3$ during the time periods referenced below.

During the August 1, 2021 to July 10, 2022 particulate matter monitoring period, the highest concentration for the 24-hour average of Norlite PM10 emissions was 82.7 $\mu\text{g}/\text{m}^3$.

During the August 1, 2021 to July 10, 2022 particulate monitoring period, Norlite PM10 emissions exceeded 50 $\mu\text{g}/\text{m}^3$ on 19 days (calculated on a midnight to midnight basis).

During the August 1, 2021 to July 10, 2022 particulate monitoring period, Norlite average PM10 emissions exceeded 50 $\mu\text{g}/\text{m}^3$ on a rolling 24-hour basis on 553 instances (or 7% of 7,897 rolling 24-hour periods) over 44 days (or 13% of 331 days).

PM10 - Annual Average

A number of adverse health impacts have been associated with exposure to annual PM10 concentrations above 20 $\mu\text{g}/\text{m}^3$. At any time, Norlite could implement measures, including process operation, that would reasonably control off-site dust migration of annual PM-10 concentration below 20 $\mu\text{g}/\text{m}^3$.

Based upon 331 days of valid air monitoring data during the August 1, 2021 to July 10, 2022 particulate monitoring period, the annual average for Norlite PM10 emissions was 25 $\mu\text{g}/\text{m}^3$.

Based upon 331 days of valid air monitoring data during the August 1, 2021 to July 10, 2022 particulate monitoring period, the annual average for Norlite PM10 emissions represents an approximate contribution of 12 $\mu\text{g}/\text{m}^3$ over the baseline ambient PM10 of 13 $\mu\text{g}/\text{m}^3$. The baseline ambient concentration of 13 $\mu\text{g}/\text{m}^3$ being calculated at the DEC monitoring station when wind is not in the direction from Norlite and Norlite emissions are not influencing the DEC monitoring station.

During the August 1, 2021 to July 10, 2022 particulate monitoring period, the average of the 24 hour ambient PM-10 concentrations recorded at the DEC monitoring station located at 175 Green Street in Albany was approximately 16 $\mu\text{g}/\text{m}^3$. For the same time period the average of the 24 hour concentrations recorded at the Saratoga Sites was approximately 25 $\mu\text{g}/\text{m}^3$.

Failure to Maintain Dust Control Measures under the Fugitive Dust Plan

On the dates referenced below, Norlite failed to comply with the Fugitive Dust Control Plan and Department staff observed fugitive dust emissions resulting in air contaminants migrating off-site.

Norlite failed to control fugitive dust by failing to maintain an 18-inch material Radial Stacker Drop Height on the following dates: 07/23/2021;10/18/2021; and 03/04/2022.

Norlite failed to control fugitive dust by failing to effectively use watering methods outlined in the Fugitive Dust Plan on the following dates: 02/08/2021; 02/10/2021;

03/05/2021; 03/15/2021; 07/16/2021; 11/22/2021; 03/03/2022; 03/04/2022; 03/09/2022; 03/15/2022; and 05/31/2022.

Norlite failed to control fugitive dust by failing to enclose chutes used to move material on the following date: 07/28/2021.

Norlite failed to control fugitive dust by failing to effectively follow front end loader procedures while managing material on the following dates: 03/15/2021; 04/30/2021; 11/22/2021.

Norlite failed to control fugitive dust by failing to effectively enclose the Finish Plant on the following dates: 03/05/2021; 05/24/2021; 06/30/2021; 07/09/2021; 07/23/2021; 07/27/2021; 08/10/2021; 10/26/2021; 11/10/2021; 02/28/2022; 03/03/2022; 03/04/2022; 03/09/2022; 04/07/2022; and 05/31/2022.

Norlite failed to control fugitive dust by failing to effectively reduce exposed surface area and control pile heights on the following dates: 03/05/2021; 01/14/2022; and 03/03/2022.

Norlite failed to control fugitive dust by failing to prevent and/or remove material from road surfaces on the following date: 01/14/2022.

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.

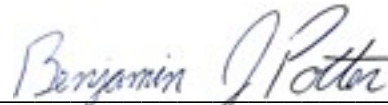
PLEASE TAKE FURTHER NOTICE that the Attorney General, on her own initiative, or at the request of the Commissioner of the Department, may initiate any appropriate action or proceeding to enforce any violation identified herein and any other provision of the ECL or any rule or regulation promulgated pursuant 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
SCHENECTADY, NEW YORK 12306

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Date: 10/11/2022

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

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PLEASE TAKE FURTHER NOTICE that this Notice of Violation pertains to data and Department Staff observations relative to air quality index and short-term guideline concentration exceedances up to and including September 12, 2022 only.

Compliance Status Determined On : 09/12/2022

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 and Norlite Finish Plant logs.

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.

Pursuant to Condition 5-124.2 of the ATV Permit, the Facility shall comply with all elements of the Fugitive Dust Control Plan revised October 2014 (Fugitive Dust Plan) and annually evaluate the emission reduction methods outlined in Table 12 to maintain or improve the emission reductions achieved as shown in Table 11 of the Fugitive Dust Plan.

Sections 4.2, 5.3, 6.5, 6.7, 6.12, and Appendix J of the Fugitive Dust Plan outline Norlite's methods to control fugitive dust in and around the Finish Plant.

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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 µg/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 µg/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 July 10, 2022 to September 12, 2022 particulate monitoring period, there were 6 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

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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 July 10, 2022 to September 12, 2022 particulate monitoring period, there were 15 hours in which the PM10 emissions from Norlite resulted in an AQI of 101-150.

During the July 10, 2022 to September 12, 2022 particulate monitoring period, there were 5 hours in which the PM10 emissions from Norlite resulted in an AQI of 151-200.

During the July 10, 2022 to September 12, 2022 particulate monitoring period, there was 1 hour in which the PM10 emissions from Norlite resulted in an AQI of 201-300.

During the July 10, 2022 to September 12, 2022 particulate monitoring period, there were 4 hours in which the PM10 emissions from Norlite resulted in an AQI greater than 301.

Failure to Maintain Dust Control Measures under the Fugitive Dust Plan

From July 10, 2022 to September 12, 2022, Norlite failed to comply with the Fugitive Dust Control Plan by failing to control fugitive dust emissions, resulting in air contaminants migrating off-site.

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.

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