

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4
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January 6, 2016

Interested Residents

RE: NYSDEC Response to Public Comments/Responsiveness Summary
Facility: Norlite Corporation – 628 S Saratoga Road
Permits: 6NYCRR Part 373 (Hazardous Waste) Permit Renewal
(EPA ID # NYD080469935; DEC No. 4-0103-00016/00016) &
Air Title V Facility Permit Renewal (DEC No. 4-0103-00016/00048)
City of Cohoes/Town of Colonie, Albany County

Dear Residents:


The Department has reviewed all comments received for the above two permit renewal applications for the Norlite Facility and has made them part of our permit decision process. Upon review of your comments and the application documents received from the permittee, the Department has issued the above referenced facility permits effective January 1, 2016.

The Department has also developed a responsiveness summary which provides a response to comments received from the public as well as the permittee (Norlite/Tradebe). The responsiveness summary is enclosed. The responsiveness summary provides the Department's response to comments received on the draft Part 373 permit and any changes made to the draft permit. Please note that while the Department did not receive comments from the public on the draft air Title V permit renewal during the public comment period for that application, questions related to the facility air Title V permit and or air emissions submitted during the Part 373 review have been addressed in this responsiveness summary.

The issued permits are available for reviewing at the Norlite Document Repository at the Cohoes Public Library and on the Norlite website at the following link: http://www.norliteagg.com/public_outreach.asp

Thank you for your comments.

Sincerely,



James J. Eldred
Deputy Regional Permit Administrator

Enclosure: Responsiveness Summary

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**NEW YORK STATE
DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
(NYSDEC)**

**6NYCRR PART 373
HAZARDOUS WASTE MANAGEMENT
PERMIT RENEWAL
FOR
NORLITE, LLC.
ALBANY COUNTY**

**NYSDEC
RESPONSIVENESS
SUMMARY**

December 31, 2015

Norlite Comments 1 through 111

- COMMENT 1: RCRA Permit Conditions #3, page 2 of 4: Department staff and third party representatives must identify themselves as agents of the Department and sign in at the front desk before access to the facility can be granted.
- RESPONSE 1: This requirement has been agreed to by the Department and is incorporated into the Integrated Contingency Plan. Norlite agrees not to bar entrance to properly identified Department Personnel.
- COMMENT 2: General Conditions A.9, page I-3: The Permittee should not be required to give up its right to contest the Department's authority as described in this paragraph since it discusses "advice, guidance, suggestions [and] comments" all of which have the potential to be outside of the authority granted by statute or regulation. As a result, please remove the final sentence.
- RESPONSE 2: General Condition A.9 has been revised to clarify that the Written Permit conditions are the enforceable conditions.
- COMMENT 3: General Conditions A.11 & A.12, page I-3: The requirement to have "complete paper copi[es]" of "all" these documents is potentially burdensome and unnecessary. Since electronic copies exist in easy-to-use formats and are readily available, the additional paper copy becomes unnecessary and the requirement should be removed.
- RESPONSE 3: The Department agrees that a CD is acceptable.
- COMMENT 4: General Conditions C.2, page I-5: instead of "The Permittee must orally report any noncompliance that may endanger health or the environment immediately from the time the Permittee becomes aware of the circumstances.", the condition should read, "If the onsite emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, as per 6 NYCRR 373-2.4(g)(4), the oral reports must be made to the Department using the New York State 24-Hour oil and hazardous material spill notification number (800) 457-7362 and the National Response Center using its 24-hour number (800) 424-8802, or any designated telephone numbers which may replace those listed.
- RESPONSE 4: Comment noted, General Condition revised.
- COMMENT 5: General Conditions C.3.d, page I-5: Please state that The Department shall provide duplicates of any photographs taken and raw data from any scientific measurements taken.
- RESPONSE 5: The Department agrees.

- COMMENT 6: General Conditions E.2, page I-7: the language is confusing and unclear as to what the condition is requiring. 6 NYCRR 373-1.8 does not contain a requirement for a report to be submitted. Please clarify this condition.
- RESPONSE 6: Refer to ECL Title 9 article 27 0913 the Permittee is required to report any matters relevant to paragraph 3 a through f.
- COMMENT 7: General Conditions E.3, page I-7: 6 NYCRR 373-1.8 does not contain a requirement for a meeting to be held 270 days prior to the expiration of the permit. Should this requirement be contained in a different regulation please update.
- RESPONSE 7: In an effort to improve efficacy of a permit renewal the Department is adding this requirement to all their permits.
- COMMENT 8: General Conditions I.2, page I-9: Please fix font size in paragraph.
- RESPONSE 8: The Department agrees.
- COMMENT 9: General Conditions J.1 & J.2, page I-9: The document should be referenced as Personnel Training Plan.
- RESPONSE 9: The Department agrees.
- COMMENT 10: General Conditions 1.K, page I-9: The document should be referenced as the Integrated Contingency Plan
- RESPONSE 10: The Department agrees.
- COMMENT 11: General Conditions N.1, page I-10: For clarification please provide examples of the types of data which would be submitted to the Department using the standardized format.
- RESPONSE 11: The Permittee must have all closure, post-closure and corrective action data validated by a third party prior to submission to the Department.
- COMMENT 12: General Conditions N.2, page I-10: A permit requirement to submit editable documents (Word, Excel, Auto CAD) is inappropriate. These documents represent significant intellectual property and the potential for the files to be obtained by a third or other unrelated party is a risk the Permittee should not be required to assume. The Permittee and the Department can agree and have agreed on such submissions on a case by case basis and can continue to do so. It should not be a condition of the permit. For security purposes to Norlite and the intellectual property of Norlite's third party consultants, Norlite will only submit plan drawings in PDF.
- RESPONSE 12: The Department did not change language. This concern is addressed by the qualifying language "*or other format suitable to the Department*".

COMMENT 13: General Conditions O.3, page I-11: The Department has included the financial responsibility requirements under corrective action with the financial assurance mechanisms for closure and post-closure. This is incorrect and needs to be removed and addressed separately.

RESPONSE 13: The Department does not agree. The language has not been modified.

COMMENT 14: General Conditions O.4, page I-11: There are no cost estimates for corrective action. The reference to corrective action financial assurance with closure and post-closure financial assurance is incorrect.

RESPONSE 14: The Department does not agree. The language has not been modified.

COMMENT 15: General Conditions O.6, page I-11: The Department is attempting to require closure- type cost estimating to corrective action items. Any work under corrective action is fundamentally different than closure and post closure work in that the Permittee is undertaking the work while the facility is still operating and financially viable. To require closure cost estimating for corrective action is incorrect. In general, re-writing the financial assurance for corrective action rules in the permit is inappropriate.

RESPONSE 15: The Department does not agree. The language has not been modified.

COMMENT 16: Schedule 1 of Module 1 A. Table I-1, page S1-1: Neither the draft permit nor the permit renewal application addresses the management of portable tanks that are received periodically at the facility. The portable tanks are larger than containers (typically 275- gallon totes) but are not regulated as tanks either. In order to address this issue, Norlite requests that a condition be added to allow the temporary storage and staging of up to 275-gallon totes as containers in the container storage areas. The totes will be held for no longer than seven (7) days before the contents are emptied into the LGF tanks. Please add to the activity types listed for Unit types identified as Low Grade Fuel and Solids Processing Building and Truck Unloading Area #1.

RESPONSE 16: The Department agrees to include 275 gallon totes.

COMMENT 17: Schedule 1 of Module 1, page S1-3, Permit Documents: "Permit Documents" should reference LWAKs or Industrial Furnaces, not Incinerators.

RESPONSE 17: The Department agrees. The language has been modified.

COMMENT 18: Schedule 1 of Module 1, page S1-4, Documents Incorporated by Reference: Included with the Noise Impact Analysis date September 24, 1990, should also be the 2008 Facility Noise Survey dated April, 20, 2009. This report was used by the Department to modified the permit to incorporate the noise levels for the facility as per 6NYCRR 360- 1.14(p).

RESPONSE 18: The Department agrees. The language has been modified.

COMMENT 19: Schedule 1 of Module 1 B.1, page S1-6: The Risk Assessment requirement does not reflect work previously conducted by Norlite. Additionally, with the promulgation of the Hazardous Waste Combustors MACT, the requirement for a Risk Assessment is becomes less necessary when a facility has already performed the study and has also come into compliance with the MACT emission standards. Please see EPA Region 6 guidance to this effect.

Norlite will agree to update the 2004 site specific risk assessment and will provide a draft protocol in place of submitting a complete Risk Assessment protocol as required here. The final EPA guidance is dated 2005. Norlite will assess any changes that may have occurred in the interim period and address them in the protocol. The risk table will be updated with current emission data collected during the upcoming CPT.

Please change the language here to reflect this plan.

RESPONSE 19: The Department will regulate hazardous waste combustor(s) in accordance with the Hazardous Waste Combustors Maximum Achievable Control Technology (HWC-MACT) found at 40 CFR Part 63 Subpart EEE and incorporated by reference into the state regulations in accordance with 6 NYCRR Part 200.10. Accordingly, the Department has removed Exhibit E of Schedule 1 from the draft permit and revised Module VII of the permit to include the applicable RCRA closure requirements only.

This policy decision will eliminate duplicative requirements under RCRA and the Clean Air Act, which is in-line with current federal, environmental policy and regulatory actions. Switching from compliance with RCRA performance standards to compliance with Hazardous Waste Combustors Maximum Achievable Control Technology (HWC-MACT) performance standards will not affect current RCRA permits. This policy decision will be implemented for a facility when it has completed the RCRA permitting process and has also been issued a Title V permit. These facilities have been operating pursuant to Subpart EEE and subject to 6 NYCCR Part 373 requirements since October 12, 2008. Since 2008, these Permittees have submitted HWC-MACT Notifications of Compliance (NOC) and received written findings of compliance from the Department pursuant to 40 CFR 63.6(f)(3). These combustion units are regulated through the HWC-MACT regulation, which are comprehensive in scope and contain provisions for performance standards, operating limits, monitoring, testing, notification, recordkeeping and reporting. However, because of the HWC-MACT rule, RCRA permits have included duplicate requirements since 2008, which subject regulated entities to two regulatory programs managed by two, separate Department divisions. The approach to regulate these units under only the Title V program, is consistent with EPA's intent that hazardous

waste combustor requirements should be consolidated generally into a single set of regulations and implemented through a single permit.

COMMENT 20: Schedule 1 of Module 1 B.2, page S1-6: The requirement to include certification language as well as secondary certification by sign off is excessive and unnecessary. The weekly RCRA inspection is conducted by the Environmental Manager and signed off by each the laboratory, fuel farm, and operations managers. The Fuel Farm Daily Inspections are either conducted by the Fuel Farm Manager or at least reviewed by the Fuel Farm Manager. Please remove this language from this condition.

RESPONSE 20: The Department accepts Norlite's explanation for the weekly RCRA inspection as meeting the intent of this provision. The Fuel Farm Daily Inspections must have primary and secondary signoffs by an independent individual (i.e., the Fuel farm Manager can be either the primary or secondary signoff but not both).

COMMENT 21: Schedule 1 of Module 1 B.3, page S1-7: Norlite agrees to revise the SOP for BS&W. However, the Department's requirements are too prescriptive and do not reflect current accepted practice and are not tied to data from the previous trial burns and CPTs. Specifically, Norlite cannot accept to automatically include the measurement for the "rag layer" as "solids" and have it count against the permitted feed rate. The procedure is referred to as "bottom sediment and water", not "bottom, sediment and water" and renaming it "bottom, percent sediment and water" does not make sense.

The facility rarely determines viscosity and we do not intend to begin performing the analysis for the purposes of determining sediment because they are not related and the measurement does not assist in determining solids. Norlite will not be reporting viscosity. Norlite will not be including Rag layer as solids to count against solids limit.

Please remove the details provided here and simply state the Permittee will submit a revised SOP. The details of the measurement can be discussed at that time.

RESPONSE 21: Please refer to Response to Comment 19.

COMMENT 22: Schedule 1 of Module 1 B.4(a), B.4(b), B.4(c), B.4(d), and B.4(e), page S1-8: These items do not meet the requirements found in 6NYCRR 373-1.10 or General Condition C of the existing permit. Norlite objects to requiring the posting of the Fuel Delivery system on the website. Any interested parties can view the documents at the facility or at the Department. The posting of plans in such an accessible fashion can pose a security risk and can also be easily obtained by a competitor or other entity seeking to profit from our work product. Additionally, the requirement to post SPDES related work documents is inappropriate in a RCRA document.

RESPONSE 22: The fuel delivery system piping will be incorporated into the permit through the Fuel Delivery System Engineers Report and the Permit Figures will be updated to include the new system. Drawings will not be posted to the web, but will be available upon request.

COMMENT 23: Schedule 1 of Module 1 B.6(b) & B.6(c), page S1-10: On January 13, 2014, the Department conditionally agreed upon an automated Kiln Feed Line Design which removed the use of a recirculation loop after AWFCOs and Variable Speed pumps. These training criteria are no longer relevant and should be removed.

RESPONSE 23: Please refer to Response to Comment 19.

COMMENT 24: Schedule 1 of Module 1 B.6(d), page S1-10: Please describe what a LWAK Operator Attentiveness and Awareness training is as there is no reference to such training in the permit application documents.

RESPONSE 24: Please refer to Response to Comment 19.

COMMENT 25: Schedule 1 of Module 1 B.6, page S1-10: Please remove the language at the bottom after item d. To ensure proper sampling and sample retention, this requirement should only be carried out by laboratory personnel or while under the supervision of laboratory personnel. In the rare event in which kiln personnel are taking samples, they are doing so after thorough instruction has been given by laboratory management.

RESPONSE 25: Please refer to Response to Comment 19.

COMMENT 26: Schedule 1 of Module 1 B.7, page S1-11: Please remove this training requirement as it is duplicative and excessive. All new LWAK Operators must complete the "Incinerator Operator Training and Certification Program Developed to Comply with the HWC MACT Regulations". The LWAK Operators are also instructed annually, as part of the Annual RCRA Refresher training, the RCRA Part 373 permit as well as other permits and facility plans.

RESPONSE 26: Please refer to Response to Comment 19.

COMMENT 27: Schedule 1 of Module 1 B.8, page S1-11: Norlite agrees to review and revise the SSMP, including all attachments and additions to reflect any changes in operational conditions and equipment as well as preventative maintenance programs detailed in the SSMP. Please remove the requirement in which the SSMP is submitted to the Department for approval as well as the language requiring annual update of the plan. As per 40 CFR 63.6(e)(3), Norlite is not required to obtain approval from the Department before implementation of the SSMP. Also, the language of 40 CFR 63.6(e)(3) provides guidance as to when updates may be required of the SSMP plan.

RESPONSE 27: Please refer to Response to Comment 19.

COMMENT 28: Schedule 1 of Module 1 B.9, page S1-12: Please remove the language “and past updates” The revised Fugitive Dust Plan will capture the current operations which are occurring at the Norlite facility. There is very little value or functionality provided to the document by having previous language and updates in the new Fugitive Dust Plan. The previous versions of the Fugitive Dust Plan will be included as an appendix to the new plan for prosperity purposes only.

RESPONSE 28: Comment noted. The requirement is per the 2012 Order on Consent. The updated Draft Fugitive Dust Plan has been submitted to the Department and is currently under review.

COMMENT 29: Schedule 1 of Module 1 B.9, page S1-12: Please remove the language “The revised plan shall incorporate data collected from the Department’s Mobile Air Monitor that was stationed on its eastern border with Saratoga Sites in 2008 and include any necessary corrective measures to address documented fugitive emissions.” The Mobile Air Monitor was a program carried out by the Department independent from Norlite. While Norlite was provide some data in an unofficial capacity from the Department, Norlite cannot expound on this data or draw conclusions from the data without an official report which has been provided to the public by the Department.

RESPONSE 29: Comment noted.

COMMENT 30: Schedule 1 of Module 1 B.10(b), page S1-13: Please remove this requirement from the BMP requirements. The Sanitary Sewer Line and Process Water Discharge Line replacement projects are one-time events which should not be captured in a living facility operations document. If after completion, should either of these projects result in continued management in some way, they will then be captured in the Best Management Plan. Furthermore, both of these projects will be carried out under the guidance of separate Stormwater Pollution Prevention Plans (SWPPP).

RESPONSE 30: This item is not subject to the RCRA Part 373 Permit, and as such has been removed.

COMMENT 31: Schedule 1 of Module 1 B.10(c), page S1-13: Please remove the DOT Box Culvert from this requirement. The stop-log system is intended for emergency flood conditions in which severe damage may occur to the Norlite facility, the railroad overpass or Route 32. Due to poor maintenance by the NYSDOT, the Box Culvert has insufficient capacity for high flow conditions to which Norlite cannot control for with the stop-log system.

RESPONSE 31: The Department agrees. The language has been revised.

- COMMENT 32: Schedule 1 of Module 1 B.10(e), page S1-13: Please remove this language from this section. The need for strategically placed windsocks will be captured in the BMP with locations listed. At this time the LGF building roof is not a sufficient location due to safety concerns.
- RESPONSE 32: The Department agrees. The language has been revised. Windsocks will be addressed in the Best Management Plan.
- COMMENT 33: Schedule 1 of Module 1 B.11, page S1-14: Please remove this requirement from the schedule of compliance. The information requested in this report has already been addressed as part of the Automated Fuel Feed System design conditionally agreed upon by the Department on January 13, 2104.
- RESPONSE 33: The Department agrees, this has been removed.
- COMMENT 34: Schedule 1 of Module 1 C.1, page S1-16: Please increase the compliance date to 6 months due to the extensive Schedule of Compliance included in this draft permit.
- RESPONSE 34: The Department does not agree. No change has been made.
- COMMENT 35: Schedule 1 of Module 1 D(d), page S1-17: Please revise the following language to match the language found in Special Condition 6(b) of the current permit. Change “Upon written request by the Permittee, the Department shall provide the Permittee with a written explanation of the basis for any revisions” to “If such a revision is required, the Department will notify the Permittee of such a revision and a written explanation of the basis for any modification either with the annual bill or upon written request by the Permittee.
- RESPONSE 35: The Department does not agree, this a standard requirement under the Department’s current permit boilerplate. No change has been made.
- COMMENT 36: Schedule 1 of Module 1 D(i), page S1-18: Please revise this language to state “except New Miner Training”. All new employees are required to have 24 hours of new miner training before working alone in the Norlite facility. In order for the Norlite Environmental Monitor to receive this training, the Department would have either provide Norlite with a MSHA contractor ID number or have the training conducted under Norlite’s Mine ID number. The second option would make the Environmental Monitor the responsibility of Norlite under the MSHA regulations.
- RESPONSE 36: The Department agrees. The language has been updated as follows. Under Mine Safety and Health Administration (MHSA) regulations, 30 CFR §46.1, government employees/regulators are exempt from the 24 hour New Miner Training. Norlite is reminded, however, that while the Department provides personal protective gear and health and safety training, Norlite is responsible for providing routine site specific health and safety training and ensuring the safety

of the Environmental Monitor in all areas of the facility at all times.

COMMENT 37: Schedule 1 of Module 1 D (k), page S1-18: Please include language which states the Environmental Monitor must inform the Permittee either before or after use of such equipment listed that it has been used so the Permittee knows to request the information collected in writing.

RESPONSE 37: The Department does not agree, the language provided is standard environmental monitor language. The Department does not agree that the Permittee must be informed of activities. No change has been made.

COMMENT 38: Schedule 1 of Module 1 F, page S1-19: The requirement for the Local Fire Company Inspection is incorrect. It should read as Condition A.1 of Exhibit A. Please note that Norlite cannot control the Local Fire Department and therefore cannot be held liable or our out of compliance should the Local Fire Department not conduct the inspection semiannually.

RESPONSE 38: Norlite must show the Department that they have contacted the Fire Department and requested an inspection. The reference has been corrected to Condition A.1 of Exhibit A.

COMMENT 39: Schedule 1 of Module 1 F, page S1-20: “Green Remediation Metrics” – Norlite objects to the insertion of this guidance policy document in the permit, thus making it enforceable. To our knowledge, the document has not been subject to public notice and comment. Without the Department going through due process on this document, the Permittee should not be required to comply with it simply because it is inserted into the permit. This yields yet another reporting requirement on the facility. Furthermore, the requirements for using biodiesel should not be mandated because of the potential deteriorative effects on heavy equipment. Please remove the requirement.

RESPONSE 39: Comment Noted. Norlite is to report what Green Metrics they do implement.

COMMENT 40: Schedule 1 of Module 1 F, pages S1-20: Please change the report due date for the container and tank secondary containments to December 31st.

RESPONSE 40: The Department agrees, the date has been revised.

COMMENT 41: Schedule 1 of Module 1 F, page S1-21: Please change the due date for the Complaint Log and Monthly RCRA Compliance and Operations Reports to the 21st of each month as has been conducted for the current permit. Also, the requirement condition for the complaint log should read Exhibit A – Condition C.4.

RESPONSE 41: The Department agrees, the language has been revised.

- COMMENT 42: Schedule 1 of Module 1 F, page S1-21: Please change the due date for the Annual Relative Accuracy Test Audits (RATA) to read as 1 month after completion of said testing. The various units detailed in Exhibit E have RATA testing conducted at different times of the year.
- RESPONSE 42: Please refer to Response to Comment 19.
- COMMENT 43: Schedule 1 of Module 1 F, page S1-21: Please change the due date for the RCRA Inspection report to read as conducted once per week. This inspection is not done on the same day every week.
- RESPONSE 43: The Department agrees, the language has been revised.
- COMMENT 44: Schedule 1 of Module 1 F, page S1-21: Please change the due date for the RCRA Fuel Farm Inspection Report to read as “By noon the following regular business day”.
- RESPONSE 44: The Department agrees, the language has been revised.
- COMMENT 45: Exhibit A of Module 1: the page number on the bottom should read as A-1 or A-2, please update.
- RESPONSE 45: The Department agrees, the language has been revised.
- COMMENT 46: Exhibit A of Module 1 A.1, page “B-1”: Norlite will agree to make annual requests to the Cohoes Fire Department. While making semi-annual requests for inspection are not totally unreasonable, we do not expect the Fire Department to visit the facility twice per year. We request that the requirement be made annual and the Department acknowledges that the Fire Department cannot be compelled to grant the request and the facility will suffer no penalty if the Fire Department does not respond.
- RESPONSE 46: The Department agrees, the frequency has been revised to annual.
- COMMENT 47: Exhibit A of Module 1 A.2, page “B-1”: This paragraph should reference the Integrated Contingency Plan.
- RESPONSE 47: The Department agrees, the language has been revised.
- COMMENT 48: Exhibit A of Module 1 B.1, page “B-2”: Please include language that states additional or alternate report recipients will be provided to the Permittee in writing from the Permit Administrator and that until such written notification has been received by the Permittee, the Permittee is to only submit the reports to the recipients detailed in Exhibit A.B1.

- RESPONSE 48: The Department does not agree, this is a standard requirement. The Department does not believe the request is onerous for the Permittee to maintain up to date Department contacts when routinely notified. The language has not been revised.
- COMMENT 49: Exhibit A of Module 1 B.1, page “B-3”: Norlite requests further information and justification for submitting all reports, plans, schedules, correspondences, and other documents to the Department of Health. Furthermore, Norlite requests an email and title to which these documents are intended to be sent to.
- RESPONSE 49: The Department agrees, the language has been revised to remove the submittal requirement to DOH
- COMMENT 50: Exhibit A of Module 1 B.2(a), page “B-4”: Norlite and the Department have been operating with a 30 day response window, therefore Norlite requests 30 days replace 60 days.
- RESPONSE 50: The Department agrees, the language has been revised.
- COMMENT 51: Exhibit A of Module 1 C.1, page “B-4”: Please add that total PCBs are defined as the sum of Aroclors.
- RESPONSE 51: The Department agrees, the language has been revised.
- COMMENT 52: Exhibit A of Module 1 C.3, page “B-5”: This paragraph needs to be removed or re- written more specifically. All PCB containing waste is subject to 761 in some way. If the Department is attempting to prohibit receipt of PCB containing materials that have concentrations of PCBs that have been blended down from a source greater than 50 ppm, please state as such.
- RESPONSE 52: The Department agrees, the language has been revised to reflect greater than 25 PPM.
- COMMENT 53: Exhibit A of Module 1 C.5, page “B-5”: Please insert “waste” in between leaking and trucks.
- RESPONSE 53: The Department does not agree the concern is limited to wastes. The language has not been revised.
- COMMENT 54: Exhibit A of Module 1 C.8, page “B-6”: Please remove “The Permittee shall submit the Noise Impact Analysis referenced above with 15 days of the effective date of this permit.” This language is duplicated from the current permit so this document is already incorporated by reference in the draft permit. Also *on June 5, 2009*, the Department modified Special Condition 9 of the current permit to apply 6 NYCRR 360- 1.14(p) for urban characteristics for noise. Please remove the language regarding activities between 8:00 AM and 11:00 PM.

- RESPONSE 54: The Department has removed the statement requiring a Noise Impact Analysis. Additionally, the Department added the requirement to meet 6 NYCRR 360-1.14(p).
- COMMENT 55: Exhibit A of Module 1 D, page “B-6”: As stated above, the financial assurance figure does not and should not include corrective action.
- RESPONSE 55: This is standard language and at this time the Department acknowledges that the corrective action component of the amount specified is zero.
- COMMENT 56: Exhibit B of Module 1 A.1 (a)(1), page B-1: Please change “In-ground Storage and Equalization Tanks” to “Covered Above-Ground Storage and Equalization Tanks”.
- RESPONSE 56: The Department agrees, the language has been revised.
- COMMENT 57: Exhibit B of Module 1 B, page B-2: As state above, the facility objects to the requirement to implement Green Remediation practices even though no such work is expected to occur during this permit cycle.
- RESPONSE 57: The Department does not agree, Green Remediation practices is a standard Department Permit requirement. The language has not been revised.
- COMMENT 58: Exhibit C of Module 1 A.1., page B-1: As stated above, Norlite seeks to have an allowance for the temporary storage and staging of portable tanks (e.g. up to 275 gallon totes). These portable tanks will count against the container capacity and will take the place of a full pallet in the storage area. The totes will be full for no more than seven (7) days. Please include 275 gallons totes in the container specifications for both storage areas listed in this section.
- RESPONSE 58: The Department agrees, the language has been revised.
- COMMENT 59: Exhibit C of Module 1: the page numbers on the bottom should read as C-1 or C-2, please update.
- RESPONSE 59: The Department agrees, the language has been revised.
- COMMENT 60: Exhibit C of Module 1 B.6, page B-2: In the case of pallets with containers that are less than 55-gallons, Norlite agrees that the smaller containers will not be stacked more than two (2) high unless the small containers are shrink-wrapped.
- RESPONSE 60: The Department agrees but requires that Norlite will not stack shrink wrapped packages on each other (e.g., nothing can be stacked on top of household hazardous waste paint cans, shrink wrapped on a pallet). The language has been clarified.
- COMMENT 61: Exhibit C of Module 1 C.1, page “B-2”: Please add language that only trucks

holding wastes are limited to a 48 hour stay at the Tanker Staging area.

RESPONSE 61: The Department is agreeable as long as Norlite clearly identifies trucks as holding no wastes.

COMMENT 62: Exhibit C of Module 1 C.2 & C.5, page “B-2”: Please change LLGF building to Solids Processing Building. Also please change Drum Processing Building to Solids Processing Building.

RESPONSE 62: The reference of LLGF building will be changed to Drum Processing Building to be consistent with the Facility Drawings.

COMMENT 63: Exhibit D of Module 1 B.3, page D-2: Condition C, Item 9 of Schedule 1 of Module 1 does not exist. Norlite requests this requirement be removed due to it being excessive and burdensome. Norlite has a preventative maintenance program which tracks piping at the Fuel Farm to identify when replacement should occur. Having to conduct pressure testing each time this preventative work is done is excessive.

RESPONSE 63: The cited reference has been replaced with “in accordance with accepted industry practice”. The requirement remains since it is prudent to test new or repaired lines prior to placing back in service.

COMMENT 64: Exhibit E of Module 1 Title, page E-1: Please change Incinerators to Industrial Furnaces.

RESPONSE 64: Please refer to Response to Comment 19.

COMMENT 65: Exhibit E of Module 1 B.1, page E-2: There does not appear to be a “Condition J”.

RESPONSE 65: Please refer to Response to Comment 19.

COMMENT 66: Exhibit E of Module 1 Table “Acceptance and Operating Limits”, page E-5: Please identify all tables with identification such as Table E-1 for ease of reference. For this particular table, please add a footnote indicating the metals lb/hr is on a 12 hour rolling average basis.

RESPONSE 66: Please refer to Response to Comment 19.

COMMENT 67: Exhibit E of Module 1 Table “Acceptance and Operating Limits”, page E-5: During a meeting with the Department, all parties present agreed upon a percent sediment level in the LLGF of 15%, please update this in the table.

RESPONSE 67: Please refer to Response to Comment 19.

COMMENT 68: Exhibit E of Module 1 C.2(a), page E-4: For clarity, please state that LLGF may

be burned alone or in conjunction with

RESPONSE 68: Please refer to Response to Comment 19.

COMMENT 69: Exhibit E of Module 1 C.2(b), page E-4: Waste Fuel A table contains a reference to footnote 2. This should be deleted as there is no footnote 2 for this Table. Metals acceptance limits may be exceeded if the Permittee can effectively blend to the feed spec based on current inventory.

RESPONSE 69: Please refer to Response to Comment 19.

COMMENT 70: Exhibit E of Module 1 C.3, page E-6: please remove ash from the following statement: "The Permittee shall demonstrate compliance with the BTU, chlorine, ash and metals feed rate limits by monitoring the mass feed rate...". Ash has no permit limit..

RESPONSE 70: Please refer to Response to Comment 19.

COMMENT 71: Exhibit E of Module 1 C.3, page E-7: One Minute Averages (OMA) have not been used since the previous permit. Please update all language referencing One Minute Averages (OMA) to One Minute Rolling Averages (MRA) to be consistent with the current permit.

RESPONSE 71: Please refer to Response to Comment 19.

COMMENT 72: Exhibit E of Module 1 3.g, page E-7: Please define what contaminated shale is.

RESPONSE 72: Please refer to Response to Comment 19.

COMMENT 73: Exhibit E of Module 1 3.i, page E-8: The commentary about sediments interfering with steady state operation is inappropriate and should be removed. Norlite requests that K169 and K170 be added to the list of accepted waste codes.

The K169 and K170 waste streams are petroleum sludges which contain a significant level of heat value. The petroleum sludges, while heavier than water, are easily burned in the kilns. Norlite has experience with these materials as they resemble No. 6 oil sludges. Additionally, Norlite ran a campaign three to four years ago of accepting non- listed refinery waste that was a mixture of petroleum and fine petroleum additives. The campaign was a terrific success and the kilns performed very well while burning this material.

These proposed waste streams are listed as hazardous waste because of their source and their relation to crude oil. As generated, they can contain from 10% to 50% inorganic solids that would not contribute to the fuel process, however the inorganic material is fine enough not to interfere with Norlite's process. The K169 waste stream is characterized as being ignitable while the K170 stream has a flash point of over 200 °F. Neither of the candidate waste streams is subject to the Off-

site Benzene NESHAP. Sample profiles of both streams are provided.

DEC expressed concern over increased traffic by accepting these new waste streams. Norlite does not anticipate any increased traffic in that the acceptance of this waste would supplant the acceptance of waste streams currently coming to Norlite. Norlite's fuel burning capacity does not increase by approving the acceptance of K169 and K170.

Norlite will accept these streams and ensure that they are blended to specification for delivery to the kiln. Particular attention will be paid to the sediment parameter.

RESPONSE 73: No new waste codes will be added at this time. Should Norlite wish to pursue these waste codes at a later date, a modification request will be required after the permit is renewed.

COMMENT 74:

15% Sediment

During development of the renewal permit, DEC proposed allowing the burning of 15% sediment in the fuel. This number was to reduce to 5% sediment after a certain number of AWFCOs presumed to be associated with sediment in the fuel. Norlite suggested the reduction be 7.5% rather than 5% and that the reduction provisions would become unnecessary after upgrades to the fuel delivery system were complete. Norlite also committed to a more thorough demonstration through the upcoming CPT.

Norlite cannot accept the reduction the Department's reduction to 8.3% sediment with reduction to 5% after 25 AWFCOs. Norlite demonstrated in the last CPT campaign that the facility can burn upwards of 30% sediment. Norlite is also focused on performing the fuel delivery system upgrades that will help in reducing cutoffs. Norlite will also be designing the CPT to definitively address this issue. There insufficient information for the DEC to require the reduction to 5% from the current permit level without providing Norlite an increase. Considering the measurement of this parameter, which is also under discussion, a 3.3% difference in feedrate is insignificant. Norlite will agree to the limits discussed during development of the permit until such time as another CPT is performed. As such, please change the upper limit to 15% and the lower limit to 7.5%.

Additionally, the last four OPLs in the bulleted list are not related to sediment issues and will not be counted as AWFCOs toward the 25 that lead to a reduction in sediment feed.

RESPONSE 74: Please refer to Response to Comment 19.

COMMENT 75: Exhibit E of Module 1 Table E-3, page E-9: Please add language indicating the 62 MMBTU/hr. limit is only for when the kiln is feeding LLGF.

RESPONSE 75: Please refer to Response to Comment 19.

COMMENT 76: Exhibit E of Module 1 C.3.j.ii, page E-9: As stated above, the 40 CFR Part 761 reference is incorrect and needs revision or deletion since it is inconsistent.

RESPONSE 76: Please refer to Response to Comment 19.

COMMENT 77: Exhibit E of Module 1 4(c), page E-10: Please remove “and mass balance calculations” from this section as the calculations are not in the WAP or approved by the Department. Emission limits are demonstrated during the CPT.

RESPONSE 77: Please refer to Response to Comment 19.

COMMENT 78: Exhibit E of Module 1 Table E-4, page E-10: In footnote B, please add after agitated “no less than 2 hours prior to feeding to the kilns”.

RESPONSE 78: Please refer to Response to Comment 19.

COMMENT 79: Exhibit E of Module 1 D.1(b)(ii), page E-13: Please remove the following language as it is too vague and generally understood anyway, “Permittee is instructed to err on the side of conservativeness when determining what MAY result in non-compliance.”

RESPONSE 79: Please refer to Response to Comment 19.

COMMENT 80: Exhibit E of Module 1 D.2(a), page E-13: Please reword this section to read as follows: If any process monitoring instrument (including CO & O2 monitors) malfunctions or any component of the automatic waste feed cutoff system fails, the Permittee shall immediately cease the feeding of any of the following:

- LLGF

If the Off-Specification Used Oil Flow Rate Monitor or the CO and O2 monitoring instrument malfunctions, the Permittee shall immediately cease the feeding of any of the following:

- Off-Specification Used oil
- Waste Fuel A

RESPONSE 80: Please refer to Response to Comment 19.

COMMENT 81: Exhibit E of Module 1 D.2(b), page E-14: Please update the language to read as follows: Any instances, other than AWFCO Testing, where the automatic waste feed cut-off system is by-passed shall be reported in the facility’s monthly report as required by Condition E.3 of this Exhibit.

RESPONSE 81: Please refer to Response to Comment 19.

COMMENT 82: Exhibit E of Module 1 D.2(d), page E-14: Please update the language for this condition to read as follows: Permittee shall record results of Fugitive Emissions Inspections after each Frontend Kiln Pressure AWFCO on the designated Fugitive Emissions Record Sheet.

RESPONSE 82: Please refer to Response to Comment 19.

COMMENT 83: Exhibit E of Module 1 D.3(a)(iii), page E-15: There should be no upper limit to the operating temperature. The 990 deg F data is from the latest CPT and the test condition was not designed to set a RCRA upper limit as it is no longer required under MACT. If an upper limit must be set, the Department should use the current limit of 1030 °F.

RESPONSE 83: Please refer to Response to Comment 19.

COMMENT 84: Exhibit E of Module 1 Table E-5, page E-16: During the 2004 CPT and as presented in the CPT report and Notification of Compliance, Norlite demonstrated compliance with emission standards for particulate and HCl/Cl₂ with lower pressure drop readings across the Venturi and Ducon scrubbers. The test condition for the 2010 CPT was optimized to maximize the stack gas flowrate, which forced the pressure drops in the scrubbers to be higher than is normally seen in these units. If Norlite were to use the data from the 2010 CPT as the sole source of operation parameter limits (OPLs), the facility will have too small of an operating envelope to effectively run the process.

Norlite requests that the OPLs for the Venturi and Ducon be set at 2004 levels. For the Venturi, the pressure drop should be set at 2.93 as demonstrated in CPT2, Condition 2. For the Ducon, the pressure drop should be set to 1.5 as demonstrated in CPT2, Condition 2.

RESPONSE 84: Please refer to Response to Comment 19.

COMMENT 85: Approval of this request is justified based on the comparable emission measurements taken in the two tests. According to the MACT rule, the scrubber OPLs control particulate matter (PM) and HCl/Cl₂. In 2004, PM was measured at 0.0024 gr/dscf and HCl/Cl₂ was measured at 58.5 ppm. In 2010, PM was measured at 0.0127gr/dscf and HCl/Cl₂ was measured at 97 ppm. The MACT standard for PM is 0.025 gr/dscf and the MACT standard for HCl/Cl₂ is 600 ppm. Since both tests yielded emission measurements that are well below their respective limits and that Norlite utilizes baghouse systems with lime injection as control for PM and HCl/Cl₂ in front of the scrubbers, an allowance to use measurements from both tests to set the operating parameters for this permit is justified.

RESPONSE 85: Please refer to Response to Comment 19.

COMMENT 86: Norlite intends to run next year's CPT with more conditions in order to set all

OPLs from one campaign.

RESPONSE 86: Please refer to Response to Comment 19.

COMMENT 87: Exhibit E of Module 1 Table E-5 footnote 3, page E-17: Please update this language to be rolling one minute average (MRA).

RESPONSE 87: Please refer to Response to Comment 19.

COMMENT 88: Exhibit E of Module 1 D.4(b), page E-18: please change “baghouse pressure drop below the maximum” to “baghouse pressure drop above the minimum” operating limit specified.

RESPONSE 88: Please refer to Response to Comment 19.

COMMENT 89: Exhibit E of Module 1 D.5, page E-19: According to the MACT SSMP, off-specification used oil can be feed to the kiln during times of startup once the backend temperature has reached 600 °F or higher. Please add this language to this condition or reference the MACT SSMP.

RESPONSE 89: Please refer to Response to Comment 19.

COMMENT 90: Exhibit E of Module 1 E.1(a)(ii), page E-20: The requirement to record instantaneous data at least once per second is burdensome and excessive. One month of instantaneous recorded data would be over 2.6 million lines of data alone. Norlite requests the language be changed to read as follows, “Instantaneous data, such as kiln draft pressure, shall be monitored at least once per second with an instantaneous reading being recorded every 15 seconds and the maximum value reached within that minute being recorded once per minute.” This language is similar to the current permit which Norlite has been operating under.

RESPONSE 90: Please refer to Response to Comment 19.

COMMENT 91: Exhibit E of Module 1 E.1(f), page E-21: this condition seems duplicative in content to condition E.1(b) located on page E-20. Please remove this condition.

RESPONSE 91: Please refer to Response to Comment 19.

COMMENT 92: Exhibit E of Module 1 E.1.h, E.1.i, & E.1.j, page E-19: Please fix formatting and remove quotations.

RESPONSE 91: Please refer to Response to Comment 19.

COMMENT 92: Exhibit E of Module 1 E.1(h), page E-21: This condition is excessive and burdensome. All components detailed in the MACT CMS Plan are checked at least monthly or more frequently, regardless of maintenance activities. To require additional checks on this system does not provide any further protection to the

environment. This is a new requirement not found in the Part 373 or 40 CFR 63 Subpart EEE regulations. Please remove this language.

RESPONSE 92: Please refer to Response to Comment 19.

COMMENT 93: Exhibit E of Module 1 E.1(i), page E-21: Please replace one month with 30 consecutive days.

RESPONSE 93: Please refer to Response to Comment 19.

COMMENT 94: Exhibit E of Module 1 E.1(j)(i), page E-22: Please replace Calibration Error testing with Cylinder Gas Audits (CGAs).

RESPONSE 94: Please refer to Response to Comment 19.

COMMENT 95: Exhibit E of Module 1 E.2(b), page E-22: Condition E.4.d referenced in this condition does not exist.

RESPONSE 95: Please refer to Response to Comment 19.

COMMENT 96: Exhibit E of Module 1 Table E-6, page E-23: Please see the attached corrected Table E-6 included with these comments.

RESPONSE 96: Please refer to Response to Comment 19.

COMMENT 97: Exhibit E of Module 1 E.3, page E-24: Please replace within three weeks of the end of the month with the 21st of each month.

RESPONSE 97: Please refer to Response to Comment 19.

COMMENT 98: Exhibit E of Module 1 E.3, second paragraph, page E-24: Please remove “and other information as determined by NYSDEC”. This language is too vague.

RESPONSE 98: Please refer to Response to Comment 19.

COMMENT 99: Exhibit E of Module 1 E.3(b)(i)(h), page E-25: Please remove the requirement from this condition. Once a cutoff has occurred and LLGF has stopped being fed to the kiln, while on Off-Specification Used Oil or any other fuel sources, the conditions in the LWAK can be outside the conditions listed for LLGF. While hazardous waste remained in the chamber

RESPONSE 99: Please refer to Response to Comment 19.

COMMENT 100: Exhibit E of Module 1 E.3(c)(i), E.3(c)(ii), and E.3(c)(iii), page E-26: Please reword this language as follows to remove vagueness and make this requirement more closely match the current permit requirements. Please see the language below:

- i. For each batch of raw shale, hazardous waste (i.e., LLGF), and oils (Off-Specification Used oil & Waste Fuel A) fed to each of the LWAKs provide:
 - a) maximum amount possible of each feed mentioned above
 - b) maximum flow rates possible of the feed mentioned above,
 - c) start and end time of each feed,
 - d) maximum concentrations of metals (listed in Condition C.4) & total halogens,
 - e) heat content of each feed stream (except raw shale),
 - f) specific gravity (for feeds whose flow rates are measured in volume),
 - g) total mass feed rate of Table E-4 metals (individually as well as LVM & SVM) and total halogen (in lb/hr) fed to the kiln,
 - h) thermal input of each feed stream (in BTU/Gal)
- ii. For each batch of On-Specification Used oil, Comparable fuel, diesel, kerosene, Fuel Oil # 2, 4 & 6 fed to each of the LWAKs provide:
 - a) start and end time of each feed,
 - b) specific gravity (for feeds whose flow rates are measured in volume),
 - c) heat content of each feed stream (in BTU/Gal),
 - d) total mass feed rate of metals (listed in Condition C.4) and total halogen (in lb/hr) fed to the kiln, if the total mass feed rates from each of the these streams is greater than 1.0% of the permitted feed rates listed in the 3rd column of Table E-4 & Condition C.3, respectively.
- iii. provide any instances of exceedances of the allowable feed rates for mass, metals, percent sediments, chlorine, or total thermal input

RESPONSE 100: Please refer to Response to Comment 19.

COMMENT 101: Exhibit E Module 1 E.3(c)(ii), page E-26: Please remove natural gas from this list as Norlite does not conduct any testing on the natural gas supplied from National Grid.

RESPONSE 101: Please refer to Response to Comment 19.

COMMENT 102: Exhibit E Module 1 E.4(a), page E-27: This condition is very confusing and appears to possibly be several paragraphs or separate conditions blended into one. Please revise and clarify the requirements of this condition. Please remove the first part of this condition which cites 6 NYCRR 374-1.8(c)(vii)(b). This citation

appears to be inaccurate so it will be assumed the Department meant to cite 6 NYCRR 374- 1.8(c)(5)(vii)(b). This either event, this regulations does not specific an annual report which summarizes the AWFCOs in each calendar month for previous year which identifies the cause of the AWFCO, or analyzes the tread to propose corrective actions to remedy the problems.

As part of this same section, please identify which report is required to be prepared and certified by an independent New York State registered Professional Engineer knowledgeable in hazardous waste incineration.

Also as part of this section, the condition states the Permittee shall notify the Department within 72 hours if the AWFCO system activations increased by 100 percent or more in any given month...Please clarify what the 100 percent increase is based from.

RESPONSE 102: Please refer to Response to Comment 19.

COMMENT 103: Exhibit E of Module 1 4(f), page E-28: please clarify who at the DER should be receiving this report and in what format.

RESPONSE 103: Please refer to Response to Comment 19.

COMMENT 104: Exhibit E of Module 1 4(g)(iii) & 4(g)(v), page E-28 & E-29, respectively: Please change instantaneous to continuous.

RESPONSE 104: Please refer to Response to Comment 19.

COMMENT 105: Exhibit E of Module 1 4(h), page E-29: Please change language to read, “Any release from a permitted secondary containment...”. This is in conflict with other language in permit.

RESPONSE 105: Please refer to Response to Comment 19.

COMMENT 106: Exhibit E of Module 1 4(j), page E-29: Please update the language for this condition to read that this report will be submitted with the monthly report once it has become available to Norlite. Frequently, this report is not available by the due date of the monthly report due to investigations of the independent laboratories results.

RESPONSE 106: Please refer to Response to Comment 19.

COMMENT 107: Exhibit E of Module 1 Table E-7: Please see the attached corrected Table E-7.

RESPONSE 107: Please refer to Response to Comment 19.

COMMENT 108: Module III E.7, page III-3: Please remove the statement “repaired to the satisfaction of the Department and replace with “repaired to meet the requirements of 6 NYCRR 373-2.9(f)(1).

RESPONSE 108: The Department disagrees with this comment, “repaired to meet requirements” is subjective. The Department, as a regulatory agency, desires repairs at permitted facilities to be made to the satisfaction of the Department. No change in language has been made.

COMMENT 109: Module IV E.4, page IV-2: Please update the language to read as follows, “If leaks (except minor drips) or overflows are discovered associated with any tank system (including ancillary equipment), the Permittee must follow the Spill Notification Plan supplied to the Department on August 28, 2009. The Spill Notification Plan is also referenced in the Integrated Contingency Plan incorporated by reference into this Permit.

RESPONSE 109: The Department has updated the exhibit to Module IV to define “Contingency Plan” to be equivalent to the “Integrated Contingency Plan.”

COMMENT 110: Module VII A.5, page VII-1: Please update language to read as follows, “Any modification beyond general maintenance, repairs, or replacements which have previously been conducted to the authorized incineration units...

RESPONSE 110: Refer to Response 19.

COMMENT 111: Module VII I.2, page VII-4: Please modify the risk assessment requirements as discussed above. Norlite will be modifying the existing risk assessment.

RESPONSE 111: Please refer to Response to Comment 19.

Citizen’s Environmental Coalition, Clean and Healthy New York, Communities Concerned about NL Industries, Empire State Consumer Project, New York Public Interest Research Group, People of Albany United for Safe Energy, and United Neighbors Concerned about GE Dewey Loeffel Landfill

Comment 112: The Norlite facility and its operation are a serious threat to the health and well-being of community residents. Hazardous waste operations and incineration cannot continue to operate in almost continuous non-compliance with applicable regulations. Therefore, Norlite’s operations must be fixed immediately or be closed down.

Fixing these operations requires a lot of work, stringent regulation and oversight. We believe that Norlite has fully demonstrated that it has been unwilling to comply with simple requirements for years. DEC has been too willing to allow business as usual. However, there also may be an element of Norlite’s operational

plan that is just not technically feasible without highly qualified personnel: managing a diverse array of irregular hazardous waste shipments that do not provide a stable hazardous waste fuel.

All of the recommendations below must be implemented in order to fix this facility immediately. No permits should be given to this facility until all of the recommendations are being implemented and an air permit is processed along with the hazardous waste permit including a minimum of a 90 day public comment period.

If these recommendations are not implemented, we recommend a Commissioners' cease and desist order for all operations and immediate closure and cleanup of the Norlite facility.

Response 112: Comment noted. Please see individual responses to recommendations.

Comment 113: We recommend that DEC take full advantage of permit transfer requirements to bring Norlite into compliance. A new owner provides a key opportunity to correct the long and problematic history at Norlite --if DEC uses this opportunity. Unfortunately, rather than even mentioning this issue in the public notice, this was announced as just a permit renewal. The new Norlite owner must apply for a permit transfer and meet the requirements of 6 NYCRR 621.11 3) - (5). Any non-compliance by the existing permittee must be resolved to the department's satisfaction before a transfer is approved. A new permittee may also be subject to a record of compliance review before a decision on permit transfer is rendered.

Response 113: The Application for Permit transfer was received by the Department on October 2, 2012, and was issued on December 14, 2012, to be effective on December 14, 2012. The permit transfer was not outlined in the permit renewal, since it was issued almost two years ago. As noted by commenter, 6NYCRR 621.11 requires that any non-compliance be resolved to the Department's satisfaction. While compliance is an important component of permit transfers, it is equally important to ensure that the owner of a facility is listed as the legally responsible party when an ownership change occurs. This ensures the ability of the Department to conduct enforcement actions on the current owner for non-compliance. Therefore, it is important to transfer permits when ownership change occurs. In regard to outstanding compliance issues, the new owner (or transferee) agrees to be bound by all permit conditions and compliance requirements, including existing enforcement actions, when that entity assumes the role of owner/permittee. Norlite, LLC, agreed to assume all liability and responsibility for the facility when it was transferred from Norlite Corporation, Inc. To hold the permit transfer in abeyance for a lengthy period of time would hinder the Department's ability to enforce, since the permit would remain in the old company name and not in the current operator name.

A review of the current facility operation and enforcement status, shows that

progress is being made toward compliance, and the Department is satisfied that a permit transfer was approvable and that the new entity would continue to meet compliance directives. Therefore, the permit transfer was issued on December 14, 2012.

Comment 114: Completion & implementation of an updated Fugitive Dust Control plan – now 13 years overdue.

Response 114: An update to the 2010 Fugitive Cost Control Plan was submitted to the NYSDEC on October 2, 2014.

Comment 115: Completion of all outstanding Consent Order items including item #12 in the 2010 Schedule of Compliance requiring an engineering report that examines the feeds to the kilns, blending practices, management of tank system and all equipment, and inspection and cleaning procedures. This item was directly tied to the ability to comply with the hazardous waste permit and was due within 60 days of May 11, 2010, thus four years past due.

Response 115: Norlite, using an independent Engineering Firm, has been performing the required evaluations under this item and is working to complete the modifications in compliance with this Consent Order item A final engineering report for installation of a revised fuel feed system was submitted to the Department on October 24, 2014 and is under review. This system will automate the entire fuel feed system, eliminating many issues associated with manual fuel feeds.

Comment 116: Preparation of a detailed plan for confirmatory sampling of hazardous waste fuels to confirm that the paperwork is accurate—confirming that the generator and transporter are delivering what the manifest says.

Response 116: The waste sampling requirements can be found in the Waste Analysis Plan Sections 1 through 3.

Comment 117: The installation of two kinds of continuous emissions monitoring equipment for stack emissions: Particulate matter and Total hydrocarbons. These continuous monitors will record actual emissions of these pollutants rather than just violations of operating conditions. Total hydrocarbons will verify the destructive removal efficiency continuously.

Response 117: In accordance to 40 CFR 63.1209 (a) – continuous emissions monitoring systems (CEMS) and continuous opacity monitoring systems (COMS) – Norlite uses CO monitors to monitor compliance of carbon monoxide and hydrocarbon standards, performs comprehensive performance tests (CPTs) to demonstrate that hydrocarbon emissions do not exceed the hydrocarbon emissions standard to establish destruction and removal efficiencies (DREs), and has permit required operating parameters for performance monitoring. It should be noted that under 40 CRF Subpart EEE Light Weight Aggregate Kilns do not have to install continuous opacity monitors.

- Comment 118: The installation and use of radiation monitors to detect mixed waste loads.
- Response 118: Norlite is not permitted to accept any mixed waste.
- Comment 119: The measurement of clinker, multiclone and baghouse dust quarterly at minimum for organic content. This is another check on the total destruction of organic pollutants. Annual testing of baghouse dust for dioxins, furans and PAHs.
- Response 119: Section 6 of the Waste Analysis Plan provides the sampling analysis and frequency for clinker, multicyclone and baghouse dust.
- Comment 120: Installation of a vapor recovery system for transfer of hazardous wastes between containers, tanks and transporters.
- Response 120: Vapor recovery systems are in place. Please see drawings NY003-5317 (P&ID-Truck Fugitive Emissions System, NY003-1312 P&ID LGF Storage and Transfer, and NY022-D1001 P&ID Zero Discharge System.
- Comment 121: Identification of the job duties and qualifications of all personnel.
- Response 121: Please refer to the Personnel Training Section 1.1 for identification of positions and duties related to the hazardous waste management.
- Comment 122: The Installation of Community air monitoring in residential areas near plant boundaries.
- Response 122: According to the NYSDEC Regional Air Pollution Control Engineer, NYSDEC Division of Air in 2008 performed a particulate monitoring in Cohoes. No issues were noted. The Albany County permanent particulate monitoring station has been in compliance with EPA ambient standards for a minimum of 7 years.
- Comment 123: Ensure this facility is in compliance with Clean Air Act Amendments 112 (r) provisions for the handling and storage of extremely hazardous substances, as well as participation and cooperation with the local emergency planning committee. Large quantities of chemicals are arriving at this facility and some of these may include extremely hazardous substances that need very special handling and emergency preparedness plans to prevent disaster.
- Response 123: The facility is currently bound by, and operating substantially in compliance with the Clean Air Act. With regard to participation with local emergency planning, the facility is a part of the Local Emergency Planning Committee and conducts informational tours of the facility with the local emergency responders. They have contributed funds toward the purchase of new equipment for confined space rescue and training needs for the Cohoes Fire Department, and updates emergency responders with emergency contact lists for the facility. Norlite

annually submits information as required by SARA Tier II regulations to the central database for emergency response teams with more detailed information on chemicals and their location.

Comment 124: A complete record of rejected shipments, reason for rejection, dates, etc. should be provided.

Response 124: This information is maintained in the facilities operating record, and reviewed by Department personnel during inspections, i.e. RCRA inspections, occurring at least twice annually, includes review of manifests. In addition, the Department is provided copies of all manifest rejections and discrepancies, whenever they occur.

Comment 125: A report should be prepared on all the Facility activities associated with transfer station or transshipment activities, including quantities and types of hazardous waste, personnel dedicated to these activities and how this function is managed and kept separate from the fuel shipments for the hazardous waste incinerator. Emissions from this activity should be quantified.

Response 125: 10-Day Temporary Storage and Transfer Areas are exempt from permitting as long as the facility maintains the conditions of the exemption. This area is mentioned in the permit to present an overview of operations at the facility but is not included as a permitted activity.

Comment 126: Do not finalize the Remedial Facility Investigation and Corrective Measures Study and ensure that the public actually receives comprehensive presentations, can ask questions, get answers and have an opportunity to make comments on the proposed corrective measures and their adequacy.

Response 126: Staff provided computer presentations, visual aids (maps, etc), at the public hearing and conducted a public availability session prior to the hearing. Numerous staff were on hand to answer questions regarding the Remedial Facility Investigation and proposed Corrective Measures, and any other Part 373 questions that the public may have. Several of the public asked questions and received answers regarding these issues.

Comment 127: Meaningfully involve the public. Solicit Input and Document the specific ways the public will be notified for all Norlite, DEC & DOH meetings pertaining to this facility. The public knew nothing about a new 2014 DEC consent order being negotiated with Norlite since January. It was not finished until Sept. 3rd, after the original deadline for public comments on the permit renewal.

Response 127: Public participation was solicited as outlined in Response 129. Consent Orders are not made public until they are issued.

Comment 128: So-called “environmental benefit projects” for the community should no longer

be arranged by DEC since they give the appearance of extra benefits from a good neighbor, while major outstanding non-compliance is ongoing and impacting public health. Such paltry sums are an insult. On the other hand, the community could use a sizeable sum of money for an independent environmental consultant to advise and serve the community.

Response 128: This permit renewal has no mechanism for an environmental benefit project.

Detailed Attached Comments re: Norlite, LLC Permit Renewal, Remedial Facility Investigation and Proposed Corrective Measures
prepared by Citizens' Environmental Coalition, Barbara Warren RN, MS, Executive Director

Public Notice and Participation

Comment 129: Public notice was not provided to the interested and involved public via usual methods. An individual on DEC's Norlite ALERT list was not notified of the Aug. 5th meeting. Notices were not posted in typical Cohoes locations, such as the Town Hall. Given the high level of interest associated with this problematic facility, extensive outreach should have been provided.

Response 129: The Notice of Complete Application and Notice of Public Hearing for this project was published in the Troy Record and Times Union, and was broadcast over the radio on the following stations: WGY, WAMC, WPYX and WYJB. The radio announcements were made twice on June 25, 2014, on each of the four stations. Documents pertaining to the renewal and the draft permit were made available at the Cohoes Public Library, NYS DEC Albany office and NYS DEC Schenectady Office for public review. In addition, the application, draft permit and supporting documents were available on the Norlite website at www.norlite.agg.

Comment 130: The Public Notice in the Environmental Notice Building states that DEC has prepared a factsheet which provides further details on the draft permit. This Factsheet is a requirement for hazardous waste permits 6 NYCRR Part 373-1.4 (f) (1) *A fact sheet shall be prepared for every draft permit for a major HWM facility and for every draft permit which the commissioner finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The commissioner shall send this fact sheet to the applicant and, on request, to any other person.*

However, upon requesting this, we were directed to the Statement of Basis, 6 NYCRR Part 373-1.4 e) Statement of basis. *The department shall prepare a statement of basis for every draft permit for which a fact sheet under subdivision (f) of this section is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative*

decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

However, the Statement of Basis deals primarily with the remedial facility investigation and says almost nothing about the hazardous waste permit. In the absence of either of these documents covering how the DEC reached its conclusions, we have no understanding of DEC's rationale for proposing to renew the Part 373 Hazardous Waste Renewal permit for Norlite, LLC.

Response 130: Both a Fact Sheet and Statement of Basis were available for the subject Part 373 Renewal.

Comment 131: Only four people heard about the meeting and managed to attend on Aug. 5, 2014. No presentation at all was provided about the Remedial Facility Investigation and the proposed Corrective Measures. This is absolutely unacceptable. Extensive public participation is supposed to occur with all remedial facility investigations and in this case the public has been apparently kept in the dark and has not heard any detailed presentations in order to be able to comment on the proposed corrective measures. We have attempted to provide a few comments below, but we are requesting that this process be restarted and not finalized because of inadequate public involvement in the remedies for cleanup.

Response 131: Public participation was solicited as outlined in Response 129. Staff provided computer presentations, visual aids (maps, etc.), at the public hearing and conducted a public availability session prior to the hearing. Numerous staff were on hand to answer questions regarding the Remedial Facility Investigation and proposed Corrective Measures, and any other Part 373 questions that the public may have. Several of the public asked questions and received answers regarding these issues.

Comment 132: Community Members have been the ones regularly impacted by the numerous incidents and violations of operating conditions at this facility. We believe community health and well-being are being adversely impacted by the almost continuous non-compliance of this facility and the lack of effective emissions control.

Response 132: Comment noted.

Air emissions Issues

Comment 133: An Air Permit Should be processed with the Hazardous Waste Permit. Air Emissions problems, incidents and violations have been ongoing and Norlite is currently operating with an expired permit.

Here we discuss a few of the notable problems and issues, that require DEC to take definitive enforcement action, not renew a permit.

Expired air permit. The DEC is attempting to process the Hazardous Waste Permit for this facility in the absence of a renewal of the air permit which has also expired. These two permits are inextricably linked and should not be processed separately. The current air permit expired in 2007 and Norlite is operating a hazardous waste incinerator with an expired permit. We strongly recommend the air permit be addressed at the same time as the Part 373 permit.

Response 133: The permittee applied for a Title V Air Permit renewal on December 6, 2006, and therefore, the existing Air Title V permit remains in effect (SAPA extended) until such time as the renewed permit is reviewed and issued. The Department requires that the facility adhere to current standards and EPA requirements contained in 40 CFR Title 40, subpart 63.1221 EEE. The facility currently monitors and reports in accordance with the current standards. The Department has, and will continue to, issue Notice of Violation for incidents of non-compliance with federal air regulations, as noted in past consent orders and notice of violations. The draft Air Title V permit renewal was public noticed on October 12, 2015 and provided the public with an opportunity to review the application materials, draft permit and permit review report and submit comments. The comment period ended on November 12, the Department did not receive any comments on the draft permit. In the interim, prior to issuance of a permit renewal, the facility is subject to all current regulations and limits.

Comment 134: Multiple air emissions violations

- 62 air emissions violations from Nov. 2008- April of 2009 from improper mix of hazardous waste. (Times Union, Oct. 23, 2013, Brian Nearing)
- 1300 unstable fuel episodes from Feb. 2007 to April 2009 from a changing and unstable mix of hazardous waste. (Times Union, Aug. 23, 2009, Brian Nearing)
- Chlorine emissions jumped by 40% from 2004-2008 after DEC allowed burning of more chlorinated wastes. Chlorine in the presence of organic materials leads to dioxin emissions. (Times Union, Aug. 23, 2009, Brian Nearing)
- Recent odor events are discussed later.

Response 134: The air emissions violations were subject to the 2010 Consent Order.

Comment 135: Consent Orders are enforcement orders. Multiple orders have not been effectively enforced to achieve compliance.

Response 135: Consent Orders are not permits and are not a means to bypass or otherwise circumvent the legal process and protections associated with the permit system. The Department's permit issuance mechanisms were created to ensure environmental impact review and opportunity for public involvement, among other things. Enforcement Consent Orders principally are aimed at gaining compliance, and deterring and punishing violators. Consent Orders are designed to bridge

noncomplying activities into compliance. Consent Orders are legally enforceable and are a vital enforcement tool.

In general, if a permit is issued to a prior violator, it may be appropriate to impose strict reporting or monitoring conditions within such permits or to require an environmental monitor. The Department also recognizes that a prior violator can demonstrate that rehabilitation has occurred such that, with or without more stringent oversight, as the specific circumstances warrant, the entity can carry out activities in a responsible manner.

The Department determined that issuance of a permit with more stringent, updated conditions is in the best interests of the State and would be beneficial to the protection of public health and the environment. Upon issuance of the permit, the facility will be required to meet stricter standards for the treatment, storage and disposal of hazardous waste.

Comment 136: Fugitive Dust Control is a particularly important element for this operation, as noted by ATSDR in the 2005 Health Assessment... "fugitive particulates from the processing of these materials may expose nearby residents to particulate concentrations that could cause health effects." p. 1. Yet the plan for Dust Control has not been updated for 13 years, despite removal of silos and current storage in waste piles. (Sept. 2014 Consent Order)

Response 136: An update to the 2010 Fugitive Dust Control Plan was submitted to the NYSDEC on October 2, 2014. The plan was approved by Department staff on May 28, 2015.

Comment 137: The 2010 Consent Order required an engineering report to be completed by July 2010 that examined the feeds to the kilns, blending practices, management of tank system and all equipment, and inspection and cleaning procedures. This item was directly tied to Norlite's ability to comply with the hazardous waste permit. This analysis could impact the feeds to the kiln and ensure better operations with fewer emissions, but it is now four years late.

Response 137: Please see Response to Comment 115. Norlite, using an independent Engineering Firm, has been performing the required evaluations under this item and is working to complete the modifications in compliance with this Consent Order item. Norlite has submitted a succession of engineering reports and engineering studies associated with this requirement. Each submission built upon prior submissions. A number of recommendations for improvements to the fuel delivery system have been approved and implemented. During studies in 2013, Norlite hired an outside engineering firm who specializes in delivery system design and implementation. The recommendations of this firm significantly changed the method of improving the fuel delivery system

Comment 138: The existing air permit (although expired) provides DEC's Commissioner the authority to permanently seal an air emissions source. DEC should use all its authority.

Response 138: Comment noted.

Adverse Health Impacts

Comment 139: ATSDR in its 2005 Health Assessment determined that adverse health effects would not be expected based on air emissions modeling of stack emissions from the kilns and assuming compliance with state-imposed operating conditions. Air emissions modeling is not the same as actual air emissions monitoring, which ATSDR recommended for the community. In addition, as we noted in Comment 134 above, Norlite's kilns are frequently not operating under the established operating conditions—and thus not in compliance. Thus, we can say today that based on actual operations of the kilns adverse health effects are more likely to occur.

ATSDR found a statistically significant elevation in lung cancer rates for men - almost double the expected rates of lung cancer (74 observed vs. 38.5 expected) in the Cohoes zipcode compared to Albany County using data from NYS DOH for 1993-1997. (ATSDR 2005, p. 43)

Response 139: The kilns are operated in accordance with the Hazardous Waste Combustors Maximum Achievable Control Technology (HWC-MACT) found at 40 CFR Part 63 Subpart EEE and incorporated by reference into the state regulations in accordance with 6 NYCRR Part 200.10. Automatic waste feed cutoffs are employed whenever the kilns begin to operate outside the state-imposed operating conditions which are conservative.

Comment 140: There have been numerous air emissions releases and odor events at this facility, that were very serious emergencies. Residents routinely report sulfur and chlorine odors.

On July 31, 2013 the Albany Times Union reported that an overheated chemical tank was causing a foul odor from methyl mercaptan in Cohoes, NY. The fire chief noted that the tank had not leaked or spilled and it was being vented through a natural vent. (Times Union, July 31, 2013, Paul Nelson)

The permit application does not indicate any tanks that are heated at the facility. If this is an oversight, the permit application should be corrected. If tanks were not deliberately heated, was there a chemical reaction with other wastes in the tank which caused the heating? Unfortunately, there are also no written descriptions of any of the major events at Norlite in the application over the past 7 years. Incident reports are usually prepared to identify the cause of the problem and to analyze how incidents can be prevented in the future. While all reports do

not need to be in the application- significant ones should have been there with a detailed discussion.

The permit application states that all vents are directed to the kiln, and thus not open to ambient air. If this is true, there should have been no odors involved. Repeated odor incidents need explanation in this permit application.

The fire chief reassured the public about this situation—“There is no danger to the public...”

However, the National Fire Protective Association gives methyl mercaptan its highest rating of 4 for fire since it will rapidly vaporize at normal atmospheric pressure and temperature, readily disperse in air and burn readily. The flashpoint is below 73 degrees Fahrenheit. It is also identified by EPA as an extremely hazardous substance (EHS) with notifications if you store more than 500 lbs. (the threshold planning quantity) on site, and if you release 100 lbs.(reportable quantity). It has a rating of 1 for reactivity—normally stable but can be unstable at elevated temperatures and pressure. Finally it has a high rating for Health #4—very short exposure can cause death or major residual injury.

Immediately following this incident on Aug. 1, 2013 the Times Union reported there was a ruptured disc in a tank which caused the release of methyl methacrylate. “Norlite staff dealt with the release through the ventilation system”. (Times Union, Aug. 1, 2013, Kenneth C. Crowe II)

A ruptured disc most likely indicates that pressure in the tank was excessive and the disc performed its normal function by rupturing and releasing pressure. Were these incidents related to one another? If a proper investigation had been launched related to the previous day’s event might the second one have been prevented? Again there was no write up of this incident in the application materials. What ventilation system was Norlite staff using on August 1, 2013 to deal with the release? Or is ambient air the ventilation system?

This substance is highly flammable and explosive. All ignition sources must be removed in the area. Methyl methacrylate is an irritant and can cause acute respiratory and neurological health effects.

In Oct. 23, 2013, the Times Union reported on an open house and tour held by new owners of Norlite, Tradebe Environmental Services, LLC. The new manager stated he wanted to improve communication with the community. (Times Union, Oct. 23, 2013, Brian Nearing)

This article discusses a major sulfurous odor event in 2012 that impacted Cohoes, Green Island and Watervliet. Public officials spent a lot of effort and money investigating sewers for the source, but it turned out to be coming from Norlite. The problem chemical turned out to be dimethyl disulfide and DEC had to allow it to be burned for 3 days because they were concerned that more vapor would be

released if it was pumped from a tank to a tanker truck.

This chemical is a very dangerous fire hazard when exposed to heat, flame, or oxidizers. While the article did not provide detail on the specific source of the odor at Norlite, neither did the permit application discuss this event. If Norlite actually has a vapor recovery system that directs vapor to the kiln, why couldn't it be used to collect this vapor rather than release it to the open air? Dimethyl disulfide is a pesticide. Pesticides are not permitted to be burned at Norlite—but apparently this emergency necessitated that burning continue.

Response 140: The Department executed an order on consent with Norlite which acknowledged that the facility released methyl methacrylate vapor to the atmosphere from an emergency release vent. Respondent has notified the customer responsible for the shipment that was subject to the release that it would no longer accept any waste stream that contained methyl methacrylate as a constituent.

Beneficial Use Determination

Comment 141: Norlite claims it has received a Beneficial Use Determination 6 NYCRR Part 360-1.15 for its product: block mix, which includes multicyclone and baghouse dust. We have been unable to confirm this as the DEC central office is only in possession of denials for beneficial use of this material.

The documentation needs to be provided related to this product, the toxic constituent analysis, and BUD approval, including the date of approval.

Response 141: The Department approved a beneficial use via a permit renewal back in 2007 which has been carried over to the draft permit.

Attachment D to their current permit states: "Combustion gases and entrained particulates exiting the kiln pass through a mechanical collector, a Barrons multiple cyclone unit (multiclone), to remove large particulate matter. Particulates removed by this device accumulate in a hopper from which they are pneumatically conveyed to the Dust Storage Silos. Dust from these silos is beneficially used in a block mix product." and

"Like particulates removed from the multiclone, baghouse dust is beneficially used in a block mix product."

Hazardous Waste Permit: Other issues beyond air

Comment 142: DEC regulations require extensive information to be submitted from each applicant for a permit. It could be that DEC is not requiring such information since this is a renewal. However, if there is reliance on an earlier permit application, this information should have been available. We find the Part 373 Permit to be

incomplete and in general very sketchy, lacking basic information required according to DEC regulations. We looked for employee qualifications for hazardous waste receipt and blending—the information is not there. We looked for incident reports- also not there. We also need to understand exactly how this facility is working with the Local Emergency Planning committee to prevent catastrophic events—a distinct possibility given the description of three recent events.

Response 142: The Integrated Contingency Plan (ICP) included with the Draft Permit provides the facility response guidance and procedures. As outlined in the ICP, Norlite follows the National Incident Command System for all emergency responses.

Comment143: The Norlite Operations Plan indicates that hazardous waste movement associated with on-site processing and burning is minimal with daily volume of 25,000 to 50,000 gallons- 4-7 bulk tank deliveries and 1-2 truckloads of containers or roll offs daily on average.

The Plan also notes greater quantities associated with transshipments of waste, 17 trucks a day related to transfer station activities. We should have a detailed discussion of all transfer station activities, if this is part of the Hazardous Waste Permit. This is a separate operation and needs much more discussion in the application than a sentence. What wastes are permitted? and are there other unique hazards associated with these shipments? This entire activity should be explained in substantial detail.

Response 143: 10-Day Temporary Storage and Transfer Areas are not covered under the current regulation. See Response to Comment 125.

The Hazardous Waste Remedial Facility Investigation (RFI) and Proposed Corrective Measures

Comment 144: The entire site investigation and Proposal for Corrective Measures was largely hidden in the public notice which led the public to believe this was about a permit renewal only. The notice gave the impression that the Draft Statement of Basis provided the rationale for the permit renewal.

Instead the Draft Statement of Basis June 2014 was a summary of the RFI and the proposed corrective measures for the site--- essentially involving no further cleanup action. The statement of basis delineates none of the public participation process which should have occurred since issuance of the Hazardous Waste Permit in 2007.

If there was any public process including regular meetings and solicitation of public input that process should be described. The August 5th meeting for the public was grossly inadequate. Due to the lack of sufficient public notice in usual

local government locations, few people showed up, although there is a lot of interest in this facility's operations. There was almost no presentation at the meeting about the investigation and staff was unable to answer questions posed by the public.

Response 144: The corrective action module is a standard component of any hazardous waste management permit. Upon completion of the remedial investigation process, when the final corrective measures (or remedies) are tentatively selected, a permit modification that incorporates the final remedies is prepared and public-noticed. This provides the opportunity for public comment. In this situation, the selection of the final remedies coincided with the permit renewal, so that the public notice was combined.

Since issuance of the last hazardous waste permit in 2007, no consent orders for corrective action have been issued. Some of the corrective action work was performed as interim corrective measures (ICMs). ICMs are used when the facility and the Department agree with the need to conduct relatively straightforward remediation work in order to address environmental contamination while the remedial investigations are being conducted rather than wait until the Statement of Basis is issued. The ICM process enabled the facility to address the contamination in an efficient and timely fashion.

Comment 145: The Remediation Objectives in this investigation were seriously flawed in not including inhalation of dust and particulate as an important human health threat for this site.

Not only has fugitive dust control been an obvious and major issue at this site, but ATSDR has noted its significance to human health in its 2005 health assessment "Analyses of shale and clinker (raw materials and product) indicate that fugitive particulates from the processing of these materials may expose nearby residents to particulate concentrations that could cause health effects. However, existing data are insufficient to give a clear answer; therefore, ATSDR recommends air sampling at the fence-line or in residential areas under conditions likely to produce maximum fugitive emissions. Dust control is extremely important at Norlite because their processing equipment creates dust." p. 1, (ATSDR Human Health Assessment 2005).

Missing a major health objective alone is so egregious as to require a thorough review including additional investigation. No one with any health background would choose soil vapor and eliminate dust as a major pathway of exposure at Norlite.

The Air Permit issued in 2007 required the preparation of an updated Plan for control of fugitive dust from its quarry and aggregate manufacturing operations. Last plan was dated 2001. The ATSDR Health Assessment in 2005 called for dust control, and the air permit was given in 2007. Yet in Sept. 2014, subsequent to the initial deadline for public comments, Aug 15, 2014, a new consent order was

issued that again cited the absence of an updated dust plan. This is not just a paperwork exercise, annual review and revisions as appropriate to the dust control plan are required by the permit and by the health issues involved. This plan is now 13 years out of date.

Response 145: The Remedial Action Objectives address the protection of public health and the environment from contaminated environmental media (groundwater, soil, surface water, sediment and soil vapor). The Department, in consultation with NYS Department of Health, evaluated all exposure pathways and no complete exposure pathways were found. Naturally occurring components of site soils, such as shale, are not addressed by the RAOs or the corrective action process.

During the RFI, samples were taken at SWMU 14 along the northeast property boundary to assess potential impacts from site air emissions. Soil samples were analyzed in each of ten locations at two intervals: shallow 0-6", and from 6" to 36". The soil samples were analyzed for volatile organic compounds, semi-volatile organic compounds, and metals. No results were above the applicable NYCRR Part 375-6.8 Soil Cleanup Objectives for residential use. Based on these results, no further action was determined necessary in this area.

See response to Comment 136 regarding the facility's Fugitive Dust Control Plan.

Comment 146: Particularly toxic and bioaccumulative chemicals were not included in the testing for this investigation. No testing was apparently done for dioxins, furans and PAHs in soil or baghouse dust. These are the likely outcomes of failure to operate the incinerators in continuous compliance with permit conditions that Norlite has been repeatedly cited for. This means that it is likely that these chemicals would be found in soil and baghouse dust and the investigation should have tested for them. In addition shale contains radioactive elements and these should also be tested - uranium, radium, radon, polonium.

Response 146: Baghouse dust is used by Norlite as a raw material in its Block Mix and is sampled and analyzed periodically for the compounds noted. PAHs (poly-nuclear aromatic hydrocarbons) are semi-volatile organic compounds (SVOCs) and were tested in soil samples using USEPA method 8270.

Naturally-occurring radioactivity in shale was not evaluated since it is not regulated by or subject to the RCRA Corrective Action process.

Comment 147: There were 17 identified Solid Waste Management Units (SWMUs). Six of these were dismissed by DEC based on information provided prior to the 2007 hazardous waste permit issuance. SWMU-2 (Kiln Supply Pump House), SWMU-3 (Incinerator Energy Recovery Units), SWMU-6 (Filter/Tank Sludge Storage areas), SWMU-10 (Shale Fine Leachate Pond), SWMU-13 (Salt Kill Creek) and SWMU-15 (Maintenance Garage).

1. There is no further information about these 6 SWMUs: the quality and quantity of information, testing and sampling and who provided the information. The nature and description of these units certainly provides no assurance that there is no contamination with hazardous substances. In addition, Norlite was cited for unauthorized pumping of wastewater into the Salt Kill Creek in the 2010 consent order. If this was actually a common practice, sediment testing is needed.

2. Was there a previous opportunity for the public to review the plans for an RFI that deleted these 6 units from any investigation? If there was no previous opportunity for the public to review this decision, all the information about these 6 units should have been provided in the Statement of Basis.

Response 147: These six units were evaluated during the facility assessment and preliminary review process, beginning in the late 1980's and continuing through the development of the RFI workplan in 2009. Based on those evaluations, there was no evidence of releases from any of these units. As a result, no further investigation was required.

These units were also listed in the previous hazardous waste permit, and designated No Further Action. The public was afforded the opportunity to comment on this designation prior to issuance of the last hazardous waste permit in 2007 and no comments or concerns were raised.

Comment 148: Of the remaining 11 SWMUs, two received Interim Control Measures, ICMs and DEC is telling us that eight need no further action. One SWMU will be addressed with groundwater monitoring—SWMU-1 (Tank Storage Area), which includes fuel processing buildings, an above ground tank farm and underground storage and equalization tanks.

3. SWMU-1 (Tank Storage area) There is an assumption here that old underground feed lines resulted in the contamination found in this area. This could be a dangerous assumption if current tanks or equipment are leaking. There is no presentation of the age and integrity of the containment for all the tanks in this area, the piping and ancillary equipment. Preventing leaks should be the first priority, not just monitoring the groundwater for worsening contamination.

Response 148: The Department agrees that preventing leaks should come before monitoring groundwater for contamination. Existing equipment is not believed to be responsible for the groundwater contamination based on several factors, including the relatively low levels of groundwater contamination, and the current regulatory requirements for existing tanks, to include monitoring, inspecting, and secondary containment. None of the Department inspection reports have indicated that any of the active tank systems are leaking. Module IV of the hazardous waste permit addresses storage of waste in tanks, including inspection and testing requirements. Petroleum tanks that store petroleum products and non-hazardous waste are also subject to inspection and testing requirements.

Comment 149: The location of the landfill used for piles of baghouse dust should be identified and investigated. “All baghouse dust piles present at the time of the plant’s acquisition by American Nukem in 1991 were placed in an onsite solid waste landfill. “p. 22 Fugitive Dust Plan, Sci-Tech, 1995 Rev1.

Response 149: The on-site solid waste landfill was granted a permit in 1991 by the Department. Prior to its construction, the material intended to be placed in the landfill was tested and found to be non-hazardous. The landfill was closed in accordance with a Department-approved plan in 1995 and post-closure monitoring of the landfill was conducted for five years (through the year 2000). Since the activities associated with the landfill were performed under Department oversight and review, there was no need to re-evaluate the landfill.

Groundwater flow direction is to the east-southeast. Four wells on the east side of the landfill were sampled for VOCs as part of the supplemental RFI work and did not identify VOCs above groundwater standards, supporting that the landfill is serving to contain the wastes therein.

Comment 150: One of the ICMs was the removal of tons of soil from SWMU-4- Surface Impoundment.

What was this surface impoundment used for in the past? Is there another impoundment operating today? If Norlite is no longer using an impoundment, what is Norlite now using as a replacement for this facility? Is there a plan to deal with these high arsenic levels at the new facility?

Response 150: The purpose of the site investigation is to determine the nature and extent of existing contamination at the site. Based on these findings, cleanup alternatives can be evaluated and where appropriate, ICM(s) can be implemented.

The area known as SWMU 4 was formerly used by Norlite as a surface impoundment and dewatering area for wastewater from the air pollution control equipment. Use of this surface impoundment was discontinued in 1990, when a dry air pollution control system was installed. All shale fines and air pollution residue was excavated and removed from the surface impoundment and sampling occurred after the area ceased to be used. During the RFI in 2010, samples were collected in the former footprint of this surface impoundment to determine if prior excavations had removed all remaining contamination.

The current unrestricted soil cleanup objective (SCO) for arsenic is 13 parts per million (ppm). The current industrial SCO for arsenic in soil is 16 ppm. The 2010 sampling showed that arsenic levels in the footprint of the former surface impoundment were above the 16 ppm SCO (the highest value was 39.2 ppm) so, as an ICM, these soils were required to be removed. As part of the excavation process, Norlite sampled to confirm that remaining soils met the 16 ppm limit. The excavation and removal process continued until the side and bottom samples in the excavation were below 16 ppm. A total of 477 tons of soil (17 truckloads) were removed from the excavation area and disposed off-site.

The waste from the current air pollution control equipment is managed in accordance with NYS requirements. There is no replacement surface impoundment.

Comment 151: Planned Corrective Measures: DEC is proposing Alternative #2- No further action with Site Management including engineering and institutional controls.

Finally, we recommend several public meetings, with sufficient advance notice so that the public can meaningfully participate, asking questions in order to make recommendations.

4. Decisions about Corrective measures should not occur until the public is allowed to engage in the process.

Response 151: The draft Statement of Basis outlining the proposed corrective measures was made available for review and comment beginning on June 25, 2014. A minimum of 45 days for public comment is required by the regulations. At the request of Citizen's Environmental Coalition, the comment period was extended to October 6, 2014 allowing a total of 103 days for public comment. Further, a presentation on a lap-top computer explaining the Statement of Basis was available during the public availability session on August 5, 2014 at which time staff were also on hand to answer questions regarding the Remedial Facility Investigation and proposed Corrective Measures. Comments related to the draft Statement of Basis were received in a letter on October 6, 2014 signed by the Citizens' Environmental Coalition (CEC).

Based on technical evaluation of data collected in accordance with the applicable statute and regulations, the Department has selected the final corrective measures for the site. NYSDOH has also reviewed and concurred with the proposal. The Department's final decision regarding corrective measures considers public input and all comments provided. Comments related to ongoing site operations are not within the scope of the corrective action process and have not been included in this response to comments. These comments will be addressed, as appropriate, by the permit response to comments. The final corrective measure for the site addresses the groundwater contamination and imposes restrictions on future use of the property.

Public/Resident Comments

Harriet Katz

COMMENT 152: Concerned with blasting impacts, cracking foundations, blast records and two incidents of no-trigger for DEC seismograph

RESPONSE 152: The Department conducted a review of blasting practices and blast reports in response to an inquiry by Ms. Katz in 2011, and again as part of the review of comments for the pending Hazardous Waste renewal application. As requested, a chart of DEC records and seismograph records is attached to this Response to Comments. The blast records maintained by both the Department and the licensed blaster show that levels are below the standards set by the US Department of the Interior Bureau of Mines to prevent structural damage.

In response to a neighbor inquiry, as Ms. Katz noted, Department staff monitored several blasts with our own equipment, in addition to the licensed blaster's required seismographs. On two such occasions, the Department seismograph failed to trigger and record. However, the Department equipment had been placed next to required monitoring equipment that was provided by the licensed blaster, which did trigger and record. Staff were able to monitor several blasts and confirm that blast vibrations were below permit threshold limits. The blast limits set by the US Department of the Interior Bureau of Mines are incorporated into the permit to ensure that damage to structures does not occur. This does not mean that residents will not hear or feel the blast, but does ensure that damage will not occur. Seismographs are placed in the driveway or near the road of residences to accurately take readings, and are not placed behind the residence.

COMMENT 153: Comment provided verbally at the hearing - Owner/former owner being related to consultant for Human Health Risk Assessment

RESPONSE 153: Ms. Katz inquired as to whether the owner or former owner was acquainted with or related to the consultant who prepared the Human Health Risk Assessment. While the Department has no knowledge of such a relationship, the Human Health Risk Assessment was independently reviewed by several Department staff, experts from the NYS Department of Health, as well as the US Environmental Protection Agency. The Health Risk Assessment was found to be complete and staff from all three agencies concurred with the report's findings.

Craig Leroy

COMMENT 154: Complaint of odors (evening of 7/17/14). Requesting no burning of hazwaste at night or during atmospheric inversion. Request for no burning of waste containing chlorine or its compounds.

RESPONSE 154: 6 NYCRR Part 374-1.8 (New York State regulations governing burning of hazardous waste in Boiler and Industrial Furnaces) permits incineration of hazardous wastes in units such as Norlite's light weight aggregate kilns provided performance standards set forth in the regulations are met, including during nighttime and periods of atmospheric inversion.

Operating limits (including for chlorine) for the kilns have been proposed in the facility proposed Title V Air permit based on the trial burn to maintain

compliance with emission limits & to protect human health and environment. The equipment has to be maintained so that they meet the operating limits set forth in the proposed permit. If they are unable to meet these limits, the automatic system will cutoff the feeds to kilns and thus Norlite will be prohibited from feeding hazardous waste to the kiln.

George Hebert

COMMENT 155: Concerned regarding about hydrofracking toxic waste being imported and/or disposed of at the facility.

RESPONSE 155: The current Norlite permit and pending renewal do not address hydrofracking waste as an unacceptable waste stream. This waste stream is not allowed to be accepted into the facility without a modification to their permit which would be subject to public review and participation. At this time, acceptance of hydrofracking waste is not proposed or permitted.

Vicki Griffin

COMMENT 156: Concerned about meeting notifications.

RESPONSE 156: Past practice has been to issue a public notice for one day in the legal section of the local newspaper, and one radio notice on the local radio station. However, the Department has recently expanded public notice requirements, and the Notice of Complete Application and Notice of Public Hearing for this project was published in the Troy Record and Times Union, and was broadcast over the radio on the following stations: WGY, WAMC, WPYX and WYJB. The radio announcements were made twice on June 25, 2014, on each of the four stations. Documents pertaining to the renewal and the draft permit were made available at the Cohoes Public Library, NYS DEC Albany office and NYS DEC Schenectady Office for public review. In addition, the application, draft permit and supporting documents were available on the Norlite website at www.norlite.agg.

Shelly Tanchak

COMMENT 157: Odors from incineration (specifically 6/17/14 @ 8:30 a.m.) with headache. July, 1980's chemical transport from Albany, pipes froze due to chemical reaction on loading, vapors were emitted. Concerns are odor, air quality during burns, and emissions. What causes the odor?

RESPONSE 157: The cause of odors are related to specific times is generally unique to the chemical(s) and/or operations involved with the incident. In general, the best approach to these short term situations is to ensure any chemical(s) are cleaned up promptly and/or use is discontinued which eliminates the source of the odor. In certain cases, the Department has undertaken enforcement action following a release which caused nuisance odors and the facility has discontinued acceptance of waste streams containing the chemical constituent (e.g., methyl methacrylate).

Michael Izzo

COMMENT 158: Concerned with a July, 2013, odor incident at Norlite; burning something that was not approved?

RESPONSE 158: Please See Response to Comment #157